PALLADIUM THEOLOGICUM

The course of scholastic theology after the mind of St. Bonaventure
in seven tomes · Tome V: On the Virtues

by Gaudentius Bontempi of Brescia, O.F.M. Cap.

TREATISE IV — ON VOWS

Latin and English in parallel

First published at Lyons, 1676 · In the public domain.
Latin text and English translation from Schola Thomistica (scholathomistica.com),
to whom many thanks.
English headings, their arrangement after the author's printed index, and paragraph numbers are editorial,
made for the Morals of the Church library, where the text may be read and searched online.

This is the library's text, not the complete print: the front matter and the author's indexes are not included.

Contents

Prologue **3**

Disputation I: On the Vow **6**

Disputation II: On the Religious State, or on Solemn Vows **164**

Section I: On the Vows of Religious in Common 164

Disputation III: On the Vow of Obedience **261**

Disputation IV: On the Vow of Poverty **277**

Disputation V: On the Vow of Chastity **304**

Disputation VI: On the Oath **332**

Disputation VI: On Adjuration **429**

Disputation VII: On Divine Praises **432**

Disputation VIII: On the Observance of Feast Days **437**

Disputation IX: On Superstition **468**

Disputation X: On the Temptation of God **504**

Disputation XI: On Sacrilege **507**

Disputation XII: On Simony **512**

Disputation XIII: On the Other Virtues Annexed to Justice **536**

Section I: On Piety 536

Section II: On Observance, Reverence, and Dulia 564

Section III: On Obedience and Disobedience 566

Section IV: On Gratitude, Vindication, and the Vices Opposed to Them 570

Section V: On Truth, Friendship, Liberality, Epikeia, and the Opposed Vices; on the Gift of Piety and the Precepts of the Decalogue That Concern Justice ... 575

Prologue

[1] RELIGION is the Golden Chain by which we are bound to God; and the Vow is the knot of this chain, by which we are bound more tightly to Him. For man is of so unstable and wandering a nature that, straying continually from his Creator, he is compelled not only by scourges and many blows to return, but, once returned, is restrained by chains and knots, so that he may depart no more; yet of his own accord, and with his own execution of it, he submits his neck willingly to his own bonds. Heretics, coveting a detestable liberty of wandering, detest these chains, which they hold so suspect that they do not even strive to draw near to God by them; hence, vagabonds, running outside the Church, they cast against us revilings and the empty darts of petty reasonings; these I shall blunt below, treating of solemn Vows; here, however, before I come to the quiddity and conditions of the Vow in general, I shall first set out the solution of certain arguments by which not so much sectarians as men of more easy judgment, in the name indeed of Christian, dissuade from vowing, thinking it to be the condition of slaves, and equal for Christians; so that, just as they [slaves] cannot validly confer on their Masters the dominion of any thing or the promise of obedience, since they are wholly His with their goods and services, so man, however free, is wholly God's, who, as he can abdicate nothing from himself, so can acquire nothing anew: Moreover, if the vow is a bond of obligation by which we are held to give something to God which we have not before given, we owe all things to God by a better right, both by force of that precept by which we are held to love Him with the whole heart, and by reason of so many benefits with which He is wont to heap us daily; In addition, the Evangelical law proclaims that we are free sons, not to be pressed down by the necessity of vows: These, like scarecrows of birds, are easily driven away; for who does not know that, although God absolutely disposes of us and ours at His pleasure, He nevertheless leaves to us that dominion over our acts and things by which we can freely use or abuse them, for His glory or our own ruin; whence although He be the universal Lord of all things, He does not therefore exclude the particular dominion founded in the liberty of each; And although the servant is wholly his Lord's, he nevertheless possesses the natural liberty by which he can devote or deny his fidelity to him: Nor does the precept of Divine love so press, that for its execution we must do all whatsoever things are possible of doing: But suppose it were so; it is not incompossible with the Vow that a thing otherwise precepted be taken up into its object, as we shall demonstrate in its own place: Nor will anyone of even moderate mind deny that there are many acts in individuo which do not fall under a precept; for it befits a rational and free creature that, as it does certain things under another's command, so also it do some things of its own free and free-willed choice; which votive promise does not violate; partly because it is undertaken voluntarily; partly also because, once undertaken, it suffers no necessity other than that of the precept, which in no way opposes the liberty of the sons; since, in that very respect in which they are the just sons of God, they are of necessity subject to the precepts of loving, honoring, obeying God and the like. And let these things have been said even of simple vows: But from solemn Vows (of which there will be question in the following disputation) how great a profit and increase the Church of God has always reaped from the very beginning of her existence, who even half-blind would not see? And although in our own tempestuous age many keep watch over the censured manners of Monks with *Vigilantius*; yet no one solicitous even in the least degree for his own salvation will deny that the eminence of the Religious state is such that, while the Monastic life is assaulted with chaff,

the secular life meanwhile is crushed under beams: and however much worldly men trust in their own strength, there can be set against them that saying of *Augustine*, reported by *D. Bonavent. Apolog. paup. resp. 1. cap. 2.*: *Slippery is the hope by which, amid the fomentations of sinners, he hopes to be saved; uncertain the victory to fight amid hostile arms, and impossible the deliverance to be surrounded by flames and not to burn*; and that I may speak with *Saint Jerome, contra vigilantium epist. 53.*: *There is no security in sleeping near a serpent, nor is it necessary to dismiss what is certain and pursue what is uncertain; for if I flee, I have escaped the sword; if I stand, I must either conquer or fall.* Add the Scriptures, which counsel to sell or to destroy all the emoluments of this world; as the *Seraphic Doctor* shows most fully everywhere in his works. But this matter, inasmuch as it is sufficiently copious, we shall better cut into several disputations and questions.

> *RELIGIO, Aurea Catena est, qua Deo religamur; Votum vero huius catenae nodus est, quo ipsi arctius obstringimur. Homo enim tam labilis, palantisque naturae est, ut a Creatore suo continuo divagans, non solum flagellis, ac plagis multis ad revertendum cogitur, verum reversus catenis, et nodis, ne amplius discedat, coërcetur, sua tamen sponte, seque exequente, voluntariis suum vinculis collum submittit. Haeretici, nefandam aberrandi libertatem ambientes, has detestantur catenas, quas eo usque suspectas habent, ut ne vel Deo appropinquare student; hinc vagabundi, extra Ecclesiam excurrentes, convitia, et inania ratiuncularum iacula in nos iactant; haec retundam infra, agendo de Votis solemnibus; hic autem priusquam ad Voti in genere quidditatem, et conditiones accedam, praemittam solutionem quorumdam argumentorum, quibus non tam sectarii, quam solutiores, nomine quidem, Christiani a vovendo disuadent, opinantes eam esse servorum, et Christianorum parem conditionem, ut sicut illi rei nullius dominium, seu obsequii promissum in Dominos valent conferre, quippe qui toti ipsius sint cum suis bonis, et obsequiis; ita homo, quantumcumque liber, totus est Dei, qui sicut nullam rem potest a se abdicare, ita nullam de novo acquirere: Praeterea si votum velut obligationis sit vinculum, quo aliquid Deo praestare tenemur, quod ante non praestitimus, omnia potiori iure Deo debemus, tum vi illius praecepti, quo ipsum ex toto corde diligere tenemur; tum ratione tot beneficiorum, quibus nos quotidie solet cumulare; Insuper lex Evangelica liberos esse filios proclamat, non vero votorum necessitate premendos: Haec, tanquam volucrum terriculamenta facile abiguntur, quis enim ignorat, licet Deus nos, et nostra absolute ad suum placitum dispenset, relinquere tamen nobis nostrorum actuum, et rerum illud Dominium, quo possumus libere uti, vel abuti in ipsius gloriam, seu nostram perniciem ; unde quamvis sit universalis rerum omnium Dominus , non tamen excludit Dominium particulare in libertate cuiusque fundatum ; Et licet servus sit totus sui Domini , possidet tamen naturalem libertatem , qua suam fidelitatem possit ei devovere , vel denegare : Nec ita urget Divinae dilectionis praeceptum , ut ad eius executionem omnia omnino , quae factu possibilia sunt , faciamus : At esto ; ita esset , non est cum Voto incompossibile , ut res alioquin praecepta in eius obiectum adsciscatur , ut suo loco demonstrabimus : Nec ullus etiam modicae mentis compos inficiabitur dari plures actus in individuo , qui sub praecepto non cadant ; decet etenim Creaturam rationalem et liberam , ut sicut quaedam agit ex alieno imperio , ita etiam nonnulla faciat ex proprio , et libero arbitrio , quod votiva promissione non temeratur ; tum quod voluntarie suscipiatur ; tum etiam quod suscepta non aliam , praeter praecepti , necessitatem patiatur , quae non adversatur ullatenus libertati filiorum ; cum eo ipsi , quo iusti filii Dei sint , necessario praeceptis Deum amandi , honorandi , obediendi et similibus subiiciantur. Et haec quidem de votis etiam simplicibus dicta sint: Verum ex Votis solemnibus (de quibus sequenti disputatione agendum erit) quantum et proventum , et aumentum semper Dei Ecclesia ab ipso sui exordio caeperit , quis etiam caecutiens non viderit ? Et quamvis hac nostra tempestate carpendis Monachorum moribus plures cum* Vigilantio *invigilent ; nullus tamen vel modice suae salutis sollicitus ibit inficias , eam esse Religiosi status praeeminentiam , ut dum Monastica vita paleis infestetur , saecularis interim trabibus prematur : et quantumcumque de suis sibi viribus fidant mundani ; illis obiici potest illud* Augustini *relatum a* D.Bonavent. Apolog. paup. resp. 1. cap. 2. Lubrica spes est, qua inter fomenta peccatorum se salvari sperat, incerta victoria inter hostilia arma pugnare, et impossibilis liberatio flammis circumdari, nec ardere*, et ut cum* Divo Hieronymo *loquar* contra vigilantium epist. 53. Nulla securitas est vicino serpente dormire, nec necesse est certa dimittere, et incerta sectari.,

nam si fugero gladium vitavi; si stetero; aut vincendum, aut cadendum. *His adiice Scripturas , quae omnia mundi huius emolumenta vel venundare , vel pessundare consulit; ut ubique opusculorum fusissime ostendit* Seraphicus Doctor. *Verum hanc materiam, utpote satis copiosam , per plures disputationes,et quaestiones melius intersecabimus.*

Disputation I: On the Vow

1 BEFORE I assign the Definitions and Conditions of the Vow, I shall note something of its name; for it is taken in various ways in Sacred Scripture; for not rarely it is used for a good purpose, or pious desire, in which sense Exodus 36: *Every morning the people offered their vows*. So also in Proverb. 31 it is said: *What, my beloved, of my vows, that is, of my desires*, as Suarez notes *tract. de voto in proaemio*; likewise when in the Mass it is said: *and to you they render their vows*; for in every Mass we do not always fulfill some promise from the obligation of a vow: It is also often taken for a spontaneous promise, inducing an obligation, as num. 13. *Psal.* 49. *Psal.* 65. and *Eccles.* 5, in which places there is frequent mention of rendering the vow; because it obliges the one vowing; whence in the last-cited place we have: *If you have vowed anything to God, you will be mindful to render it; for an unfaithful and foolish promise displeases him*; this is the proper acceptance of the vow, now approved by very many writers: Sometimes also it is taken for the very thing which is either vowed or offered; as in Deuteronom. 12: *You shall offer Holocausts, vows, and gifts*; this too is not unusual in other words, that the matter about which the action is concerned transfers to itself the denomination of the action, and conversely, as is clear: these things having been premised, let us come to the rest.

> *ANTEQUAM Voti Definitiones, et Conditiones assignem, nonnihil de eius nomine praenotabo; varie enim sumitur in Sacra scriptura; nam non raro pro bono proposito, seu pio desiderio usurpatur, quo sensu Exodi 36.* Quotidie mane vota populus offerebat. *Sicut et Proverb. 31. dicitur:* Quid dilecte votorum meorum, idest desideriorum, *ut notat Suarez* tract. de voto in proaemio; *item dum in Missa dicitur:* tibique reddunt vota sua; *nam in singulis Missis non persolvimus semper promissionem aliquam ex voti obligatione: Sumitur etiam saepe pro spontanea sponsione, obligationem inducente, ut num. 13.* Psal. *49.* Psal. *65. et* Eccles. *5. quibus locis frequens sit mentio de voto reddendo; eo quod obliget voventem; unde loco ultimo cir. habetur:* Si quid voveris Deo, memor eris reddere; displicet enim ei infidelis et stulta promissio; *haec est voti acceptio propria, nunc unice tot scriptoribus probata: Aliquando etiam sumitur pro ipsa re, quae vel vovetur, vel offertur; ut Deuteron. 12.* Offeretis Holocausta, vota, atque donaria, *hoc etiam aliis in vocibus non inusitatum est, ut materia, circa quam actio versatur, ad se actionis denominationem transferat, et e contra, ut clarum est: his ita praemissis ad caetera accedamus.*

Question I: What a vow is, and what its conditions are

1 A VOW is *a promise made to God concerning a better good.* So D. Thomas, D. Bonaventure, and the others commonly. D. Bonaventure hands down another definition of a vow by way of the argument "sed contra": *A vow is a conception of a better good, confirmed by deliberation of the mind.*

> *VOTUM est* promissio Deo facta de meliori bono. *Ita D. Thom. D. Bonav. et alii communiter. Aliam definitionem voti tradit D. Bonav. argumento sed contra:* Votum est melioris boni conceptio, animi deliberatione firmata.

2 The Socratic Doctor brings forward another definition, 3rd part, *Centilog.*, section 55, from Hugh of St. Victor, book 2, *part* 12, *chapter* 3: *It is the testimony of a promise made spontaneously, which ought to be made to God, and concerning things that pertain to God.*

> *Aliam definitionem affert S. Doctor. 3. p.* Centilog. sect. *55. ex Hugone de Sacram. l. 2.* p. *12.* cap. *3.* Est testificatio promissionis factae, spontanea, quae Deo, et de his, quae Deo pertinent, fieri debet.

3 For deriving the essence of a vow from this, know from D. Bonaventure in the body of the text, and D. Thomas, *article* 1, that a promise properly so called is that by which we promise something to

men, which therefore requires that it be made in a human manner, by words or by signs; and thus he says that by the first definition is defined a Solemn Vow, which is made in the face of the Church.

> *Pro voti essentia hinc eruenda, scias ex D. Bonav. in corpore, et D. Thom.* art. *1. promissionem proprie dictam, esse, qua aliquid hominibus pollicemur, quae ideo requirit, ut fiat modo humano, verbis, vel nutibus, et ita ait, prima definitione definiti Votum solemne, quod in facie Ecclesiae sit.*

4 For the latter indicates a Vow according to externals: but by the second definition he says that the essence of a Vow is handed over simply before God. Sanchez adds, however, that the promise extends also to an internal pledge made to God. In which sense, in the definition of every vow, a Vow is called a *Promise*.

> *Ea enim indicat Votum secundum externa: Secunda vero definitione ait, tradi essentiam Voti simpliciter coram Deo. Addit vero Sanchez, promissionem etiam extendi ad internam sponsionem Deo. Quo sensu, in Definitione omnis voti, Votum dicitur* Promissio.

5 Next observe from D. Bonaventure that this pledge must be made to God; for it is an act of religion, by which we render to God what is owed, as to the giver of all things, either for giving thanks for things received, or for obtaining benefits.

> *Deinde observa ex D. Bonav. hanc sponsionem fieri Deo debere; est enim actus religionis, quo debitum Deo reddimus, tanquam omnium largitori, seu ad gratias de acceptis reddendas; seu ad beneficia impetranda.*

6 The object of a Vow is said to be not only a good, but a better one, namely, it must be better than its opposite, that is, of greater virtue, as Sanchez notes *De voto, cap.* 1, and Azorius, book 11, *Inst. cap.* 14, *n.* 10.

> *Dicitvr obiectum Voti esse non solum bonum, sed melius, nempe, debet esse melius, quam eius oppositum, idest, maioris virtutis, ut notat Sanchez* De voto, cap. *1. et Azorius l. 11.* Inst. cap. *14.* n. *10.*

7 But since this pledge must be morally good, it is necessary that it be voluntary, for which is required first deliberation, which is an action of the intellect and a full knowledge of the object. Second, proposal, which is confirmed freely from the knowledge of the object. Third, promise added to consent, as D. Bonaventure notes ad 1, and Sanchez *loc. cit.*, Tanner, *disp.* 5, *quaest.* 4, *dub.* 1, with D. Thomas, *art.* 1 and 2 *in corpore*, and *art.* 5 *ad* 3, with whom all agree.

> *Qvoniam vero debet haec sponsio esse moraliter bona, oportet, ut sit voluntaria, ad quod requiritur primo deliberatio, quae est intellectus actio, et cognitio plena obiecti. Secundo propositum, quod libere firmatur ex cognitione obiecti. Tertio promissio addita consensui, ut notat D. Bonav. ad 1. et Sanchez* loc. cit. *Tanner.* disp. *5.* quaest. *4.* dub. *1. cum D. Thom.* art. *1. et 2.* in corpore, *et* art. *5.* ad *3. quibus omnes assentiuntur.*

Question II: What deliberation is required for a vow

1 As regards the first condition, deliberation, and its necessity for a vow, the question is: whether every deliberation sufficient to avoid mortal sin suffices, or whether there is required such deliberation as has weighed all the circumstances of the matter.

> *Qvoad primam conditionem deliberationis, et necessitatis ad votum, quaestio est: an sufficiat omnis deliberatio sufficiens ad mortale; an vero requiratur talis deliberatio, quae omnes circumstantias rei praeponderaverit.*

[2] Some think that the prior deliberation which proceeds from the heat of passion, anger, or love does not suffice, but that a perfect one is required, which can be proved from *c. si quis iratus, 2. quaest.* 4, and the rule *Quidquid calore, 48. ff. de regulis iuris* and *l. 3. ff. de divortiis:* whence is also drawn what kind of pledge ought to be in marriage. So the Gloss on *c. dudum, verb. calore,* and there Hostiensis on the same word; Antoninus, *c. sicut ex litteris de iureiurando, n.* 9; Panormitanus on *d. c. dudum, num.* 8, and *c. sicut ex litteris, num.* 2, and *c. si vero, num.* 7 *de iureiurando*; Romanus, *singulari* 508; Tiraquellus, *de poenis temperandis, causa* 1, *num.* 26; and among the Theologians, Richard in 4, *dist.* 38, *art.* 2, *quaest.* 2.

> *Qvidam putant, non sufficere eam deliberationem priorem, quae ex calore passionis, irae, vel amoris procedat, sed requiri perfectam, quod probari potest ex* c. si quis iratus, 2. quaest. *4. et regula* Quidquid calore, 48. ff. de regulis iuris *et* l. 3. ff. de divortiis: *Unde habetur etiam qualis debeat esse sponsio in matrimonio. Ita Glossa* c. dudum, verb. calore, *et ibi Hostiens. super eodem verbo, Anton.* c. sicut ex litteris de iureiurando, n. *9. Panor.* d. c. dudum, num. *8. et* c. sicut ex litteris, num. *2. et* c. si vero, num. *7.* de iureiurando, *Rom.* singulari *508. Tiraquel.* de poenis temperandis, causa *1.* num. *26. et ex Theologis, Richardus in 4.* dist. *38.* art. *2.* quaest. *2.*

[3] The opposite opinion, however, is that deliberation suffices which suffices even for committing a mortal sin. So Navarrus, *summa Latina, cap.* 18, *num.* 7; Molina, T. 1, *de iustitia, tract.* 2, *disp.* 267, where they teach this generally in every promise made to a man; but concerning a vow and an oath, John Andreas teaches it, *c. dudum, n.* 10, *de consecr., d.* 5, *ubi* Antoninus *n.* 25, Cardinalis *n.* 2, *oppositione* 5; Ancharanus *n.* 10; Alexander de Nevo, *c. sicut ex litt. de iureiurando, n.* 18, where Imola *at the end,* Faelinus *num.* 3 and 4.

> *Opposita tamen sententia est sufficere deliberationem, quae etiam ad mortale patrandum sufficit. Ita Navar.* summa Latina, cap. *18.* num. *7. Molina T. 1.* de iustitia, tract. *2.* disp. *267. ubi generaliter id docent in omni promissione homini facta; in voto autem, et iuramento id docent Ioan. Andreas* c. dudum, n. *10.* de consecr. d. *5.* ubi *Anton.* n. *25. Cardin.* n. *2.* oppositione *5. Ancharanus* n. *10. Alexander de Naevo* c. sicut ex litt. de iureiurando, n. *18. ubi Imola* fine, *Faelinus* num. *3. et 4.*

[4] Among the Theologians: Paludanus in 4, dist. 38, quaest. 1; D. Antoninus, 2nd part, tit. 11, cap. 2; Cajetan, 2. 1. quaest. 88, art. 1, and in the summa, v. votum; Soto, book 7, de iustitia, quaest. 1, art. 2; Viguerius, book Instit. cap. 5, §. 1; Alcoyer, I. de Ludo, cap. 13; Medina, book 1 of the summa, cap. 14, § 6; Palacios, 4, dist. 38, disp. 1; Manuel, 2nd tome of the summa, cap. 92; Tanner, disp. 5, quaest. 4, dub. 1; Aragon, 2. 2. quaest. 88, art. 1, fol. 995; Angles, floribus 2. p. quaest. 1, de voto, art. cit. diff. 3; Bassaeus, num. 2; Lopez, first part of the Instruct., cap. 45. Sanchez adduces and follows these, book 1, de matrim., disp. 8, num. 5, and in the summa, book 4, cap. 1. This is the opinion of D. Bonaventure in the place cited.

> *Ex Theologis, Paludanus in 4. dist. 38. quaest. 1. D. Antonin. 2. p. tit. 11. cap. 2. Caietanus 2. 1. quaest. 88. art. 1. et in summa, v. votum. Sotus l. 7. de iustitia, quaest. 1. art. 2. Viguet l. Instit. cap. 5. §. 1. Alcoyer I. de Ludo, cap. 13. Medina l. 1. summae, cap. 14. § 6. Palacios 4. dist. 38. disp. 1. Manuel 2. tomo summae, cap. 92. Tannet. disp. 5. quaest. 4. dub. 1. Aragon. 2. 2. quaest. 88. art. 1. fol. 995. Angles floribus 2. p. quaest. 1. de voto, art. cit. diff. 3. Bassaeus num. 2. Lopez prima parte Instruct. cap. 45. Hos adducit et sequitur Sanchez l. 1. de matrim. disp. 8. num. 5. et in summa l. 4. cap. 1. Haec est sententia D. Bonaventurae loco citato.*

[5] *I assert,* with this opinion, that deliberation which intervenes with mortal sin suffices for a vow: *it is proved* from D. Bonaventure in 4, dist. 38, quaest. 3, by the arguments in the first place, with the replies added. Such deliberation suffices for handing oneself over to the devil, and to a vow, as is had in *c. sunt, qui opes, 17. quaest.* 4, and *c. veniens de voto:* but to hand oneself over to the devil, deliberation

arising even from passion suffices, with all the circumstances not considered: *Therefore*. On this argument Sanchez and the others rely in the places adduced.

> Assero *cum hac sententia, eam deliberationem ad votum sufficere, quae peccato mortali intervenit:* Probatur *a D. Bonav. in 4. dist. 38. quaest. 3. argumentis primo loco, additis responsis. Ea deliberatio sufficiens est ad tradendum se diabolo, et voto, ut habetur in* c. sunt, qui opes 17. quaest. 4. et c. veniens de voto: *sed ad tradendum se diabolo sufficit deliberatio, et ex passione, non consideratis omnibus circumstantiis:* Ergo. *Hoc argumento nituntur Sanchez et alii locis adductis.*

6 Sanchez *notes,* first, num. 6, that in betrothals a period of seven years is required.

> Notat *autem Sanchez primo num. 6. in sponsalibus requiri septennium.*

7 He *notes,* second, num. 7, that it is so gathered that the deliberation required be sufficient, the one vowing ought thus to premeditate the moving cause and the end, which Cajetan explains, saying that one ought to compare what one deliberates with its opposite; yet he observes that this does not require a delay of time.

> Notat *secundo num. 7. ita colligi, ut deliberatio requisita sit sufficiens, debere voventem sic praemeditari causam motricem, et finem, quod explicat Caietan. dicens, debere conferre id, quod deliberat cum eius opposito; hoc tamen non requirere moram temporis advertit.*

8 But what consideration, and what consent, is required for mortal sin, has been sufficiently elucidated in *Tractate 3, which is on Sin, disput. 2, quaest. 11 and 12.*

> *Quae vero consideratio, et qui consensus requiratur ad peccatum mortale, satis elucidatum est* Tractatu 3. quod est de Peccato, disput. 2. quaest. 11. et 12.

9 But if a doubt should arise whether there was sufficient deliberation, we may judge that there was not, according to the foundations handed down in *Tract. 1, disp. 17, quaest. 22.* Tanner, however, *disp. 5, quaest. 4, dub. 1,* says the counsel would be to seek a dispensation. On this see Sanchez in the *summa, l. 1. cap. 10, from num. 16,* where, in doubt whether a vow has been emitted, he judges it not to be believed emitted, because the condition of the possessor is better, and the whole possession stands for the will, not for the vow. Add Soto, *l. 7. de Iust. quaest. 3. art. 2. dub. secundo,* Medina, *l. 1. summae, cap. 14. §. 7. fol. 90,* Suarez, *de Censuris, disp. 40. sect. 5. n. 15,* Sà *in summa, v. debitum,* Lopez, *1. p. Instruct. consc. 145,* Henriquez, *l. 8. de Eucharist. cap. 45,* Manuel, *2. Tomo summae, cap. 99. num. 5,* Graff, *p. 1. decis. l. 2. cap. 26. num. 7,* Rebellus, *de Iust. p. 2. l. 1. quaest. 3. sect. 2,* whom Sanchez adduces *loc. cit.*, where he also retracts what he had taught in *T. 1. de matrim. l. 2. disp. 41. num. 34,* namely that one who is more inclined to affirm that he has vowed is bound to that part of the thing promised which the quantity of the doubt requires. In which case he here judges that one must judge altogether in favor of the one doubting, with Sala, *p. 1. quaest. 10. Tract. 4. disp. unica sect. 25. num. 254,* with whom Fernandez proceeds in *exam. Theol. Moral. p. 1. cap. 6. §. 2,* Bonacina, *Tract. de legibus, disp. 2. quaest. 4. p. 2. num. 18,* Diana, *p. 1. tract. 15. resol. 9,* against Bassaeus. The same Sanchez, *l. 4. decal. cap. 1. num. 12,* says one must see whence the doubt arises, since this matter is still undecided; because possession does not stand for liberty in whatever doubt there is from a defect of deliberation. For if it arises from perturbation of mind through fear or anger, he says one must then judge for the vow. But if it is doubted, on account of tender age, whether he has completed 7 years, one must judge for liberty; if from the madness of the one vowing, one must see what the law presumes about what was then done. And thus he decides variously.

> *Si vero incidat dubium; an fuerit sufficiens deliberatio, censere possumus, non fuisse, iuxta fundamenta tradita* Tract. 1. disp. 17. quaest. 22. *dicit tamen Tanner.* disp. 5. quaest. 4. dub. 1. *consilium fore, petere dispensationem. De hoc vide Sanchez in* summa, l. 1. cap. 10. a num. 16. *ubi in dubio, an votum sit emissum, censet, non esse credendum emissum, quia melior est conditio possidentis, et tota possessio stat pro voluntate, non pro voto. Adde Sotum* l. 7. de Iust. quaest. 3. art. 2. dub. secundo *Medinam* l. 1. summae, cap. 14. §. 7. fol. 90. *Suarez* de Censuris, disp. 40. sect. 5. n. 15. *Sà* in summa, v. debitum, *Lopez* 1. p. Instruct. consc. 145. *Henriquez* l. 8. de Eucharist. cap. 45. *Manuelem* 2. Tomo summae, cap. 99. num. 5. *Graff.* p. 1. decis. l. 2. cap. 26. num. 7. *Rebell.* de Iust. p. 2. l. 1. quaest. 3. sect. 2. *quos adducit Sanchez* loc. cit. *ubi retractat etiam id, quod docuerat* T. 1. de matrim. l. 2. disp. 41. num. 34. *cum, qui magis inclinat ad affirmandum, se vouisse, teneri ad eam partem rei promissae, quam dubii quantitas exigit. Quo in casu censet hic, iudicandum omnino in favorem dubitantis, cum Sala* p. 1. quaest. 10. Tract. 4. disp. unica sect. 25. num. 254. *quibuscum incedit Fernandez in* exam. Theol. Moral. p. 1. cap. 6. §. 2. *Bonac.* Tract. de legibus, disp. 2. quaest. 4. p. 2. num. 18. *Diana* p. 1. tract. 15. resol. 9. *contra Bassaeum Idem Sanch.* l. 4. decal. cap. 1. num. 12. *ait videndum, unde oriatur, hunc esse adhuc ancipitem; quia non in quocunque dubio stat possessio pro libertate ex defectu deliberationis. Si enim oriatur ex animi perturbatione ob metum, vel iram; ait, iudicandum tunc pro voto. Si vero ex tenera aetate dubitetur, an 7. annos compleuerit; iudicandum pro libertate: Si ex voventis amentia, videndum quid ius praesumat de tunc gestis. Et ita varie definit.*

10 *Truly, however,* he does not expound this rightly. For since the doubt stands in this, that it renders the mind equally undecided on both sides, as is taught in *l. 2. de matr. disp. 41. num. 1,* and liberty stands in the possession of the one doubting, as he himself asserts, LL. CC., and from each of these causes one can be made doubtful, and the possession of liberty can arise from the doubt, as he himself teaches, certainly he will be in possession, from wherever the doubt arises. Moreover, the cases adduced by him do not leave the matter undecided. Wherefore he labors equivocally. On these things see *p. 2. T. 1. disp. 17. q. 20.*

> Enim vero *non recte edisserit. Cum enim dubium stet in hoc, ut animum reddat utrinque aequaliter ancipitem, ut docet* l. 2. de matr. disp. 41. num. 1. et libertas stet in possessione dubitantis, ut ipse asserit LL. CC. et *e singulis hisce causis possit dubius reddi, et possessio libertatis oriatur e dubio, ut ipse docet, profecto erit in possessione, undecunque dubium oriatur. Porro casus ab eo allati non relinquunt ancipitem. Quare aequivoco laborat. De his vide* p. 2. T. 1. disp. 17. q. 20.

Question III: Whether one who promises something to God, knowing the obligation yet intending not to bind himself, is bound by the vow

1 The intention, which is placed in the definition of a vow, I shall set out briefly here.

> *Intentionem, quae posita est in definitione voti, hic breviter edisseram.*

2 *It must be noted,* with D. Bonav. *in 3. dist. 39. art. 3. quaest. 1. in resol.,* that the same question arises concerning marriage, Oath, and Vow. So Sanchez *l. 1. de matrim. disput. 9., and in the place cited in the summa,* walking with D. Bonav., resolved the difficulty completely. He first sets out certain cases in which one vowing without intention is not bound, which are easy: for instance, if he believes a vow does not bind, etc., or if he vows without the intention of promising.

> Notandum *ex D. Bonav.* in 3. dist. 39. art. 3. quaest. 1. in resol. *eandem quaestionem esse de matrimonio, Iuramento, et Voto. Ita Sanchez* l. 1. de matrim. disput. 9. et loco citando in summa, cum *D. Bonav. incedens, difficultatem in solidum resolvit. Praemittit vero casus aliquos, in quibus vovens absque intentione non tenetur, qui faciles sunt, puta si credit, votum non obligare, etc. si voveat absque intentione promittendi.*

3 *Concerning* this question, some have held that it is a true vow and binds. So Soto *l. 7. de Iust. quaest. 1. art. 2. versic. 3.*; Penna *p. p. Instruct. cap. 42. et 43.*; Manuel, 2nd Tomo of the *summa, cap. 92. num. 4.*; Aragon. 2. 2. *quaest. 88. art. 1. fol. 969.*; Gutierrez *l. 1. quaest. Canon. cap. 22. num. 32.*

> Circa *vero quaestionem hanc, aliqui voluere, illud esse verum votum, et obligare. Ita Soto* l. 7. de Iust. quaest. 1. art. 2. versic. 3. *Penna* p. p. Instruct. cap. 42. et 43. *Manuel 2. Tomo* summae, cap. 92. num. 4. *Aragon. 2. 2.* quaest. 88. art. 1. fol. 969. *Gutierrez* l. 1. quaest. Canon. cap. 22. num. 32.

4 *The second* opinion is that it is not a vow, nor does it bind the conscience under the aspect of a vow. So D. Bonav. *in 3. dist. 39. art. 3. quaest. 1. and in 4. dist. 38. quaest. 1.*, whom Richard. follows *there, art. 3. quaest. 2. ad 2.*; D. Anton. *2. p. tit. 11. cap. 2.*; Angel. *v. pactum, num. 4. and v. votum 1. num. 7.*; Sylvester *verb. metus, quaest. 8. and verb. pactum, quaest. 4.*; Armilla *there, num. 2. and verb. Iuramentum, num. 14.*; Tabienna *verb. pactum, quaest. 1.*; Medina *C. de restit. quaest. 23.*; Nauar. *summa, cap. 12. et 13. conf. 4.*; Viguer. *l. Iustit. cap. 5. §. 5. versic. 14.*; Palacios *in 4. dist. 29. disp. 1. fol. 665.*; whom Tanner *disp. 5. quaest. 4. dub. 1.* cites and follows, Sanchez *loc. cit. and in summa, l. 4. cap. 1. num. 27.*, where he adds Valentia *2. 2. disp. 6. quaest. 6. p. 1.*; Azor. *l. 11. cap. 4. quaestio 2. and cap. 13. quaestio 9.*; I add Faustus *Thesaur. lib. 1. quaest. 26.*; Less. *lib. 2. cap. 40. dub. 3.* and Bassaeus *num. 7.*

> Secunda *sententia est, illud non esse votum, nec obligare in ratione voti conscientiam. Ita D. Bonav.* in 3. dist. 39. art. 3. quaest. 1. et in 4. dist. 38. quaest. 1. *quem sequuntur Richard.* ibi, art. 3. quaest. 2. ad 2. *D. Anton.* 2. p. tit. 11. cap. 2. *Angel.* v. pactum, num. 4. et v. votum 1. num. 7. *Sylvester* verb. metus, quaest. 8. et verb. pactum, quaest. 4. *Armilla* ibi, num. 2. et verb. Iuramentum, num. 14. *Tabienna* verb. pactum, quaest. 1. *Medina* C. de restit. quaest. 23. *Nauar.* summa, cap. 12. et 13. conf. 4. *Viguer.* l. Iustit. cap. 5. §. 5. versic. 14. *Palacios* in 4. dist. 29. disp. 1. fol. 665. *quos adducunt et sequuntur Tanner.* disp. 5. quaest. 4. dub. 1. *Sanchez* loc. cit. et in summa, l. 4. cap. 1. num. 27. *ubi addit Valentiam* 2. 2. disp. 6. quaest. 6. p. 1. *Azor.* l. 11. cap. 4. quaestio 2. et cap. 13. quaestio 9. *Addo Faustum* Thesaur. lib. 1. quaest. 26. *Less.* lib. 2. cap. 40. dub. 3. et *Bassaeum* num. 7.

5 *I assert*, with this opinion, that one who vows without intending to be bound is not bound by reason of a vow.

> Assero *cum hac sententia, voventem, nec intendentem se obligari, ratione voti non teneri.*

6 *It is proved* by Sanchez *from the final chapter*, where a condition contrary to the substance of marriage annuls it, even though the words and the intention of contracting it were present: therefore, since it belongs to the nature of a promise to have the mind of binding oneself, where that mind is absent the promise will be nothing. The same is held by others with Fagundez *in 2. praecepto Decal. d. 2. s. 9.*

> Probatur *a Sanchez* ex c. finali, ubi conditio, substantiae matrimonii contraria, ipsum annullat, licet verba, et intentio adessent ipsum contrahendi: *Ergo cum de natura promissionis sit animus se obligandi; ubi animus deesset; promissio nulla erit. Idem sentiunt alii cum Fagundez* in 2. praecepto Decal. d. 2. s. 9.

7 Yet this reason seems to beg the principle, as S. Bonav. hinted *in 4. loc. cit. with the last argument; for this is the very thing in dispute: whether intention is necessary when the will of promising is present, in which, it seems, the vow, or the other promise, consists.*

> *Haec tamen ratio videtur petere principium, ut innuit S. Bonav.* in 4. loc. cit. argumento ultimo; hoc est enim, quod controvertitur: an sit necessaria intentio cum adest voluntas promittendi, in quo videtur votum, seu alia promissio consistere.

8 *It is proved*, then, by D. Bonav., *because a vow looks immediately and substantially to God: therefore such a promise will be* as is judged in the judgment of God; but there it is judged according to what is internal, as is said in 1 Reg. 16, *For man seeth those things that appear; but the Lord beholdeth the heart*; and D. Gregory: *Words serve the intention, and God judges such words as are brought forth from within.*

> Probatur *ergo a D. Bonav.* quia votum respicit immediate substantialiter. Deum: Ergo talis erit promissio *qualis in iudicio Dei iudicatur, sed ibi iudicatur iuxta internam, ut dicitur 1. Reg. 16.* Homo enim indicat ea, quae patent; Deus autem intuetur cor, *et D. Gregorius:* Verba deserviunt intentioni, et Deus talia verba iudicat, qualia ex intimis proferuntur.

9 *PROVED secondly by D. Bonau. with the argument which Sanchez took up loc. cit., Henriquez l. 11. de matrim. cap. 13. num. 1. for marriage, and the others cited for a vow.* Every obligation which is not from law arises from the private will of a man. Thus in *l. obligationum, ff. de obligationibus* it is said that no one binds himself to another unless willing: but a vow is not from any law: therefore it arises from the free will of man: therefore it rises there from a private law which the promiser imposes upon himself; yet no law binds unless the lawgiver intends to bind.

> PROBATUR secundo a D. Bonau. argumento, quod desumpsere Sanchez loc. cit. Henriquez l. 11. de matrim. cap. 13. num. 1. pro matrimonio, et caeteri allegati pro voto. *Omnis obligatio, quae non est ex lege, oritur ex privata hominis voluntate. Sic* l. obligationum, ff. de obligationibus, *dicitur, neminem se alteri obligare nisi volentem: Sed votum non est ex aliqua lege: ergo ex libera hominis voluntate: Ergo ibi consurgit ex lege privata, quam promittens sibi imponit; nulla autem lex obligat, nisi legislator obligare intendat.*

10 *You object first:* Obligation is a natural effect of a promise, just as fire is to heat: therefore, just as fire being applied, heating follows; so a promise being posited, obligation follows.

> OBIICIES primo: *Obligatio est naturalis effectus promissionis, sicut ignis est calefacere: Ergo, sicuti apposito igne, sequitur calefactio; ita posita promissione, sequitur obligatio.*

11 *It is answered* from D. Bonau. *in 4. loc. cit. ad 2.*: when the promise is true, it has the effect of obligation; but not when it is fictitious, such as one with the mind not of binding, for then the natural condition of the promise is lacking. And so, just as heat does not follow from painted fire, so here. So Suarez also answers.

> RESPONDETUR ex D. Bonau. in 4. loc. cit. ad 2. *quando promissio est vera, habere effectum obligationis; non autem quando est ficta, qualis est animo non obligandi, tunc enim deficit conditio naturalis promissionis. Itaque, sicut calor non sequitur ex igne picto, ita et hic. Ita etiam Suarez respondet.*

12 From this there also falls that which they object secondly: *Whoever wills the antecedent necessarily wills the consequent, l. 1. §. 1. ff. si ususfruct. petat.*; but obligation follows a promise: therefore. It is answered that it follows a true promise, not indeed a fictitious one, such as we here suppose.

> *Ex quo ruit etiam id, quod secundo obiiciunt.* Qui vult antecedens, vult necessario et consequens l. 1. §. 1. ff. si ususfruct. petat. *sed obligatio sequitur promissionem: ergo. Respondetur enim sequi promissionem veram, non vero fictam, qualem hic supponimus.*

13 It also falls, that other objection: He who gives the form gives also the consequences of the form: therefore he who offers a promise offers also the obligation.

> *RVIT etiam illa alia obiectio: Dans formam, dat etiam consequentia ad formam: Ergo apponens promissionem, apponit etiam obligationem.*

14 *It is answered* that this is true of one giving a true form, such as one is not who promises fictitiously.

> RESPONDETUR *enim, id verum esse de dante veram formam, qualis non est ficte promittens.*

15 I ASSERT thirdly, that this fictitious promiser, if he fictitiously goes forth with solemn vows, is bound in the sight of the Church to fulfill them.

> *ASSERO tertio, hunc fictum promissorem, si ficte vota solemnia edat, teneri in facie Ecclesiae ad ea implenda.*

16 *It is proved by D. Bonau. in 4. loc. cit. in the body*, because the Church judges according to what is external.

> PROBATUR a D. Bonau. in 4. loc. cit. in corpore, *quia Ecclesia iudicat secundum externum.*

17 *It is proved secondly by D. Bonan. there ad ult. and in 3. loc. cit.* with the second argument: Fraud and deceit ought to patronize no one, as all the Jurists cry out.

> PROBATUR secundo a D. Bonan. ibi ad ult. et in 3. loc. cit. *argumento secundo. Fraus, et dolus nemini debent patrocinari, ut omnes Iuristae clamant.*

18 *It is proved thirdly by D. Bonan. loc. cit. with argument 3.*: Human society consists in contracts; but if one were to stand on intention, no one would ever be secure: for words are that in which a contract consists.

> PROBATUR tertio a D. Bonan. loc. cit. argumento 3. *Humanus convictus contractibus constat; quod si intentioni standum esset, nullus unquam esset solidus: Verba enim sunt, in quibus consistit contractus.*

19 By THIS distinction the arguments on both sides are resolved.

> *HAC distinctione utrinque argumenta persolvuntur.*

20 From these Sanchez deduces (*l. 4. Decal. cap. 1. num. 29.*) that one who is initiated and consents to the Sacred Orders, to which the vow of chastity is joined, yet does not wish to subject himself to this vow, but only wishes the Sacred Orders, is not bound by force of a vow to preserve chastity, but is bound by force of the Ecclesiastical constitution; and if he were to enter marriage, it would be invalid.

> *EX his deducit Sanchez* l. 4. Decal. cap. 1. num. 29. *eum, qui initiatur, et consentit Ordinibus Sacris, quibus coniunctum est votum castitatis, nec vult huic voto se subdere, sed solum vult Ordines Sacros, hunc non teneri ex vi voti ad castitatem servandam, sed teneri ex vi Ecclesiasticae constitutionis, et si matrimonium iniret, fore irritum.*

21 The SAME he holds in *lib. 7. de matrim. disp. 27. num. 12.*, where he brings along with him Paludanus *4. dist. 37. quaest. 1. art. 2. num. 14.*; Sylv. Gabriel *4. dist. 38. quaest. unica, art. 2. and dist. 37. quaest. unica, art. 2.* after the second conclusion; D. Anton. *3. p. tit. 11. cap. 8.*; Sylvest. V. Matrim. 8. quaest. 12. dicto 2.; Durandus *4. dist. 37. quaest. 1.*; Arboteus *l. 5. Theosophiae, cap. 7.*; Bassolis in *4. dist. 47. quaest. unica, art. 1.*; Nicolaus de Nissia *super 4. sent. tract. 6. p. 22. de matrim. quaest. 7.*; Antonius Cuccus *l. 5. Instit. maiorum, tit. 12. num. 220.*; Palac. *in 4. dist. 37. disp. un.*; Anglem. *fleribus p. 1.*, where concerning marriage *quaest. 11. art. 1. diffic. 4.*; so also Henriq. *l. 10. cap. 14.*; Valent. *p. 1.*; Azor. *p. 1. l. 11. c. 13.*; Bassaeus *v. Votum, n. 6.*

> *IDEM habet* lib. 7. de matrim. disp. 27. num. 12. *ubi secum adducit Paludanum* 4. dist. 37. quaest. 1. art. 2. num. 14. *Sylvest. Gabrielem* 4. dist. 38. quaest. unica, art. 2. et dist. 37. quaest. unica, art. 2. *post secundam conclusionem, D. Anton.* 3. p. tit. 11. cap. 8. *Sylvest. V. Matrim. 8. quaest. 12. dicto 2. Durandum* 4. dist. 37. quaest. 1. *Arboteum* l. 5. Theosophiae, cap. 7. *Bassolim in* 4. dist. 47. quaest. unica, art. 1. *Nicolaum de Nissia*

super 4. sent. tract. 6. p. 22. de matrim. quaest. 7. *Antonium Cuccum* l. 5. Instit. maiorum, tit. 12. num. 220. *Palac.* in 4. dist. 37. disp. un. Anglem. fleribus p. 1. *ubi de matrimonio* quaest. 11. art. 1. diffic. 4. *Sic et Henriq.* l. 10. cap. 14. *Valent.* p. 1. *Azor.* p. 1. l. 11. c. 13. *Bassaeus* v. Votum, n. 6.

22 They are OBJECTED by Rich. *4. dist. 37. art. 1. quaest. 1.*; Palud. *dist. 38. quaest. 2. art. en.*; Nauar. *sum. cap. 22. n. 52.*; Palac. *4. dist. 37. disp. un.*; Dominicus *c. Diaconi, dist. 38.*; Tol. *l. 1. cap. 8.*: namely, because one who approaches sacred order efficaciously wills it; and so he is held to lay down that volition of the vow of chastity. D. Bonau. seems to have thought this in 4. *loc. cit. ad 2.*

OPPONUNTUR Rich. 4. dist. 37. art. 1. quaest. 1. *Palud.* dist. 38. quaest. 2. art. en. *Nauar.* sum. cap. 22. n. 52. *Palac.* 4. dist. 37. disp. un. *Dominicus* c. Diaconi, dist. 38. *Tol.* l. 1. cap. 8. *nempe quia accedens ad ordinem sacrum, efficaciter vult illum; atque adeo censetur deponere illam volitionem voti castitatis. Id videtur sentisse D. Bonau. in 4.* loc. cit. ad 2.

23 I FOR MY PART do not think Sanchez rightly deduces from the fact that one vowing fictitiously is not bound, that the same must be said of our case; concerning which I thus argue ad hominem.

EQUIDEM non reor, Sanchez recte deducere ex eo, quod ficte vovens non tenetur, idem dicendum de casu nostro; de quo sic ad hominem argumentor.

24 WHOEVER wills the antecedent wills also that which necessarily follows it, if he will the antecedent efficaciously, according to Sanchez *l. 1. de matrimonio, disput. 9. num. 8.* (for so he answers the argument above). But one who is initiated into the Sacred Orders is, of himself, supposed to will the Sacred Orders, from which the obligation of the vow of chastity follows conjointly, as is found in *l. 7. de matrimonio, num. 11.*; therefore one willing the Sacred Orders wills also to vow chastity.

QUI vult antecedens, vult etiam id, quod necessario consequitur; si antecedens velis efficaciter, ex Sanchez l. 1. de matrimonio, disput. 9. num. 8. *(sic enim respondet argumento supra.) At qui initiatur Ordinibus sacris, per se, supponitur velle Ordines Sacros, e quibus coniunctim sequitur obligatio voti castitatis, ut habetur* l. 7. de matrimonio, num. 11. *ergo is volens Sacros Ordines, vult etiam vovere castitatem.*

25 Yet the disparity is great: for there he wills fictitiously, whence the obligation, which is the effect of the promise, does not fall upon the promiser; but here, one who is initiated wills really and efficaciously that from which the burden of the vow of chastity follows, whence he is bound even to that; just as also (S. Bonau. says) one who intends to promise the rule of the monks intends to vow also chastity and obedience, which, I confess, are vows more closely joined to the Monastic profession than the vow of chastity is to the Sacred Order; yet the same reason runs, because on either side the one follows from the other necessarily.

AMPLA est autem disparitas: nam ibi vult ficte, unde obligatio, quae est effectus promissionis, non cadit super promittentem: At vero hic, qui initiatur, vult realiter, et efficaciter id, ex quo sequitur voti castitatis onus, unde et ad illud tenetur; sicuti etiam (ait S. Bonau.) qui intendit promittere regulam monachorum, intendit vovere etiam castitatem, et obedientiam, quae sunt vota fateor professioni Monachali coniunctiora; quam sit votum castitatis ordini Sacro; attamen eadem currit ratio, quia utrinque alterum ex altero sequitur necessario.

26 You will still URGENTLY object: If that ordained man is bound, not by reason of a vow, but by reason of the Ecclesiastical constitution; it would follow that two precepts exist in this business, imposing chastity: one Divine from a vow, the other human from the Church: but this is false, against all, and against Sanchez himself *l. 7. de matrimonio, disp. 27. num. 11. et 12.* Therefore.

URGEBIS adhuc: Si ordinatus ille tenetur, non ratione voti, sed ratione Ecclesiasticae constitutionis; sequeretur, duo praecepta existere in hoc negotio, castitatem imponentia: Alterum Divinum ex voto: alterum humanum ab Ecclaesia: Sed hoc est falsum contra omnes, et contra ipsum Sanchez l. 7. de matrimonio, disp. 27. num. 11. et 12. *Ergo.*

27 HENCE it follows also, that one initiated into the Orders, by fornicating, sins with a twofold sin beyond the ordinary fault of fornication.

HINC etiam sequitur, initiatum Ordinibus fornicando, duplici peccato peccare ultra culpam ordinariam fornicationis.

28 *Sanchez answers, num. 14.*, that the precept of the Church is not immediately about continence to be imposed upon priests, but about the vow of chastity being imposed. Therefore this argument does not prevail against Sanchez.

RESPONDET Sanchez num. 14. *praeceptum Ecclesiae non esse immediate de continentia, sacerdotibus imponenda, sed de voto castitatis imponendo. Ideo haec ratio non valet contra Sanchez.*

29 *He ADDS in lib. 3. de matrim. disp. 16.*, with S. Bonau. in the cited places, and with Hostiensis *cap. veniens, qui clerici*, and Ioan. Andrea *there*; Anchartan, and as to an oath forced by fear, the same assert Anton. *c. si vero, de iure iur. n. 5.*, and there Abbas *num. 10.*; Imola *fine, Naeuo n. 38.*; Sylvest. *iuram. 4. quaest. 7. dicto 1.* after D. Bonau. *in 3. loc. cit.*: that one who confesses that he vowed, and says he vowed fictitiously, is not to be believed, and therefore is to be compelled to fulfill the vow; although in the forum of conscience we are bound to believe him, and to declare him immune from the obligation of the vow.

ADDIT lib. 3. de matrim. disp. 16. cum *S. Bonau. allegatis locis, et cum Hostienfi* cap. veniens, qui clerici, *et Ioan. Andrea* ibi, *Anchatan, et quoad iuramentum metu coactum, idem asserunt Anton.* c. si vero, de iure iur. n. 5. *et ibi Abbas* num. 10. *Imola* fine, Naeuo n. 38. *Sylvest.* iuram. 4. quaest. 7. dicto 1. *post D. Bonau.* in 3. loc. cit. *non esse credendum fatenti votum, et dicenti se ficte vovisse, et ideo cogendum implere votum, licet in foro conscientiae credere illi teneamur, et a voto obligatione declarare immunem.*

30 *The REASON indeed is* that of D. Bonau. *ad 2.*, which is also found in cap. per tuas, de probat. there: *Since it is altogether unworthy that what each one has clearly protested with his own voice should be weakened in the same case by his own testimony; and in l. Labeo 7. versiculo, the same Tubero, ff. suppellect. legat. there: I do not think anyone ought to say what he does not feel.* This holds, with many citations, in Tiraquel. *l. si unquam, verb. liberis, num. 17. C. de revocat. donat.*; Menoch. *lib. 6. de praesumpt. 35. and l. 1. quaest. 12. and l. 3. praesumpt. 1. num. 57. et 39.*

RATIO vero est *D. Bonau.* ad 2. quae habetur etiam in cap. per tuas, de probat. ibi. Cum nimis indignum sit, ut quod sua quisque voce dilucide protestatus est, in eundem casum proprio valeat testimonio infirmare, et l. Labeo 7. versiculo, idem Tubero, ff. suppellect. legat. ibi. Non arbitror, quemquam dicere, quod non sentit. *Id tenet, multis citatis, Tiraquel.* l. si unquam, verb. liberis, num. 17. C. de revocat. donat. *Menoch.* lib. 6. de praesumpt. 35. et l. 1. quaest. 12. et l. 3. praesumpt. 1. num. 57. et 39.

31 *Sanchez ADDS, num. 10.*, that if from his confession alone it is held that he truly vowed, yet did not wish to bind himself, he is to be believed; because if he wished to deceive, he would keep silence about both, or would deny. From these the question is almost resolved.

ADDIT Sanchez num. 10. *si ex sola confessione eiusdem habeatur, eum sane vovisse; attamen noluisse se obligare; credendum esse, quia si vellet decipere, utrunque taceret, aut negaret. Ex his fere solvitur quaestio.*

Question IV: Whether a votive promise is made to God alone

1 S. Bonav. asserts this in 2. dist. 38. dub. 2. and quaest. 1. First, from the definition of a vow. It is PROVED by D. Bonav. in Bibliis pauperum, cap. 15., from the vows which are read in Holy Scripture, all of which he recounts as made to God; inasmuch as they are acts of Religion. ALTHOUGH indeed in 1. Machab. 9. Antiochus is said to have promised to the temple of Jerusalem, this is understood as done to God, who is adored in the Temple.

> *ASSERIT id S. Bonav. in 2. dist. 38. dub. 2. et quaest. 1. Primo ex definitione voti. PROBATUR a D. Bonav. in Bibliis pauperum, cap. 15. ex votis, quae in Scriptura Sacra leguntur, quae omnia Deo facta recenset; quippe, ut sunt actus Religionis. QUAMVIS enim 1. Machab. 9. Antiochus dicatur pollicitus templo Hierusalem, hoc intelligitur factum Deo, qui in Templo adoratur.*

2 So promises made to the saints are held to be exhibited to God, that God may be honored in the saints; just as also to swear by creatures, especially by the Saints, inasmuch as God shines forth particularly in them, and thus one swears by God alone, as S. Bonav. proves in 3. dist. 39. art. 2. quaest. 1., and D. Thom. 2. 2. quaest. 88. art. 5. ad 3., whom all follow, as Baffeus v. Vot. notes, Sanchez l. 4. Decal. cap. 1. num. 41., and I shall say in the disputation on the Oath. See also Azorius l. 11. Instit. Moral. cap. 13. at the end, where he notes in what manner, in the issuing of solemn Vows, it is said: *I promise to the Blessed Virgin, to B. Francis; Dominic; etc.*: namely, the Saints are invoked as witnesses and patrons, that they may assist. Moreover, a vow is made to the holy Patriarchs, who hold the place of God; but let the vow be to God alone, as the giver of all things, as I said in quaestio 1.

> *Sic promissiones factae sanctis, censentur Deo, exhibitae, ut in sanctis honoretur; sicuti etiam iurare per creaturas, maxime per Sanctos, quatenus in eis praecipue elucet Deus, et ita per Deum solum iuratur, ut probat S. Bonav. in 3. dist. 39. art. 2. quaest. 1. et D. Thom. 2. 2. quaest. 88. art. 5. ad 3. quos omnes sequuntur, ut notant Baffeus v. Vot. Sanchez l. 4. Decal. cap. 1. num. 41. et dicam disputatione de Iuramento. Vide etiam Azorium l. 11. Instit. Moral. cap. 13. in fine, ubi advertit, qua ratione in Votorum solemnium emissione dicitur:* Promitto Beatae Virgini, B. Francisco; Dominico; etc. *nempe Sanctos advocari, ut testes, et patronos, ut auxilientur. Praeterea vovetur sanctis Patriarchis, locum Dei tenentibus; Deo autem soli votum sit, tanquam omnium largitori, ut dixi quaestione 1.*

3 THIS direction of a vow to the Saints, or of an oath to other creatures also, D. Bonav. calls *Habitudinal*; but that to God, immediate and *Actual*; and therefore he finds in it a greater obligation. See the S. Doctor in 3. dist. 39. dub. 2., in the letter.

> *HANC directionem voti ad Sanctos, vel iuramenti ad alias etiam creaturas vocat D. Bonav.* Habitudinalem; *ad Deum autem immediatum* Actualem; *et ideo maiorem in hoc invenit obligationem. Vide S. Doctorem in 3. dist. 39. dub. 2. littera.*

Question V: How error or ignorance concerning a vow causes involuntariness

1 I SUPPOSE what I wrote in prima secundae, Tract. 1. disput. 3. quaest. 12., on how ignorance causes the involuntary, and in disp. 4. quaest. 1., which circumstances cause the Involuntary.

> *SUPPONO, ea quae prima secundae, Tract. 1. disput. 3. quaest. 12. scripsi; quomodo ignorantia causet involuntarium, et quae disp. 4. quaest. 1. quae circumstantiae causent Involuntarium.*

2 AND indeed, that ignorance of the substance of a thing, or of those circumstances which notably alter the matter of a vow, makes it involuntary, Sanchez l. 4. Decal. cap. 2. num. 11. teaches, Soto l. 7.

de Iustitia, quaest. 1. art. 2., Aragon. 2. 2. quaest. 88. art. 1. fol. 966., Lopez p. 1. Instruct. cap. 56., Manuele 2. Tomo summae, cap. 92. Soto brings an example: If someone, deceived about the choice of foods in a certain religion, were to vow it; he would by no means vow it if he knew. Similarly concerning a journey to Jerusalem, if he believed it to be only ten leagues; but not if he erred about some minute accidents: for knowledge of all the accidents of a vow is not necessary for it, as I said in quaestio prima.

> *ET quidem ignorantiam substantiae rei, vel earum circumstantiarum, quae notabiliter mutant materiam voti, reddere involuntarium, docent Sanchez l. 4. Decal. cap. 2. num. 11. Soto l. 7. de Iustitia, quaest. 1. art. 2. Aragon. 2. 2. quaest. 88. art. 1. fol. 966. Lopez p. 1. Instruct. cap. 56. Manuele 2. Tomo summae, cap. 92. exemplum affert Soto: Si quis deceptus circa delectum ciborum in aliqua religione eam voveret; minime voturus, si sciret. Similiter circa iter Hierosolymam, si crederet esse decem leucarum tantum; Non vero si erret circa aliqua minuta accidentia: Neque enim ad votum necessaria est cognitio omnium accidentium eius, ut dixi quaestione prima.*

3 The GREATER difficulty is: when the change to be made in the matter of a vow is unknown, or not foreseen, whether, after such a change is made, one is released from the vow.

> *MAIOR difficultas est: an quando ignoratur, seu non praevidetur mutatio facienda in voti materia, an postea facta tali mutatione solvatur a voto.*

4 COMMONLY the adage is circulated: No one is bound by a vow, an oath, or any other promise, to that to which he would not have wished to bind himself, had he adverted to it while he promised. So teach Innocentius c. veniens, in the single number, de iure iurando, there Abbas num. 4., Anton. cap. Quemadmodum, num. 13., of the same title, Hostiens. summa, of the same tit. num. 3., D. Antonin. 2. p. tit. 10. cap. 6. §. 5., Angel. verb. iuramentum, 4., Sylvester v. Votum 2. quaest. 17., and v. Iuram. 3. quaest. 1. part. 9., and verb. Iuramentum 4. quaest. 6., and quaest. 13., Tabiena v. Iurare, quaest. 15. num. 16., Armilla v. Iuramentum, num. 35., Nauar. summa, cap. 18., Hispana num. 5., Latina num. 7., Molina T. 2. de Iust. disp. 272. col. 2.

> *COMMUNITER circumfertur adagium; Nullum voto iuramento, vel alia promissione ligari ad id, ad quod se obligari noluisset, si advertisset, dum promisit. Ita docent Innocentius c. veniens, numero unico de iure iurando, ibi Abbas num. 4. Anton. cap. Quemadmodum, num. 13. eodem titulo, Hostiens. summa eodem tit. num. 3. D. Antonin. 2. p. tit. 10. cap. 6. §. 5. Angel. verb. iuramentum, 4. Sylvester v. Votum 2. quaest. 17. et v. Iuram. 3. quaest. 1. part. 9. et verb. Iuramentum 4. quaest. 6. et quaest. 13. Tabiena v. Iurare, quaest. 15. num. 16. Armilla v. Iuramentum, num. 35. Nauar. summa, cap. 18. Hispana num. 5. Latina num. 7. Molina T. 2. de Iust. disp. 272. col. 2.*

5 From this arises another rule: That releases from the obligation of a vow or oath which, if it had happened or been known from the beginning, would have impeded their being made. So D. Thom. in 4. dist. 38. quaest. 1. art. 3. quaestiuncula 1. ad 1., Maior there, quaest. 1., Carthus. quaest. 2. §. Quaeritur item., Archidiac. c. Qui bona, quaest. 17. num. 4., Sylvest. verb. Votum, quaest. 1., and verbo Iuramentum 3. quaest. 1., and v. Pactum, quaest. 4., Tabiena quaest. 2. num. 3., Armilla num. 2., Medina C. de Ieiun. quaest. ult. ad 4., Angles flor. 2. p. quaest. unica de voto, art. 2. difficult. 3. concl. 5., Enriquez l. 11. de matrimonio, cap. 14., whom Sanchez refers to, loc. cit. num. 18. and 25.

> *Ex hac oritur alia regula: Id liberat a voti, vel iuramenti obligatione, quod si a principio accidisset, aut notum fuisset, impediret ea fieri. Ita D. Thom. in 4. dist. 38. quaest. 1. art. 3. quaestiuncula 1. ad 1. Maior ibi, quaest. 1. Carthus. quaest. 2. §. Quaeritur item. Archidiac. c. Qui bona, quaest. 17. num. 4. Sylvest. verb. Votum, quaest. 1. et verbo Iuramentum 3. quaest. 1. et v. Pactum, quaest. 4. Tabiena quaest. 2. num. 3. Armilla num. 2. Medina C. de Ieiun.*

quaest. ult. ad 4. Angles flor. 2. p. quaest. unica de voto, art. 2. difficult. 3. concl. 5. Enriquez l. 11. de matrimonio, cap. 14. quos refert Sanchez loc. cit. num. 18. et 25.

6 OTHERS, on the contrary, say a vow is rendered invalid only if the substance of the vow is changed; otherwise we would never have anything stable in contracts; for many things happen which, had they been foreseen, the contract would not have followed. So Caiet. 2. 2. quaest. 88. art. 3., Soto l. 7. de Iustitia, quaest. 2. art. 1. ad tertium, Armilla verb. votum, num. 11., where the same Caietanus from perult., Nauar. summa, cap. 12. num. 39., Lopez p. 1. instruct. cap. 43., Valentia 2. 2. disp. 6. quaest. 6. p. 4., Sanchez loc. cit. num. 21., Fagundez in 1. praecepto Decal. l. 2. cap. 13. num. 32.

ALII e contra dicunt, eo solum reddi votum invalidum, si mutetur substantia voti; alioqui nunquam aliquid stabile haberemus in contractibus; multa enim eveniunt, quae si fuissent praevisa, non esset secutus contractus. Ita Caiet. 2. 2. quaest. 88. art. 3. Soto l. 7. de Iustitia, quaest. 2. art. 1. ad tertium, Armilla verb. votum, num. 11. ubi idem Caietanus ex perult. Nauar. summa, cap. 12. num. 39. Lopez p. 1. instruct. cap. 43. Valentia 2. 2. disp. 6. quaest. 6. p. 4. Sanchez loc. cit. num. 21. Fagundez in 1. praecepto Decal. l. 2. cap. 13. num. 32.

7 It must be NOTED, with D. Bonav. in 3. dist. 39. art. 3. quaest. 3. in corpore, that changes of things change obligations, even those ratified by oath. For these compel while things remain in the same state, as is found in *c. Quemadmodum de iure iurando*, and other texts; and D. Bonav., whom Guttier. follows, *de iuramento*, p. 1. cap. 29. num. 6. and cap. 71. num. 6., Sanchez *loc. cit. num. 20.* For who does not see that a vow which brings detriment to salvation does not bind for that time, as if someone had vowed not to accept a prelacy, because he was then unfit, that afterward, having been made necessary for aiding Religion or the state, he is no longer bound? Otherwise he would sin by neglecting the public necessity. Therefore this vow, or oath, if made absolutely, would be evil, as D. Bonav. notes *in the cited place*.

NOTANDUM ex D. Bonav. in 3. dist. 39. art. 3. quaest. 3. in corpore, mutationem rerum mutare obligationes, etiam iuramento firmatas. Hae enim cogunt, rebus in eodem statu manentibus, ut habetur c. Quemadmodum de iure iurando*, et aliis textibus; et D. Bonav. quos sequitur Guttier.* de iuramento*, p. 1. cap. 29. num. 6. et cap. 71. num. 6. Sanchez* loc. cit. num. 20. *Quis enim non videt, votum, quod saluti affert detrimentum, non tenere pro eo tempore, ut si quis vovisset, non accipere praelaturam, quia tunc ineptus erat, postea factum necessarium adiuvandae Religioni, vel rei publicae non amplius teneri? alioqui peccaret omittens publicam necessitatem. Ideo hoc votum, aut iuramentum, si fieret absolute, esset malum, ut notat D. Bonav.* loco citato.

8 INDEED, however, if you should open a wider entrance for annulling vows and oaths from any change of things whatever, a way would already be opened to six hundred confusions. Therefore only a grave change suffices, and in this the authors of the first opinion judged rightly.

ENIM vero si aditum ampliorem patefacias ad irritanda vota, et iuramenta ex quacumque rerum mutatione, iam sexcentis confusionibus via aperiretur. Sola ergo mutatio gravis sufficit, et in hoc authores primae sententiae recte senserunt.

9 Take NOTE, however, that that difficulty, or supervening change, which I said ought to be grave, ought also to be new, such that the substance of the thing promised did not carry it with it. So Gloss. in *c. non est vero authoritate*, Hostiens. *summa, tit. de iureiur.*, and Sanchez *num. 29.*

ADVERTE autem, eam difficultatem, aut mutationem supervenientem, quam dixi esse debere gravem, debere etiam esse novam, ita ut substantia rei promissae eam non secum ferret. Ita Gloss. in c. non est vero authoritate*, Hostiens.* summa, tit. de iureiur. *et Sanchez* num. 29.

10 ANOTHER difficulty is: whether a vow or oath is invalid when there is error concerning the cause of the vow. A similar question is, when the cause was true at the time of the vow, and afterward ceased.

> *ALIA difficultas est; an votum, vel iuramentum sit invalidum, quando in causa voti est error. Similis quaestio est, quando causa tempore voti erat vera, et postea cessavit.*

11 The cause is TWOFOLD: one final, and that is that to which the operation is directed and ordered, without which he would not operate: the other is the moving, or impelling cause, which stirs a mind already resolved to pursue the work more easily, or more willingly.

> *DUPLEX est causa: Altera finalis, eaque est, ad quam dirigitur, atque ordinatur operatio, sine qua non operaretur: altera est causa motiva, vel impulsiva, quae excitat animum iam deliberatum ad facilius, seu libentius opus prosequendum.*

12 I ASSERT first, the final cause ceasing, the obligation of the vow ceases. Thus is understood *c. Cum cessante causa, de appell.*, and similar texts, in which it is brought forward: the cause ceasing, the effect ceases. See Sanchez *num. 42.*, Bassaeus *num. 12.*, who excepts solemn vows, because in them one is presumed to will that state, known to all.

> *ASSERO primo, cessante causa finali, cessare obligationem voti. Ita intelligitur* c. Cum cessante causa, de appell. et similes textus, quibus afferitur; cessante causa cessare effectum. *Vide Sanchez* num. 42. *Bassaeum* num. 12. *qui excipit vota solemnia, quia is praesumitur velle eum statum omnibus notum.*

13 I ASSERT secondly, the impelling cause ceasing, dispensation is made easier, although it does not annul the vow. Thus it is gathered *ex c. magna de voto, at the end*, and the Gloss *there, with the word, ut venires* teaches it, Anton. *num. 15.*, Abb. *num. 14.*, Tiraquel. *Tract. cessante causa, limitatione 1. num. 10.*

> *ASSERO secundo, cessante causa impulsiva, reddi faciliorem dispensationem, licet non irritet votum. Ita colligitur* ex c. magna de voto, in fine, *et tradunt Glossa* ibi, verbo, ut venires *Anton.* num. 15. *Abb.* num. 14. *Tiraquel.* Tract. cessante causa, limitatione 1. num. 10.

14 *You OBJECT against the first, from cap. magna: the Bishop of Troyes is dispensed from a vow he had made of pilgrimage to Jerusalem, so that by the aid of a certain Count, whom he had heard was staying there, he might obtain the liberty of his Church. Now indeed the Bishop was admonished that the Count had died, and so he seemed free from the pilgrimage, and yet, consulting the Pontiff, he obtained a commutation of the vow: therefore, the end ceasing, the vow does not cease.*

> OBIICIES contra primum cap. magna, dispensatur Episcopus Trecensis a voto, quod fecerat peregrinationis in Hierosolymam, ut ope Comitis cuiusdam, quem ibi commorantem audierat, libertatem suae consequeretur Ecclesiae. Iam vero admonitus est Episcopus, obiisse Comitem, atque adeo videbatur liber a peregrinatione, et tamen Pontificem consulens obtinuit commutationem voti: Ergo cessante fine, non cessat votum.

15 *It is ANSWERED* by Abb., Tiraquel., Angel., and Sylvest., that this was only an impelling cause, not a final one.

> RESPONDENT *Abb. Tiraquel. Angel. et Sylvest. eam fuisse causam tantum impulsivam, non finalem.*

16 *CONTRA, because the Pontiff testifies: To induce us especially to make this indulgence for you, that since you had chiefly issued a vow of pilgrimage for the liberty of the Church of Troyes, to be obtained through the said Count, with*

him removed from the midst, because the cause ceasing, the effect could also more easily cease. Where it is brought forward that the principal cause of the vow was to visit that Count for the sake of the liberty of the Church. The Gloss there thinks this, Hostiens. num. 21., Anton. num. 15., Anchar. num. 15.

> CONTRA, quia Pontifex testatur: Ad hanc autem indulgentiam tibi faciendam specialiter nos induxit, quod cum pro libertate Trecensis Ecclesiae, per dictum Comitem assequendam, praecipue votum peregrinationis emiseris, eo sublato de medio, quia cessante causa, facilius potuit cessare et effectus. Ubi afferitur causa principalis voti fuisse invisere Comitem illum causa libertatis Ecclesiae. Id sentiunt Glossa ibi, Hostiens. num. 21. Anton. num. 15. Anchar. num. 15.

17 *Sanchez ANSWERS, num. 43. loc. cit.*, that that commutation of the vow was not necessary, but granted out of greater caution, which the Pope signifies, saying: *The cause of that vow ceasing, its obligation could also be ended.* As if he said: it ceased, if it was a final cause; otherwise if it was impelling.

> RESPONDET *Sanchez* num. 43. loc. cit. *eam voti commutationem non fuisse necessariam, sed concessam ad maiorem cautelam, quod significat Papa dicens:* Cessante illius voti causa, potuisse quoque eius obligationem finiri. *Quasi dicat, cessasse, si fuit causa finalis; secus si fuit impulsiva.*

18 Nor does it stand in the way that this commutation is called an indulgence, and so ought to accomplish something; yet it would accomplish nothing if the vow had already ceased of itself.

> *Nec obstat, hanc commutationem vocari indulgentiam, atque adeo debere aliquid operari; nihil autem operaretur, si iam ex se votum cessasset.*

19 For he answers that privileges are granted for this work, that consciences may be pacified.

> *Respondet enim, concedi privilegia ad hoc opus, ut placentur conscientiae.*

20 *Yet FOR ME* an easier solution occurs: that that end of going to the Count was not the adequate one, but at the same time a concasue with another end of going to the sacred places; for the Pontiff says the vow was chiefly issued to that end of visiting the Count, where the Pontiff in the particle *chiefly* includes implicitly another concasue, not indeed dead, for going more willingly, but simply for going. Therefore the commutation was necessary, because the adequate end had not ceased.

> MIHI *tamen facilior occurrit solutio, finem illum adeundi Comitem non fuisse adaequatum, sed simul concausam cum alio fine adeundi sacra loca, ait enim Pontifex, praecipue emissum votum ad eum finem invisendi Comitem, ubi Pontifex in particula* praecipue *includit implicite aliam concausam, non quidem mortuam ad libentius adeundum, sed simpliciter ad eundum. Itaque necessaria fuit commutatio, quia non cessaverat finis adaequatus.*

21 *NOR* does Sanchez speak well in saying it was not necessary; for the Pontiff professes to dispense, and no scruple is found in that Bishop, but only the cessation of the principal end, whereby the effect of the obligation could more easily cease by taking away the remaining obligation, which had resulted from the other end. But this is clearer than light in that privilege, where elsewhere he asserts that he was bound, bringing in Ps. 75. for it: *Vow, and pay to the Lord.* And the Pontiff also fears scandal from the laity in so easily freeing clerics from obligations. The Pontiff adds that he compassionates his aging age, the necessity of the Church of Troyes, etc., and commutes the expenses of the journey into so many alms for the holy places without diminution. Therefore he was truly still bound, since he also intended a pilgrimage to the holy land of the east, and on that account had taken up the cross, as Pope Alexander III says there. Nor does Sanchez prove well that that commutation was not necessary,

because the Pontiff had said *it could cease*, that is, it had ceased, if it was a final cause; otherwise if impelling; for this does not show that the dispensation was not necessary.

> NEQUE *bene dicit Sanchez, eam non fuisse necessariam; nam profitetur Pontifex dispensare, nec aliquis scrupulus invenitur in illo Episcopo, sed sola cessatio finis principalis, qua facilius potuit cessare effectus obligationis tollendo reliquam obligationem, quae ex altero fine resultarat. Hoc autem luce clarius in illo privilegio elucet, ubi alias eum teneri asserit adducens id Psalm. 75.* Vovete, et reddite Deo. *Et Pontifex timet etiam scandalum laïcorum in liberandis adeo facile clericis ab obligationibus. Addit Pontifex, se compati aetati senescenti, necessitati Ecclesiae Trecensis, etc. et commutat expensas itineris in tot eleemosynas pro locis sanctis absque diminutione. Ergo vere adhuc tenebatur, cum etiam terrae orientalis sanctae peregrinationem intenderet, et ob id crucem assumpsisset, ut ait ibi Pontifex Alexander III. Neque bene probat Sanchez, eam commutationem non fuisse necessariam, quia dixerat Pontifex,* potuisse cessare, *idest cessasse, si fuit causa finalis; secus si impulsiva; hoc enim non ostendit non fuisse necessariam dispensationem.*

22 *From* what has been said, it is asserted thirdly, that error concerning the adequate final cause takes away the vow, not error concerning the merely moving one. It is clear from what has been said: for if the vow ceases with it ceasing, therefore it is not made with it not existing; for as a thing is ordered to being conserved, so also to being; for by the same causes a moral thing is made and conserved.

> EX *dictis asseritur tertio, errorem circa causam finalem adaequatam tollere votum, non circa motivam meram. Patet ex dictis: Si enim ea cessante cessat votum. Ergo ea non existente non fit; sicuti enim res se habet ad conservari, ita et ad esse; nam per easdem causas res moralis fit, et conservatur.*

23 But when it is doubtful whether it is a final cause, favor must be given to liberty, which is possessed, as I said *in quaest. 2., against Bass. n. 12., Azor. l. 11. cap. 15., Vasq. p 2. disp. 70., Sanchez l. 2. de matr. disp. 9., Sylvium quaest. 88. art. 1.*

> *In dubio autem, an sit causa finalis, favendum libertati, quae possidetur, ut dixi* quaest. 2. contra Bass. n. 12. Azor. l. 11. cap. 15. Vasq. p 2. disp. 70. Sanchez l. 2. de matr. disp. 9. Sylvium quaest. 88. art. 1.

Question VI: Whether fear inflicted on another makes a vow invalid

1 *This QUESTION* is exceedingly weighty, and presupposes much, and hands down things necessary also for other Tracts, even that on marriage.

> An metus incussus reddat Votum invalidum.
>
> QUAESTIO *haec admodum gravis est, et plurima supponit, traditque necessaria etiam pro aliis Tractibus, etiam de matrimonio.*

2 *I ASSUME* first, from *the first part 2. Tract. 1. disp. 3. quaest. 5.*, that the Will, as regards elicited acts, cannot be coerced.

> SUPPONO *autem primo ex* prima 2. Tract. 1. disp. 3. quaest. 5. *Voluntatem, quoad actus elicitos, non posse cogi.*

3 *I ASSUME* secondly, from *the same disput. quaest. 8.*, that things done through fear are not involuntary. So holds also the Jurisconsult *l. si mulier 21. §. si metu coactus, ff. de eo, quod metus causa. and l. cum proponas C. de hered. instit. and C. si privatus, ff. qui et a quibus.* The reason is clear, because he can elicit, and not elicit, the act.

> SUPPONO *secundo ex* eadem disput. quaest. 8. *ea quae metu fiunt, non esse involuntaria. Ita habet etiam Iurisconsultus* l. si mulier 21. §. si metu coactus, ff. de eo, quod metus causa. et l. cum proponas C. de hered. instit. et C. si privatus, ff. qui et a quibus. *Ratio est clara, quia potest elicere, et non elicere actum.*

4 *Fear IS* a *trepidation of mind from danger present or to come.* So defines Ulpian the Jurisconsult, *l. 1. ff. de eo quod metus causa.* It is defined likewise by D. Bonav. *3. p. Centil. sect. 55. and in 4. at the place cited.*

> EST *autem* metus instantis periculi, vel futuri causa mentis trepidatio. *Ita Ulpianus Iurisc.* l. 1. ff. de eo quod metus causa. *Sic definitur etiam a D. Bonav.* 3. p. Centil. sect. 55. et in 4. loco citando.

5 *Fear is DIVIDED* into Concussive, such as that which is inflicted by threats, and Impressive, which is called fear of Fact, as when deeds intervene, say blows, etc. So D. Bonav. *loc. cit.*, on which Zasius *Instit. de actione, §. quadrupli, num. 10.* Bursatt. *consil. 72. num. 11. vol. 1.*, where he reports others; Sanchez *l. 3. de matrim. disput. 12 num. 8.* Another fear they add, Compulsive from a powerful man, which is also called Violent; because the force that strikes fear is a man of great power: another fear, they say, is tacit, or of reverence, such as a daughter's toward her Father. The last they call fear of treachery, such as that of a sick man fearing to be treated treacherously by his physician.

> DIVIDITUR *autem metus in Concussivum, qualis est, qui per minas infertur, et in Impressivum, qui dicitur metus Facti, ut cum acta interveniunt, puta verbera, etc. Ita D. Bonav.* loc. cit. *de quibus Zasius* Instit. de actione, §. quadrupli, num. 10. *Bursatt.* consil. 72. num. 11. vol. 1. *ubi alios refert; Sanchez* l. 3. de matrim. disput. 12 num. 8. *Alium metum addunt Compulsivum a potente, qui etiam dicitur Violentus; quia vis, metum incutiens, est vir praepotens: Alium metum esse dicunt tacitum, seu reverentialem, ut filiae erga Patrem. Ultimum vocant timorem perfidiae, qualis est aegroti timentis, a medico perfide curari.*

6 *Fear*, then, is said of someone coerced conditionally, because setting fear aside the will would not will it; yet not absolutely, because he can still be unwilling, and therefore it is called conditional force.

> METUS *igitur dicitur aliquis cogi conditionaliter, quia secluso metu voluntas nollet, non tamen absolute, quia adhuc potest nolle, et ideo dicitur vis conditionata.*

7 *BUT* violent force, or absolute force, is that which is from without, not conferring force upon the sufferer *ex 3. Eth. cap. 2.*, as if a Christian were dragged to a Mosque, and compelled by blows to offer incense to an Idol; which force D. Bonav. defines thus, *loc. cit. Centil. and in 4. at the place cited*, following the Jurisconsult, *l. 2. ff. de eo quod metus causa: Vis est maioris rei impetus, qui repelli non potest*, which assuredly lacks the voluntary altogether:

> AT *violenta, seu vis absoluta ea est, quae est ab extrinseco, non conferente vim passo* ex 3. Eth. cap. 2. *veluti si Christianus traheretur ad Mesquitam, et cogeretur impulsibus offerre Idolo thura, quam vim sic definit D. Bonav.* loc. cit. Centil. et in 4. loco citando *ex Iurisconsulto* l. 2. ff. de eo quod metus causa: Vis est maioris rei impetus, qui repelli non potest*, qui sane caret penitus voluntario:*

8 *A CELEBRATED* division of fear is that of D. Bonav. in *4. dist. 29. quaest. 1. in corpore*, and *loc. cit. Centil., and found in c. Considerationi, c. veniens, el. 2. de sponsal. cap. cum dilectus de his quae vi, et* from the Jurisconsult, *l. metu, l. 2. ff. de eo quod metus causa.* Decio *cap. final. de appell. c. causam matrimonii, num. 4. de off. deleg.* Menochio *de arbitrariis l. 2. Centur. 2. casu 135. n. 1.* Flaminio *de resignatione benef. l. 13. q. 1. n. 54.* Abb. *c. cum dilectus n. 3.* D. Thoma in *4. dist. 29. quaest. un. art. 2.* and elsewhere everywhere with the other Theologians and Summists.

> CELEBRIS *autem est divisio metus, quam habet D. Bonav. in* 4. dist. 29. quaest. 1. in corpore*, et* loc. cit. Centil. et habetur c. Considerationi, c. veniens, el. 2. de sponsal. cap. cum dilectus de his quae vi, et *a Iurisconsulto* l. metu, l. 2. ff. de eo quod metus causa. *Decio* cap. final. de appell. c. causam matrimonii,

num. 4. de off. deleg. *Menochio* de arbitrariis l. 2. Centur. 2. casu 135. n. 1. *Flaminio* de resignatione benef. l. 13. q. 1. n. 54. *Abb.* c. cum dilectus n. 3. *D. Thoma in* 4. dist. 29. quaest. un. art. 2. *et alibi passim cum caeteris Theologis, et Summistis.*

9 Another is called fear falling upon a constant man, which is also called *just fear, c. Finali de appell.*; it is called probable by *D. Bonav. loc. cit. and Goffredo de his, quae vi, num. 2. Angelo, at the word metus. Sylvest. quaest. 1. Sanchez loco cit. num. 19.* It is called also grave fear by *D. Bonav. and others*, with the Jurisconsult, *lege metum, l. 2 ff. de eo quod metus causa*, where he says, *it is not of a man of no account, since even the strong are shaken by it.*

Alius dicitur metus cadens in constantem virum, qui et dicitur Timor iustus, c. Finali de appell. *dicitur etiam probabilis a* D. Bonav. loc. cit. et Goffredo de his, quae vi, num. 2. Angelo verbo metus. Sylvest. quaest. 1. Sanchez lo. cit. num. 19. *Dicitur etiam metus gravis a* D. Bonav. et aliis *cum Iurisconsulto* lege metum, l. 2 ff. de eo quod metus causa, *ubi ait,* esse non vani hominis, quia eo etiam fortes concutit.

10 Another is called the fear of an inconstant man, and it is called light fear, in contrast to the preceding, because it marks out as inconstant, light, and vain the one who is shaken by it and led to act against his appetite.

Alius dicitur metus hominis inconstantis, diciturque metus levis, e regione praecedentis, quia inconstantiae, levitatis, et vanitatis indicat eum, qui eo concutitur, et inducitur ad operandum contra appetitum.

11 Five conditions, however, *S. Bonav., in the places adduced*, whom the rest follow, assigns to fear, that it be of the first kind. The first is that the evil feared be grave, *l. Metum, l. 1. de eo quod metus causa*, there, *Labeo says fear is to be taken, not any fear whatever, but of a greater evil.*

Quinque autem conditiones assignat S. Bonav. locis adductis, *quem caeteri imitantur, ad metum, ut sit prioris generis. Prima est, ut malum, quod timetur, grave sit* l. Metum, l. 1. de eo quod metus causa, *ibi* metum accipiendum Labeo dicit, non quemlibet timorem sed maioris mali.

12 From the last words they take occasion to say that this fear need not be great absolutely, but comparatively, so that it be greater than another, though light in itself. *So Sylvest. v. metus, quaest. 1. Veracruz p. 1. speculi, art. 8. concl. 3. Carbon. de restit. quaest. 46. fundamento 3.*

Ex ultimis verbis ansam arripiunt dicendi, hunc timorem non debere absolute esse magnum, sed comparative, ita ut sit maior alio, licet in se sit levis. Ita Sylvest. v. metus, quaest. 1. Veracruz p. 1. speculi, art. 8. concl. 3. Carbon. de restit. quaest. 46. fundamento 3.

13 But *D. Bonav. in 4. loc. cit. in corpore, and loc. cit. Censil.* wills it to be grave in itself, say of death, infamy, or mutilation; whom follow *Sotus 4. dist. 29. quaest. 1. art. 2. Sanchez num. 12.* The reason is, *D. Bonav. loc. cit.*, because contracts are rescinded by such fear, seeing it impedes consent, *cap. Cum locum de sponsal.*; but when the evil is light, though preferred before a graver evil, the liberty of consent in a strong man is not held to be impeded.

At D. Bonav. in 4. loc. cit. in corpore, et loc. cit. Censil. *vult, esse gravem in se, puta mortis, infamiae, vel mutilationis; quem sequuntur* Sotus 4. dist. 29. quaest. 1. art. 2. Sanchez num. 12. *Ratio est* D. Bonav. loc. cit. *quia timore huiusmodi rescinduntur contractus, quippe impediat consensum* cap. Cum locum de sponsal. *at quando malum est leve, quamvis graviori malo anteponatur, non censetur impediri libertas consensus in viro forti.*

14 To those words I say that the comparative is there abusive, and signifies only what is positively great, as the *Gloss explains there.*

Ad verba illa dico, comparativum illud esse abusivum, et positive significare tantum magnum, ut explicat Glossa ibi.

15 The second condition of fear falling upon a constant man is that the estimation of the grave evil be of one probably imminent, and not a light suspicion. So *D. Bonav. in 4. loc. cit., and found l. Metum la 2. ff. de eo quod metus causa.* For a constant man is not so lightly terrified; so also *D. Thom. in 4. dist. 29. quaest. unica, art. 2. in corpore. Scotus there quaest. unica, §. de primo contradictio. Durandus there quaest. 2. Richard. art. 1. quaest. 1. Gabriel in 3. dist. 39. quaest. 1. art. 1. Sotus 4. dist. 29. quaest. 1. art. 2. Palacios there, disp 1. Ledesm. dub. 23. de matrimonio.* And from the Jurisperiti, *Torcremata 31. quaest. 2. in summa, num. 6. Sylvest. v. metus, quaest. 1. Tabiena v. impedimentum, impedimento 9. quaest. 1. Burlat. consil. 72. num. 30. vol. 1. Alphaeus in his collectaries, collect. 877. Sanchez num. 15.* Hence *Aristotle, 3. Eth. cap. 9.*, says, *the brave man is fearless, because he does not fear lightly, but where right reason dictates that he must fear.*

Secunda conditio metus, cadentis in constantem virum, est, ut aestimatio mali gravis sit probabiliter imminentis, non autem levis suspicio. Ita D. Bonav. in 4. loc. cit. et habetur l. Metum la 2. ff. de eo quod metus causa. *Vir enim constans non adeo leviter terretur, ita etiam* D. Thom. in 4. dist. 29. quaest. unica, art. 2. in corpore. Scotus ibi quaest. unica, §. de primo contradictio. Durandus ibi quaest. 2. Richard. art. 1. quaest. 1. Gabriel in 3. dist. 39. quaest. 1. art. 1. Sotus 4. dist. 29. quaest. 1. art. 2. Palacios ibi, disp 1. Ledesm. dub. 23. de matrimonio. *Et ex Iurisperitis* Torcremata 31. quaest. 2. in summa, num. 6. Sylvest. v. metus, quaest. 1. Tabiena v. impedimentum, impedimento 9. quaest. 1. Burlat. consil. 72. num. 30. vol. 1. Alphaeus collectariis suis, collect. 877. Sanchez num. 15. *Hinc* Aristoteles, 3. Eth. cap. 9. *dicit,* fortem esse impavidum, quia non timet leviter, sed ubi recta ratio timendum dictat.

16 Hence I infer with *D. Bonav. loc. cit. in resol.* that there is not required a true and real infliction of the punishments, for then it would be called not fear but harm; but it is enough that there be a probable fear of a future or imminent infliction, *Leg. nec timorem 7. ff. de eo quod metus causa and l. 15. tit. 2. p. 4., and the Gloss teaches, c. el. primo vero metuebant de electione. Bartolomaeus l. metum autem, at the beginning, num. 1. ff. de eo quod metus causa. Sylvest. v. metus, quaest. 1. Lopez on that l. 15. Cucus l. 5. instit. Maiorum, tit. 12. num. 157.*

Hinc infero cum D. Bonav. loc. cit. in resol. *non requiri veram, et realem poenarum illationem quia sic non timor, sed damnum dicitur; sed sat, esse probabilem timorem futurae, vel imminentis illationis* Leg. nec timorem 7. ff. de eo quod metus causa et l. 15. tit. 2. p. 4. et docent Glossa c. el. primo vero metuebant de electione. Bartolomaeus l. metum autem, in principio, num. 1. ff. de eo quod metus causa. Sylvest. v. metus, quaest. 1. Lopez ea l. 15. Cucus l. 5. instit. Maiorum, tit. 12. num. 157.

17 Some add that the fear ought to be present, not awaited, though the evil be only future. They gather this from *l. metum autem 9. ff. de eo, quod metus causa.* So expound many, as *Sanchez num. 16.* reports.

Addunt aliqui, metum debere esse praesentem, non expectatum, licet malum sit tantum futurum. Id colligunt ex l. metum autem 9. ff. de eo, quod metus causa. *Ita exponunt multi apud* Sanchez num. 16.

18 Others, however, think that a probable suspicion of fear suffices, and that this is enough for rescinding the act, *Leg. novissime, ff. de falso tutore*, there, *that he was thus compelled by fear, or fearing, lest he be compelled.* So *Bartol. l. 2. lectura 2. C. quod metus causa. Baldus leg. interpositas at the end C. de Transact. Alex. cons. 99. n. 6. vol. 3. Parisius consil. 60. num. 15. vol. 3. Romanus l. 5. ob turpem, num. 10. C. de condonatione ob turpem causam. Hostiens. c. Cum dilectus de his, quae vi, on the words nec metum mortis, and there Anchar. num. 7. Rebuff. Tom. 2. consil. Gallicarum, tit. de rescissione contractuum, art. unico Glossa 2. 2. num. 6.*

Alex. Tartagnus among the matrimonial consilia of Tileti cons. 21. num. 5. Sylvest. v. metus Villalobos in communi opinione, litt. N. at the word metus, num. 70. Anton. Gabr. tom. 2. commun. l. 11. v. metus, fol. 107. Burgos de Paz cons. 25. num. 73. Padella l. cum proponas, la 1. num. 3. C. de transact. Decisio Pedemontana 170. num. 3. Ioan. Garzia de nobilitate, gloss. 17. num. 14. Mascard. de probat. concl. 1055. num. 26.

> *Alii tamen putant, sufficere probabilem metus suspicionem, et sic satis esse ad rescindendum actum,* Leg. novissime, ff. de falso tutore *ibi,* quod enim sic metu compulsus, aut metuens, ne compelleretur. *Ita* Bartol. l. 2. lectura 2. C. quod metus causa. Baldus leg. interpositas ad finem C. de Transact. Alex. cons. 99. n. 6. vol. 3. Parisius consil. 60. num. 15. vol. 3. Romanus l. 5. ob turpem, num. 10. C. de condonatione ob turpem causam. Hostiens. c. Cum dilectus de his, quae vi super verba, nec metum mortis, et ibi Anchar. num. 7. Rebuff. Tom. 2. consil. Gallicarum, tit. de rescissione contractuum, art. unico Glossa 2. 2. num. 6. Alex. Tartagnus inter consilia matrimonialia Tileti cons. 21. num. 5. Sylvest. v. metus Villalobos in communi opinione, litt. N. verbo metus, num. 70. Anton. Gabr. tom. 2. commun. l. 11. v. metus, fol. 107. Burgos de Paz cons. 25. num. 73. Padella l. cum proponas, la 1. num. 3. C. de transact. Decisio Pedemontana 170. num. 3. Ioan. Garzia de nobilitate, gloss. 17. num. 14. Mascard. de probat. concl. 1055. num. 26.

19 Yet that Law sounds differently to me: that the contract be rescinded of one who, compelled by fear, or fearing, would not be compelled, that is, by force against the thing, say if he were compelled to subscribe, *l. nam timor violentiae inferendae vitiat electionem.* So the *Gloss C. bone, CL. 1., at the word metuebant de electione, which all follow there, Alex. cons. 98. vol. 3. Rebuff. Mascad. loc. cit.*

> *Illa tamen Lex mihi aliter sonat, rescindi eius contractum, qui metu compulsus, aut metuens non compelleretur, idest, vi ad rem, puta si cogeretur subscribere* l. nam timor violentiae inferendae vitiat electionem. *Sic* Glossa C. bone, CL. 1. verbo metuebant de electione, quam omnes ibi sequuntur, Alex. cons. 98. vol. 3. Rebuff. Mascad. loc. cit.

20 Therefore I note that the Law does not say, or thinking probably, lest fear be struck into him, *but fearing (it says) lest he be compelled, that is, by force.*

> *Ideo adverto, Legem non dicere, aut probabiliter cogitans, ne metus incuteretur,* sed metuens (ait) ne compelleretur, idest, vi.

21 The third condition required for grave fear is assigned by *D. Bonav. loc. cit. in corpore;* and it is that the one striking fear be able to command his threats to execution; for it is not for a brave general to be terrified by the threats of little rustics, as *D. Bonav. notes, l. Famosi, ff. ad legem Iul. maiest.*, there, *for the person also is to be considered: whether he could do it, Gloss. l. metum, v. iactationibus, C. de his, quae vi. Anchar. c. ad Audientiam, num. 2. de his, quae vi. Baldus l. metum q. C. de his quae vi, and there Alex. Salicetus num. 2. Sebastianus de medicis, de casibus fortuitis, quaest. 1. num. 67. Flaminius de resign. benef. l. 13. quaest. 1. n. 116. Cucus l. 1. Instit. Mai. tit. 12. num. 165. Rolandus consil. 83. num. 28. vol. 2. Angelus v. metus, Sotus l. 7. de Iustitia, quaest. 2. art. 1. ad 2. Aragon. 2. 2. quaest. 88. art. 3. §. Pro explicatione, fol. 988. Carbo de restit. quaest. 46. fundamento 4., and all whom Sanchez num. 19. follows.*

> *Tertia conditio, ad metum gravem requisita, assignatur a* D. Bonav. loc. cit. in corpore; *estque, ut metum incutiens, potens sit minas exequutioni mandare; non enim fortis Ducis est terreri minis rusticulis, ut notat* D. Bonav. l. Famosi, ff. ad legem Iul. maiest. *ibi* nam et persona spectanda est: an potuerit facere, Gloss. l. metum, v. iactationibus, C. de his, quae vi. Anchar. c. ad Audientiam, num. 2. de his, quae vi. Baldus l. metum q. C. de his quae vi, et ibi Alex. Salicetus num. 2. Sebastianus de medicis, de casibus fortuitis, quaest. 1. num. 67. Flaminius de resign. benef. l. 13. quaest. 1. n. 116. Cucus l. 1. Instit. Mai. tit. 12. num. 165. Rolandus consil. 83. num. 28. vol. 2. Angelus v. metus, Sotus l. 7. de Iustitia, quaest. 2. art. 1. ad 2.

Aragon. 2. 2. quaest. 88. art. 3. §. Pro explicatione, fol. 988. Carbo de restit. quaest. 46. fundamento 4. et omnes, quos sequitur Sanchez num. 19.

22 Note, however, that it is not to be taken as though he could in very fact fulfill the threats, but that the one fearing reasonably judge that he can fulfill them, even though in fact he truly cannot, for some reason unknown to the one fearing. Which *D. Bonav. signified excellently, loc. cit., whom Richardus follows, there art. 1. quaest. 1., as Sanchez num. 19. reports.* Wherefore the quality and power of the one striking fear and of the sufferer must be weighed, as if the former were a powerful man and the latter weaker, *as Beroius cap. 1. n. 30. de off. deleg. Sotus, Arag. Carbo, and Sanchez loc. cit., and Henriquez l. 11. de matrim. cap. 9., after D. Bonav. loc. cit. Censil., teach well.*

Nota tamen, non ita accipiendum, ut minas vere de facto possit implere, sed ut timens rationabiliter existimet, posse eum implere, quamvis de facto vere non possit ob aliquam rationem, timenti incognitam. Quod egregie significavit D. Bonav. loc. cit. quem sequitur Richardus ibi art. 1. quaest. 1. ut refert Sanchez num. 19. *Quare perpendenda est qualitas, et potentia metum incutientis, et passi, ut si ille erat vir potens, et hic infirmior,* ut bene docent Beroius cap. 1. n. 30. de off. deleg. Sotus, Arag. Carbo, et Sanchez loc. cit. et Henriquez l. 11. de matrim. cap. 9. post D. Bonav. loc. cit. Censil.

23 The fourth condition is *D. Bonav. loc. cit. Censil.*, which he indicates *in 4.*, that it be likely that the threatener will execute his threats; because he is wont to do so, and is not of those Worthies who fling out threats but do not execute them. It is established *ex l. unica, C. Si quis Imperatori*, there, *let us weigh the sayings from the characters of men. And leg. Famosi, ff. ad Leg. Iul. maiest. and Leg. metum, C. de his, quae vi*, there: *Fear ought to be proved not by boasts or contentions alone, but by the atrocity of the deed.* And so teaches *Bartolus, Paulus, Alex. Baldus, Salicet. and Aretinus: Abbas indeed cap. 1. num. 3. de offic. deleg.*, and *cap. causam matrimon. numer. 5. on the same title*, and *cap. Cum dilectus, numer. 8.* Anchard. *in the chapter ad Audientiam, num. 2. de his quae vi.* Navo *cap. consultatione, num. 12. de sponsal.*, and *cap. finali, num. 17. de appel.* Felinus *cap. 1. de offic. deleg.*, there Decius, and *cap. causam matrim. on the same title num. 21.* Crottus *leg. stipulatio hoc modo concepta, num. 67. ff. de verb. oblig.* Vitalis de Cambaris *tract. de clausulis; clausula non vi, tit. de metu uxoris*, found in Tom. 18. *tract. noviorum*, Iacobinus *leg. interpositas, num. 10. Cod. de transact.* Couar. *4. decret. 2. part. cap. 3. §. 6.* Tiberius Decianus *consil. 18. num. 128. vol. 1.* Bursatus *consil. 72. num. 35. and 42. vol. 3.* Flaminius *lib. de resignatione, benef. lib. 15. quaest. 1. num. 174.* Mascardus *de probat. consil. 1055. num. 18.* Antonius Gabriel. *Tom. 2. com. lib. 11. v. metus, fol. 106.*

Quarta conditio est D. Bonav. loc. cit. Censil. *quam indicat* in 4. *ut verisimile sit, minantem exequuturum minas; eo quod ita solitus sit, non autem sit ex Cospettonibus illis, qui minas iactant, sed non exequuntur. Constat* ex l. unica, C. Si quis Imperatori, *ibi* ex personis hominum dicta pensemus. Et leg. Famosi, ff. ad Leg. Iul. maiest. et Leg. metum, C. de his, quae vi *ibi:* Metum non iactationibus tantum, vel contestationibus, sed atrocitate facti probari convenit. *Et ita docet* Bartolus, Paulus, Alex. Baldus, Salicet. et Aretinus: Abbas vero cap. 1. num. 3. de offic. deleg. *et* cap. causam matrimon. numer. 5. eodem titul. *et* cap. Cum dilectus, numer. 8. *Anchard.* capite ad Audientiam, num. 2. de his quae vi. *Navo* cap. consultatione, num. 12. de sponsal. *et* cap. finali, num. 17. de appel. *Felinus* cap. 1. de offic. deleg. *ibi Decius, et* cap. causam matrim. eodem tit. num. 21. *Crottus* leg. stipulatio hoc modo concepta, num. 67. ff. de verb. oblig. *Vitalis de Cambaris* tract. de clausulis; clausula non vi, tit. de metu uxoris, *habetur Tom. 18.* tract. noviorum, *Iacobinus* leg. interpositas, num. 10. Cod. de transact. *Couar.* 4. decret. 2. part. cap. 3. §. 6. *Tiberius Decianus* consil. 18. num. 128. vol. 1. *Bursatus* consil. 72. num. 35. et 42. vol. 3. *Flaminius* lib. de resignatione, benef. lib. 15. quaest. 1. num. 174. *Mascardus* de probat. consil. 1055. num. 18. *Antonius Gabriel.* Tom. 2. com. lib. 11. v. metus, fol. 106.

24 From the Theologians, Henriquez *lib. 11. de matrim. cap. 9.*, Lopez *2. part. Instruct. de matrim. cap. 40. fo. 1071.*, and Sanchez *num. 20.*, who *num. 21.* adds that it is required that such a one be wont to execute the threatened evil in the same kind of evil as that threatened, on the doctrine of Baldus *leg. finali at the end, ff. de haered. instit.*, where he says that conjecture is not drawn from unlike things; so Cynus, whom Alexander cites and follows, *leg. metum, num. 2. Cod. de his, quae vi.*

> *Ex Theologis Henriquez* lib. 11. de matrim. cap. 9. *Lopez* 2. part. Instruct. de matrim. cap. 40. fo. 1071. *et Sanchez* num. 20. *qui* num. 21. *addit, requiri ut is solitus sit exequi comminatum malum in eodem genere mali comminati, per doctrinam Baldi* leg. finali ad finem, ff. de haered. instit. *ubi ait, ex diffimilibus non sumi coniecturam; sic Cynus, quem refert, et sequitur Alexander* leg. metum, num. 2. Cod. de his, quae vi.

25 The last condition is that the one fearing be unable to meet the threatened evils otherwise than by vowing; for if he could meet them otherwise, it would not be the fear of a brave man, but of a little fellow, whose it is to dread evils he could easily escape. This condition, however, seems to me implicit in the second, whereby the evil is imminent, for then it is well-nigh irreparable.

> *Ultima conditio est, ne possit timens aliter occurrere malis indictis, quam vovendo; si enim posset aliter obviare, non esset timor viri, sed homuncionis, cuius est metuere mala, quae facile possit evadere. Haec tamen conditio videtur mihi implicita in secunda, qua malum est imminens, tunc enim fere irreparabile est.*

26 Straightway Sanchez disputes whether one choosing a greater evil, say to deny Christ, in order to avoid a lesser, say death, can be called a constant man, and whether that fear of a lesser evil, though grave in itself, suffices to render external acts invalid, as involuntary, because it is fear falling upon a constant man, since it is grave according to the first condition of fear.

> *Statim vero Sanchez disputat: an eligens maius malum, puta Christum negare, ut vitet minus, puta mortem, possit dici constans vir, et ille timor minoris mali, esto gravis in se, sufficiat, ut invalidentur extrinseci actus, tanquam involuntarii, eo quod sit metus cadens in constantem virum, cum sit gravis, iuxta primam conditionem metus.*

27 Very many assert that an evil, even if grave, does not suffice to strike fear into a constant man if it be chosen to avoid another greater evil, to say, he is not held to be a constant man if he chooses the greater evil, say fault, to avoid a lesser penalty, say death; the reason is, because such a one is moved not by rational but by irrational fear; but the constant man acts rationally.

> *Plurimi asseverant, malum, etiamsi grave, non sufficere ad timorem incutiendum constanti viro, si ad aliud maius vitandum eligatur, voto, dicere, non censeri constantem virum, si eligat maius malum, puta culpae, ut vitet minus poenae, puta mortis; ratio est, quia talis non movetur metu rationabili; sed irrationabili; constans autem vir operatur rationabiliter.*

28 And indeed D. Bonavent. holds this, *at the place cited, toward the end*, D. Thom. *in 3. dist. 29. quaest. unica, art. 2. in corpore*, Scotus *quaest. unic. §. de prima contradictio*, and *§. hic dicitur*, Durandus *quaest. 1.* Richardus *art. 1. quaest. 1.* ad Paludanum *quaest. unica, art. 2. concl. 2. num. 13.* Gabriel. *in 3. dist. 39. quaest. 1. art. 1. and art. 3. concl. 8.* Victoria *sum. de matrim. num. 168.* Sotus *in 4. dist. 29. quaest. 1. art. 2.* Palacios *in 4. dist. 29. dub. 1. fol. 655.* Veracruz *p. p. speculi, art. 8.* and others, whom Sanchez reports, *lib. 4. de matrim. disp. 2. num. 2.*, where he asserts that these Doctors, speaking of fear in reference to marriage and other contracts to be rescinded — namely that it be fear falling upon a constant man, sufficient to annul marriage — require that the lesser evil be chosen by the man, otherwise he was not constant but inconstant.

Et quidem id tenent D. Bonavent. loco cit. ad ultimum, *D. Thom.* in 3. dist. 29. quaest. unica, art. 2. in corpore, *Scotus* quaest. unic. §. de prima contradictio, *et* §. hic dicitur, *Durandus* quaest. 1. *Richardus* art. 1. quaest. 1. *ad Paludanum* quaest. unica, art. 2. concl. 2. num. 13. *Gabriel.* in 3. dist. 39. quaest. 1. art. 1. et art. 3. concl. 8. *Victoria* sum. de matrim. num. 168. *Sotus* in 4. dist. 29. quaest. 1. art. 2. *Palacios* in 4. dist. 29. dub. 1. fol. 655. *Veracruz* p. p. speculi, art. 8. *et alii, quos refert Sanchez* lib. 4. de matrim. disp. 2. num. 2. *ubi asserit, hos Doctores locutos de metu in ordine ad matrimonium, et alios contractus rescindendos, nempe ut sit metus cadens in virum constantem, sufficiens irritare matrimonium, requiri, ut eligatur minus malum a viro, alioqui non erat constans, sed inconstans.*

29 Others, however, explain that these Doctors will this condition of choosing the lesser evil to be required in order that fear excuse from fault, but not that it suffice for rescinding contracts; and in this sense D. Bonavent. spoke, *in 3. dist. 29. art. 3. quaest. 2. ad 3.*, where he grants fear falling upon a constant man with regard to human contracts; yet with regard to things of universal justice he denies it, according to that of *Matth. 10.*: *Fear not them that kill the body.* Therefore such fear, on grounds urged before God, is not reckoned a sufficient cause to excuse man from the guilt of sin, or from the obligation of an oath, though it exempt him from human contracts, according to the Axiom of the Jurisperiti reported above.

Alii tamen explicant, hos Doctores velle hanc conditionem eligendi minus malum requiri, ut metus excuset a culpa, non tamen ut sufficiens sit ad contractus rescindendos, et hoc sensu locutus est D. Bonavent. in 3. dist. 29. art. 3. quaest. 2. ad 3. *ubi metum cadentem in virum constantem ipsi concedit quo ad contractus humanos; tamen quo ad ea, quae sunt iustitiae universalis id negat, iuxta id* Matth. 10. Nolite timere eos, qui occidunt corpus. *Ideo talem metum motis apud Deum non reputari causam sufficientem ad excusandum hominem a reatu peccati, vel ob obligationem iuramenti, esto eximat a contractibus humanis, iuxta Iurisperitorum Axioma, supra relatum.*

30 In the place indeed adduced by Sanchez, *in the fourth sent., at the end of the question cited*, he says that fear falling upon a constant man is of those things only that are not contrary to our salvation, and thus no fear of penalty, with respect to committing sin, can fall upon a constant man; therefore he ought rationally to suffer death rather than sin; but marriage is not of things contrary to salvation, whence he infers that, with respect to it, the fear of a constant man can fall, which fear renders the act involuntary; whence it comes about that this condition, of one choosing the lesser evil in order to be a constant man, in our case does not come into play in a vow or oath, but only in things that carry fault in themselves, which, even though they carry only venial fault, are yet a greater evil than any penalty whatsoever, even of death, as D. Bonavent. teaches, *in 3. dist. 38*, whom others imitate after D. Augustine, *reported in cap. ne quis 22. quaest. 2.*

In loco vero adducto a Sanchez in quarto sent. in fine quaestionis citatae, *dicit, timorem cadentem in virum constantem esse de iis rebus tantum, quae non sunt contrariae nostrae saluti, et ita nullum timorem poenae respectu peccati perpetrandi posse cadere in virum constantem, ideo rationabiliter debet pati potius mortem, quam peccare; matrimonium autem non est de his, quae sunt saluti contraria, unde infert, respectu eius posse cadere metum constantis viri, qui metus reddat involuntarium; quo fit, ut haec conditio eligentis minus malum, ut sit constans vir, in casu nostro non veniat in voto, vel iuramento, sed solum in his, quae culpam per se ferunt, quae etiam si venialem tantum culpam praeferant, tamen maius malum sunt, quam quaelibet poena, etiam mortis, ut docet D. Bonavent.* in 3. dist. 38 *quem imitantur alii post D. Augustinum,* relatum cap. ne quis 22. quaest. 2.

31 Which things being so, Sanchez does not rightly institute the second disputation *lib. 4. de matrimonio*: Whether the fear of a constant man necessarily requires that the lesser evil be chosen,

that is, the penalty rather than the fault. He says that B. Bonaventure, D. Thomas, and others assert that such an evil ought to be preferred in reference to marriage; for since marriage is not compared, as an evil, with the fear, and consequently cannot be called a lesser evil than the evil certainly threatened by the threatener unless one enter marriage, I do not see on what ground Sanchez says that D. Bonaventure, D. Thomas, and others spoke in this sense, that by choosing marriage rather than death, or death rather than marriage, one is said to choose the greater or the lesser evil, and thence one is argued to be a constant or inconstant man. As D. Bonavent. subtly argues, *at the place cited*, and Sanchez himself, *disp. 5. num. 16.*, where he says that the fear of just excommunication does not strike grave fear with regard to some contract, because one thing is not chosen as an evil before another, since both are goods.

> *Quae cum ita sint, non recte Sanchez disputationem secundam* lib. 4. de matrimonio, *instituens: An metus viri constantis necessario petat eligi minus malum, idest, poenam, potius quam culpam, dicit B. Bonaventuram, D. Thomam, et alios asserere, tale malum debere praeeligere in ordine ad matrimonium; nam cum matrimonium non comparetur, ut malum respectu metus, et consequenter non possit dici minus malum, quam malum certe minatum a minitante, nisi matrimonium ineas, non video, quo fundamento Sanchez dicat, hoc sensu locutum D. Bonaventuram, D. Thomam, et alios, ut eligendo potius matrimonium, quam mortem, aut mortem potius, quam matrimonium, dicatur eligere maius, vel minus malum, et hinc argui vir constans, aut inconstans. Ut arguit subtiliter D. Bonavent.* loco cit. *et ipse Sanchez* disp. 5. num. 16. *ubi metum excommunicationis iustae ait, non incutere timorem gravem ad aliquem contractum, quia non eligitur unum, ut malum prae alio, cum utraque bona sint.*

32 This fear, then, is not only required for the rescission of marriage and other just contracts, as Soto asserts, *in 4. dist. 29. quaest. 1. art. 4.*, Nauar. *summa lat. cap. 22. num. 51.*, and others whom Sanchez follows, *num. 3.*; neither can it even intervene.

> *Is igitur metus non modo requiritur ad rescissionem matrimonii, et aliorum iustorum contractuum, ut asserunt Soto* in 4. dist. 29. quaest. 1. art. 4. *Nauar.* summa lat. cap. 22. num. 51. *et alii, quos sequitur Sanchez* num. 3. *sed neque potest intervenire.*

33 Sanchez defines this well indeed, *disp. 3.*: this grave fear, which is called falling upon a constant man, is not equally to be assessed, but proportionally, so that what is light to a man may be grave to a woman or a child, *cap. indignanti, 13. quaest. 6.*, as Tiraquel notes, *lib. 1. connub. num. 71.*, the *Gloss cap. cum locum de sponsal. v. metu*, where Anton. *num. 12.* Abbas *num. 6.* Alexand. *de Nevo, num. 23.* and others.

> *Id sane bene definit Sanchez* disp. 3. *metum hunc gravem, qui dicitur in constantem virum cadens, non esse aequaliter secandum; sed proportionaliter, ut qui est levis viro, sit gravis foeminae, vel puero* cap. indignanti, 13. quaest. 6. *ut notat Tiraquel,* lib. 1. connub. num. 71. *Glossa* cap. cum locum de sponsal. v. metu, *ubi Anton.* num. 12. *Abbas* num. 6. *Alexand.* de Nevo, num. 23. *et alii.*

34 Moreover, note that it is not required for grave fear, which deters a constant man, that the evil be feared for one's own person, but it is enough that it be feared in the persons of one's children, *leg. isti quidem §. fine, ff. de eo, quod metus causa.*

> *Praeterea nota, non requiri ad metum gravem, qui constantem deterreat, ut malum in personam propriam timeatur, sed satis est timeri in personis filiorum* leg. isti quidem §. fine, ff. de eo, quod metus causa.

35 The same of other kindred, *in cap. sciam cuncti de electione, in 6.*, which text Jason says is notable, *leg. de pupillo, ff. si quis ipsi, num. 12. ff. de operis novi nuntiat.* Felinus *cap. Ecclesiae sanctae Mariae, n. 99.*, where

fear inflicted upon the kindred of an elector in order to strike fear into the elector is held to have been struck into the elector himself.

> *Idem de aliis consanguineis* in cap. sciam cuncti de electione, in 6. *quem textum esse notabilem ait Iason* leg. de pupillo, ff. si quis ipsi, num. 12. ff. de operis novi nuntiat. *Felinus* cap. Ecclesiae sanctae Mariae, n. 99. *ubi metus, illatus consanguineis electoris ad incutiendum metum electori, censetur electori ipsi incussus.*

36 The same of a bond of friendship closely joined, Sanchez teaches, *num. 9.*; because a friend is *another self.* Attend also to other things concerning grave evil, sufficient to strike fear into a constant man.

> *IDEM de amicitiae vinculo arcte coniuncto docent Sanchez* num. 9. *Quia amicus est* Alter ego. *Adhuc alia adverte circa malum grave, sufficiens incutere timorem viro constanti.*

37 AND indeed, as to those evils that are not declared grave by law, that is to be defined by the judgment of a Judge, *leg. 3. ff. ex quibus causis.* The greater reason is, because all cases cannot be expressed; but this judgment is not required for those evils that are clearly grave by law. So Baldus, *cap. 2. de his, quae ad finem*; his reason is, because arbitria are given with respect to those things that cannot be comprehended under a rule, on account of human variety, as is noted on *leg. non possunt, ff. de legibus.* Sylvester notes the same, *V. metus, quaest. 4.*; it will be so judged, whether the estimation of the impending evil be in accordance with right reason.

> *ET quidem quod ad ea mala, quae iure non sunt declarata gravia, id iudicio Iudicis est definiendum* leg. 3. ff. ex quibus causis. *Maior ratio est, quia nequeunt omnes casus exprimi; hoc autem iudicium non requiritur ad ea mala, quae iure constant gravia. Ita Baldus* cap. 2. de his, quae ad finem, *ratio eius est quia arbitria data sunt quo ad ea, quae sub regula comprehendi nequeunt ob humanam varietatem, ut notatur* leg. non possunt, ff. de legibus. *Idem advertit Sylvester* V. metus, quaest. 4. *erit tale iudicandum, an aestimatio mali impendentis esset natura rationabilis.*

38 AS TO evils certainly grave, D. Bonavent., *at the place cited, in corpore*, enumerates death, found in *cap. cum dilectus, de his quae vi, and leg. nec timorem 7. ff. de eo quod metus causa.* The reason is, because *of all terrible things the greatest is death*, by the testimony of Aristotle, *4. Eth.* So also Sanchez, *disp. 5. num. 4.*

> *QUOAD mala certe gravia D. Bonavent.* loco cit. in corpore, *enumerat mortem, habetur* cap. cum dilectus, de his quae vi, et leg. nec timorem 7. ff. de eo quod metus causa. *Ratio est, quia* omnium terribilium maxima est mors, *teste Aristotele* 4. Eth. Ita et *Sanchez* disp. 5. num. 4.

39 S. Bonavent. asserts the same of mutilation; for it is a kind of partial death, *cap. si quis absciderit disp. 55.*, and it is found expressly in *dicta leg 7.* The same, of grave bodily torment, is found expressly in *the said cap. cum dilectus, and the said leg. 7.*, to which grave blows are reduced. The same must be said of the fear of arms, *leg. 3. at the beginning, in the verse qui armati, ff. de vi, et vi armata.*

> *IDEM asserit S. Bonavent. de mutilatione; est enim quaedam mors partialis,* cap. si quis absciderit disp. 55. *et habetur expresse* dicta leg 7. *Idemque de gravi corporis cruciatu habetur expresse* dicto cap. cum dilectus, et dicta leg. 7. *ad quod gravia verbera reducuntur. Idem dicendum de metu armorum* leg. 3. in principio, versu qui armati, ff. de vi, et vi armata.

40 S. Bonavent. asserts the same of the fear of servitude. It is found in *leg. ego puto, and leg. isti quidem, ff. de eo, quod metus causa.* Say the same of the fear of captivity and of grave exile. Of the fear of prison, it is found in *leg. nec timorem, and leg. qui in carcerem, ff. de eo, quod metus causa.*

IDEM asserit S. Bonavent. de metu servitutis. Habetur leg. ego puto, et leg. isti quidem, ff. de eo, quod metus causa. *Idem dic de captivitatis timore, et gravis exilii. De carceris timore habetur* leg. nec timorem, et leg. qui in carcerem, ff. de eo, quod metus causa.

41 S. Bonavent. asserts the same of the fear of losing honor; it is found in *leg. 7. tit. 33. part. 7.* The Gloss seems to think the same, *cap. cum dilectus, v. metum de his, quae vi.*

IDEM asserit S. Bonavent. de timore honoris amittendi; habetur leg. 7. tit. 33. part. 7. *Videtur id sentire Glossa* cap. cum dilectus, v. metum de his, quae vi.

42 TO this tends the fear of rape, as S. Bonavent. says, *at the place cited*, and it is found in *leg. isti 8. at the end, ff. de eo, quod metus causa, and leg. ff. 15. tit. 2. part. 4.*, which seem to speak of a virgin; for she, if not corrupted, can suffer rape. The same think D. Thom., *4. dist. 29. quaest. unica, art. 2. ad 2.*; D. Bonavent. is cited also, *quaest. 1.*, and others by Sanchez, *disp. 5. num. 12.*, where he understands the same of another honest woman, which I judge the Seraphic Doctor also to have meant; for he does not there define it strictly of rape, and it is gathered from the *leg. isti quidem* adduced, which includes also men, for whom there is no seal of virginity; and moreover he adds the reason of honesty, that with good men this fear ought to be greater than that of death, which reason also holds in an honest widow.

HUC spectat metus stupri, ut ait S. Bonavent. loco cit. *et habetur* leg. isti 8. ad finem, ff. de eo, quod metus causa, et leg. ff. 15. tit. 2. part. 4. *quae loqui videntur de virgine; haec enim non corrupta stuprum pati potest. Idem sentiunt D. Thom.* 4. dist. 29. quaest. unica, art. 2. ad 2. *citatur et D. Bonavent.* quaest. 1. et *alii a Sanchez* disp. 5. num. 12. *ubi idem de alia muliere honesta intelligit, quod idem sensisse arbitror Seraphicum, non enim ibi declarat de stupro stricte, et colligitur ex* leg. isti quidem *adducta, quae includit etiam viros, quibus non est signaculum virginitatis, et praeterea addit rationem honestatis, cum viris bonis iste metus maior esse debeat, quam mortis, quae ratio etiam in vidua honesta militat.*

43 AS TO grave infamy, although it is in controversy, and S. Bonavent. has expressed nothing about it, yet I judge he included it in the fear of death, to which it is equated, *leg. insta, ff de manumiss. vindic.*; or he may have included it in the fear of rape, which for the most part carries infamy with it; or S. Bonavent. held that infamy is not among these evils. The same D. Thomas taught, in *4. dist. 23. quaest. unica, art. 2. ad 3.*; Durandus *quaest. 2. num. 4.*; Carthus. there *quaest. 2.*; Sylvester *V. metus, quaest. 4.*; and it is gathered from *leg. nec timorem, ff. de eo, quod metus causa*, there: *Nor is infamy contained in this edict, as fear, Pedius said*; and the Gloss holds it there, *V. infamiae*, when it is infamy *of fact*. Indeed, of infamy *of law*, the law itself adduced holds it, and Tabiena holds it, *V. impedimentum, impedimento 9. quaest. 1. num. 2.*

QUOAD infamiam gravem, licet sit in controversia, neque S. Bonavent. aliquid de ea expresserit; arbitror tamen, inclusisse in metu mortis, cui aequiparatur leg. insta, ff de manumiss. vindic. *Vel potest includisse in metu stupri, qui infamiam secum fert plerunque. Vel S. Bonavent. tenuit, infamiam non esse inter haec mala. Idem docuit D. Thomas in* 4. dist. 23. quaest. unica, art. 2. ad 3. *Durandus* quaest. 2. num. 4. *Carthus. ibi* quaest. 2. *Sylvester* V. metus, quaest. 4. et *colligitur ex* leg. nec timorem, ff. de eo, quod metus causa, *ibi:* Nec timorem infamia hoc edicto contineri Pedius dixit; *et tenet ibi Glossa* V. infamiae, *quando est infamia* facti. *Imo de infamia* iuris, *est lex ipsa adducta, et tenet Tabiena* V. impedimentum, impedimento 9. quaest. 1. num. 2.

44 Others ADD the fear of excommunication. Others deny it.

ADDUNT alii metum excommunicationis. Alii eum negant.

45 HERE the rule of D. Bonavent. holds, which Sanchez uses, *num. 17.*; for either the excommunication is just, and then the fear of it does not fall upon a constant man, because it is medicinal and good, nor is it compared as an evil to be avoided or feared; or it is unjust, and this is to be feared, for so it is found, *11. quaest. 3. cap. 1.*, as Sanchez notes, *num. 17.*, after D. Bonavent. in *4. dist. 18. part. 2. dub. 2.*, and he brings forward infamy.

> *HIC valet regula D. Bonavent. qua utitur Sanchez* num. 17. *Vel enim excommunicatio est iusta, et tunc eius metus non cadit in virum constantem, quia est medicinalis, et bona, nec comparatur, ut malum aliquod vitandum, vel timendum, vel est iniusta, et haec timenda est, quia sic habetur* 11. quaest. 3. cap. 1. ut *notat Sanchez* num. 17. *post D. Bonavent. in* 4. dist. 18. part. 2. dub. 2. et *infamiam affert.*

46 S. Bonavent. does not enumerate the LOSS of goods among those things that strike grave fear, for so it seems to be excluded by *32. quaest. 7.*, there: *I will not that you bring before me the losses of the household goods*, and it is omitted in *cap. cum dilectus de his, quae vi.* Paludanus thinks the same, *4. dist. 29. quaest. 1. art. 2. concl. 2.*

> *AMISSIONEM bonorum non enumerat S. Bonavent. inter ea, quae metum gravem incutiunt, quia sic videtur excludi* 32. quaest. 7. ibi: Nolo mihi proferas damna rei familiaris, et cap. cum dilectus de his, quae vi, *omittitur. Idem sentit Paludanus* 4. dist. 29. quaest. 1. art. 2. concl. 2.

47 Or perhaps he includes it in the fear of death, to which it is equated, as Tiraquellus teaches, *de nobilitate, cap. 31. num. 369.*; for goods are in a certain sense the life of man, *leg. advocati 14. Cod. de advoc. divers. iudic.*, there the Gloss, and it is proved by the song of Hesiod:

> *VEL forsan includit in metu mortis, cui aequiparatur, ut docet Tiraquellus* de nobilitate, cap. 31. num. 369. *nam bona sunt quaedam hominis vita* leg. advocati 14. Cod. de advoc. divers. iudic. *ibi Glossa, et probatur Hesiodi carmine:*

48 *Money is the soul to wretched mortals —*

> Pecunia est anima miseris mortalibus —

49 So the *Gloss cap. unic. verb. coactus de his, quae vi in 6.*, there Ioan. Monach. *num. 5.*; Alphonsus Brunus *inter consilia feudalia, consil. 82. num. 7.*, and many others as Sanchez reports, *num. 22.*

> *Sic Glossa* cap. unic. verb. coactus de his, quae vi in 6. *ibi Ioan. Monach.* num. 5. *Alphonsus Brunus* inter consilia feudalia, consil. 82. num. 7. et *plures alii apud Sanchez* num. 22.

50 Sanchez NOTES further, *disp. 6.*, that merely reverential fear, without threats, does not fall upon a constant man, nor suffice to annul contracts, *cap. ex litteris de despons. impuberum, and cap. 2. de pactis, in 6.*, and in many others.

> *NOTAT adhuc Sanchez* disp. 6. *metum solum reverentialem absque minis non cadere in virum constantem, nec sufficere ad irritandos contractus* cap. ex litteris de despons. impuberum, et cap. 2. de pactis, in 6. et *aliis plurimis.*

51 The QUESTION, then, is: Whether grave fear, struck in order to extort a vow, annuls it, and on what account.

> *QUAESTIO igitur est: An metus gravis, incussus ad votum extorquendum, illud irritet, et qua ratione.*

52 The FIRST opinion is that such a vow is null by no law, but they say it is to be annulled by Ecclesiastical law. So the Cardinal, *cap. 2. quaest. 1. casu 4. de his, quae vi.*; Sylvester, *verb. metus, quaest. 8.*,

and verb. votum, 2. quaest. 12.

> *PRIMA opinio est, tale votum nullo iure esse irritum, sed aiunt iure Ecclesiastico irritandum. Ita Cardinalis* cap. 2. quaest. 1. casu 4. de his, quae vi. *Sylvester* verb. metus, quaest. 8. et verb. votum, 2. quaest. 12.

53 The SECOND opinion asserts this of simple vows alone; but that profession so emitted alone is null, because only one law annulling a vow is found, and it is *cap. 1. de his, quae vi*, which speaks of profession alone; so Penna, as Lopez reports at the place cited, and other learned Recentiores.

> *SECUNDA opinio de solis votis simplicibus id asserit; at professionem ita emissam solam esse irritam, quia unica lex votum irritans invenitur, et est* cap. 1. de his, quae vi, *quod de sola loquitur professione, sic Penna apud Lopez* loco citando, *et alii Recentiores eruditi.*

54 The THIRD opinion is that every such vow is null, whether simple or solemn. So very many, who prove it from tradition, though perhaps the written law annulling it has perished elsewhere. So the final Gloss at the end of *cap. 2. de his, quae vi.*; Abbas there *num. 11., and cap. sicut nobis, num. 5. de regular.*; Maior in *4. dist. 38. quaest. 4. col. penult. vers. His rationibus*; Rosella *V. votum, 1. num. 4., and v. metus, num. 3.*; there Angelus *num. 8.*; Tabiena *V. votum, 1. quaest. 1.*; Fortunius *de ultimo fine, illatione 1. num. 4. 18.*; Rota *in novis. 4. To decis. 20. num. 15.*; Sotus *lib. 7. de Iustitia, quaest. 2. art. 1. ad 1. and 2.*; Navar. *summa, cap. 14. §. 6.*; Arag. 2. 2. *quaest. 88. art. 3. fol. 988.*; Angles *flor. 2. part. quaest. unic. de voto, art. 3. difficult. 18.*; Toletus *lib. 4. summa, cap. 17.*; Sà *V. votum, num. 8., and v. metus, num. 2.*; Valentia 2. 2. *disp. 6. q. 6. puncto 4.*; Manuel, Tomo 7, *cap. 93.*; Lopez *p. p. Instruct. cap. 45.*; Azor. *lib. 11. Instit. moral. cap. 15. quaest. 7.*; Philiat. *de offic. sacerd. Tom. 1. part. 2. lib. 3. cap. 18.*; Sanchez *in summa, lib. 4. cap. 3. num. 13.*

> *TERTIA opinio est, omne votum tale esse irritum, sive simplex, sive solemne. Ita plurimi, qui ex traditione id astruunt, licet forsan alias scripta lex irritans perierit. Ita Glossa finalis ad finem* cap. 2. de his, quae vi. *Abbas ibi* num. 11. et cap. sicut nobis, num. 5. de regular. *Maior in* 4. dist. 38. quaest. 4. col. penult. vers. His rationibus, *Rosella* V. votum, 1. num. 4. et v. metus, num. 3. *ibi Angelus,* num. 8. *Tabiena* V. votum, 1. quaest. 1. *Fortunius* de ultimo fine, illatione 1. num. 4. 18. *Rota* in novis. 4. To decis. 20. num. 15. *Sotus* lib. 7. de Iustitia, quaest. 2. art. 1. ad 1. et 2. *Navar.* summa, cap. 14. §. 6. *Arag.* 2. 2. quaest. 88. art. 3. fol. 988. *Angles* flor. 2. part. quaest. unic. de voto, art. 3. difficult. 18. *Toletus* lib. 4. summa, cap. 17. *Sà* V. votum, num. 8. et v. metus, num. 2. *Valentia* 2. 2. disp. 6. q. 6. puncto 4. *Manuel 7. Tomo,* cap. 93. *Lopez* p. p. Instruct. cap. 45. *Azor.* lib. 11. Instit. moral. cap. 15. quaest. 7. *Philiat.* de offic. sacerd. Tom. 1. part. 2. lib. 3. cap. 18. *Sanchez* in summa, lib. 4. cap. 3. num. 13.

55 Many note that this is true even if the one vowing had the true intention of binding himself; otherwise, without intention, it is beyond doubt null of itself; Tanner subscribes, *disp. 5. quaest. 4. dub. 1. num. 8.*

> *Et hoc verum esse advertunt multi, etiamsi vovens veram intentionem se obligandi habuerit, alioqui absque intentione procul dubio ex se irritum est, subscribit Tanner.* disp. 5. quaest. 4. dub. 1. num. 8.

56 From these, some will that it is null by Divine and natural law. So Sotus, *lib. 7. de Iustitia, quaest. 2. art. 1. ad 2., and lib. 8. quaest. 1. art. 7. col. 17.*, and some Recentiores; and in a similar case, namely marriage, D. Bonavent. holds it, in 4. dist. 29. quaest. 1.; D. Thom. there quaest. unica, art. 3. quaestiuncula 1. supplem.; Gabriel. there quaest. 2. art. 2.; Almain. quaest. 1.; Carthuf. quaest. 2.; Sotus quaest. 1. art. 3.; Richardus art. 1. quaest. 1.; Altisiodor lib. 4. summae, tract. 9. cap. 7. quaest. 5.; Scotus 4. dist. 20. quaest. unica, §. De secundo dico; D. Anton. 3. part. tit. 1. cap. 7.; Veractuz p.

p. speculi, art. 8. concl. 1.; Angles flor. 1. part. de matrim. quaest. 3. de consensu coacto, art. 1. diffic. 1. fol. 546.; Ledesma dub. 23. de matrim. concl. 3.; Philiarc. de offic. sacerd. tom. 1. part. 2. lib. 2. cap. 8. and cap. 6.; Molina tom. 2. de Iust. Tract. 2. disp. 226. ad 2. And they bring it forward as probable: Victoria summa, de matrim. num. 268.; Palacios 4. dist. 29. disp. unica; Lopez 2. part. Instruct. de matrimonio. cap. 40. fol. 1063.

> *EX his aliqui volunt, esse irritum iure Divino, et naturali. Ita Sotus* lib. 7. de Iustitia, quaest. 2. art. 1. ad 2. et lib. 8. quaest. 1. art. 7. col. 17. et *aliqui Recentiores, et in simili casu, nempe matrimonii, id tenent D. Bonavent. in 4. dist. 29. quaest. 1. D. Thom. ibi quaest. unica, art. 3. quaestiuncula 1. supplem. Gabriel. ibi quaest. 2. art. 2. Almain. quaest. 1. Carthuf. quaest. 2. Sotus quaest. 1. art. 3. Richardus art. 1. quaest. 1. Altisiodor lib. 4. summae, tract. 9. cap. 7. quaest. 5: Scotus 4. dist. 20. quaest. unica, §. De secundo dico, D. Anton. 3. part. tit. 1. cap. 7. Veractuz p. p. speculi, art. 8. concl. 1. Angles flor. 1. part. de matrim. quaest. 3. de consensu coacto, art. 1. diffic. 1. fol. 546. Ledesma dub. 23. de matrim. concl. 3. Philiarc. de offic. sacerd. tom. 1. part. 2. lib. 2. cap. 8. et cap. 6. Molina tom. 2. de Iust. Tract. 2. disp. 226. ad 2. eamque probabilem afferunt Victoria summa, de matrim. num. 268. Palacios 4. dist. 29. disp. unica, Lopez 2. part. Instruct. de matrimonium. cap. 40. fol. 1063.*

57 Of the Jurisperiti, Angelus de Uraldis holds it, among the matrimonial consilia of Zileti consil. 46.; Covar. 4. decret. 2. part. cap. 3. §. 5.; Cucus, lib. 5. Instit. Maior tit. 12. num 118.; Alexander Caeretius lib. 4. de sponsal. cap. 9.; Matienzo lib. 5. recopilat. tit. 1. rub. glos. 1. num. 189.; Barbosa ff. soluto matrimonio, rub. 4. part. num. 30. Sanchez asserts it as much more probable than the others recited, lib. 4. de matrim. disp. 14. num. 1.

> *Ex Iurisperitis eam tenent Angelus de Uraldis inter consilia matrimonialia Zileti consil. 46. Covar. 4. decret. 2. part. cap. 3. §. 5. Cucus, lib. 5. Instit. Maior tit. 12. num 118. Alexander Caeretius lib. 4. de sponsal. cap. 9. Matienzo lib. 5. recopilat. tit. 1. rub. glos. 1. num. 189. Barbosa ff. soluto matrimonio, rub. 4. part. num. 30. quam valde caeteris recitatis asserit Sanchez lib. 4. de matrim. disp. 14. num. 1.*

58 Others, however, say they are annulled by Ecclesiastical law alone. So Aragonius 2. 2. quaest. 88. art. 2. fol. 989.; Azor. lib. 11. Instit. moral. cap. 15. quaest. 6.; Vega, tomo 2 of the summa, cap. 129. casu 17.; Sanchez in summa, lib. 4. cap. 3. num. 9. Sanchez asserts the same of marriage, lib. 4. disp. 14. num. 2., bringing forward many: these are Durandus in 4. dist. 29. quaest. 2.; Paludanus 1. quaest. 1. art. 3. concl. 2. num. 20.; Sotus there, quaest. 1. art. 3.; Arboreus lib. 11. Theosophiae, cap. 15.; Ledesma 2. part. 4. q. 49. art. 3.; Henriquez lib. 11. de matrim. tit. de impedimento violentiae, num. 29. And Richardus says it is probable, 4. dist. 2. art. 1. quaest. 1.; D. Antonin. Victoria, Palac. Bartholomeus a Ledesma reported above; and of the Jurisperiti, Sylvester V. matrimonium, 8. quaest. 11.; Armil. V. matrim. num. 41.; Tabiena V. impedimentum, impedimento 9. quaest. 2.; Navar. sum. cap. 22. num. 50.; Fagundez lib. 2. in 2. praecept. cap. 13. num. 15.; and Suarez Tom. 2. relig. lib. 2. cap. 10. num. 8. To this Bassaeus inclines, num. 5., provided the fear struck be for the end of extorting the vow: Navar. cites, above; Suarez cap. 7. num. 8.; Sanchez lib. 4. moral. cap. 5.; Valentiam disp. 6. quaest. 6. puncto 4.; Sylvium quaest. 88. art. 1.

> *Alii vero dicunt, solo iure Ecclesiastico irritati. Ita Aragonius 2. 2. quaest. 88. art. 2. fol. 989. Azor. lib. 11. Instit. moral. cap. 15. quaest. 6. Vega 2. tomo summae, cap. 129. casu 17. Sanchez in summa, lib. 4. cap. 3. num. 9. Idem de matrimonio asserit Sanchez lib. 4. disp. 14. num. 2. afferens multos: Hi sunt Durandus in 4. dist. 29. quaest. 2. Paludanus 1. quaest. 1. art. 3. concl. 2. num. 20. Sotus ibi, quaest. 1. art. 3. Arboreus lib. 11. Theosophiae, cap. 15. Ledesma 2. part. 4. q. 49. art. 3. Henriquez lib. 11. de matrim. tit. de impedimento violentiae, num. 29. eamque probabilem ait Richardus 4. dist. 2. art. 1. quaest. 1. D. Antonin. Victoria, Palac. Bartholomeus a Ledesma supra relati,*

et ex Iurisperitis Sylvester V. matrimonium, 8. quaest. 11. Armil. V. matrim. num. 41. Tabiena V. impedimentum, impedimento 9. quaest. 2. Navar. sum. cap. 22. num. 50. Fagundez lib. 2. in 2. praecept. cap. 13. num. 15. et Suarez Tom. 2. relig. lib. 2. cap. 10. num. 8. Huc inclinat Bassaeus num. 5. dummodo metus incussus sit ad finem extorquendi votum: Citat Navar. supra. Suarez cap. 7. num. 8. Sanchez lib. 4. moral. cap. 5. Valentiam disp. 6. quaest. 6. puncto 4. Sylvium quaest. 88. art. 1.

59 The SENTENCE therefore of D. Bonavent., as regards vows, is found in 3. dist. 39. art. 3. quaest. 2. ad 2., where he confesses vows null, though not oaths; the reason of the disparity he assigns, because a Vow regards the obligation toward God, who wills that sacrifices be not forced but voluntary; not so an oath, between which S. Bonavent. places three differences, in 3. dist. 38. quaest. 1. ad ult. The first is in the object, because an oath is made to men; a vow to God. The second in the means, because a vow is vowed to God by promise; but an oath is sworn by God. The third in the end, because an oath is for establishing truth; a vow, however, for increasing honesty, and therefore it ought to be more perfectly voluntary.

SENTENTIA igitur D. Bonavent. quod ad vota, habetur in 3. dist. 39. art. 3. quaest. 2. ad 2. ubi vota fatetur irrita, licet non iuramenta; ratio disparitatis ab eo assignatur, quia Votum respicit obligationem ad Deum, qui vult, sacrificia non esse coacta, sed voluntaria; non sic iuramentum, inter quae tres ponit differentias S. Bonavent. in 3. dist. 38. quaest. 1. ad ult. Prima est in obiecto, quia iuramentum fit hominibus; votum Deo. Secunda in medio, quia vovetur Deo per promissionem; sed iuratur per Deum. Tertia in fine, quia iuramentum est ad astruendam veritatem; votum autem ad augendam honestatem, ideo debet esse magis perfecte voluntarium.

60 On which the opposition of Sanchez in his summa, num. 9., falls, where he argues: An oath extorted by such grave fear binds altogether, *cap. si vero, de iureiurando*; and yet it is involuntary; and it binds, of itself, no less than a vow; therefore there is no other difference than that the Church annuls the Vow, not the Oath.

Ex quo ruit oppositio Sanchez c. summa, num. 9. ubi arguit. Iuramentum tali metu gravi extortum obligat prorsus cap. si vero, de iureiurando; *et tamen est involuntarium, ac ligat, quantum esset ex se, non minus, quam votum; nulla ergo alia differentia est, nisi quia Ecclesia irritat Votum, non Iuramentum.*

61 D. Bonavent. therefore thinks that a vow is null by the Divine law of nature; for he thought the same of marriage at the place cited above.

SENTIT igitur D. Bonavent. votum esse irritum iure naturae Divino; idem enim de matrimonio sensit loco cit. supra.

62 I ASSERT, *that every Vow extorted by grave fear is null by the Divine natural law.*

ASSERO, Votum omne ex metu gravi extortum, esse iure naturali Divino irritum.

63 It is PROVED first by D. Bonavent. at the place cited. A Vow is an act of religion, offering something in the service of God; but God does not will a forced sacrifice, as is found in 2. Corint. 9.: *Every one, as he purposed in his heart, not from sadness, or of necessity.*

PROBATUR primo a D. Bonavent. loco citato. Votum est actus religionis, offerens aliquid in obsequium Dei; at Deus non vult sacrificium coactum, ut habetur 2. Corint. 9. Unusquisque prout destinavit in corde suo, non ex tristitia, aut necessitate.

64 Sanchez answers, num. 19., that it is involuntary only in a certain respect, but simply voluntary.

RESPONDET Sanchez num. 19. id esse involuntarium tantum secundum quid; sed simpliciter voluntarium.

65 TRUE, this Doctor has not grasped the character of the voluntary required for a vow; for as S. Bonavent. rightly notes, in 4. dist. 38. quaest. 1. in argumentis, such a voluntary is required as is contained in the word of vowing, which is altogether spontaneous and most free, that character by which through a Vow we offer spontaneously to God the services of our works and give ourselves over to him; such as there is in marriage, in which the body is given over with love to the holy and dear society; which likeness Sanchez also admits on LL. CC.; but marriage is annulled by grave fear, as the Canons declare, *can. veniens, el. 2. de sponsal. and can. significavit*, related to this by D. Bonavent. in 4. dist. 29. quaest. 1., and Sanchez lib. 4. de matrimonio, disp. 21. num. 18.; and such marriage is null in either forum, as S. Bonavent. holds at the place cited, the Canons being adduced, whom the Doctors of both Laws follow, especially all the Doctors of Pontifical Law, *cap. 2. de his, quae vi, and cap. cum locum, de sponsal.*, where, in cap. matrimonium, they teach it to be null absolutely; for even if they expound it also in the forum of conscience, the Theologians adduced by Sanchez at the place cited expound it so. The reason is that of D. Bonavent., on which Sanchez rests, num. 18., because marriage signifies the union of Christ with the Church, as a Vow signifies the union of the soul with Christ; but that is null by the Divine law of nature if it be entered from grave fear: Therefore.

> *VERUM Doctor iste non percepit rationem voluntarii, ad votum requisitam; nam ut rite advertit S. Bonavent. in 4. dist. 38. quaest. 1. in argumentis; tale voluntarium requiritur, quale in verbo devovendi clauditur, quae est omnino spontanea, et liberrima ratio, qua per Votum exhibemus sponte Deo obsequia nostrorum operum, nosque ipsi tradimus; qualis est in matrimonio, in quo traditur corpus amore ad sanctam, et charam societatem, quam similitudinem admittit etiam Sanchez LL. CC. at matrimonium metu gravi irritatur, ut declarant Canones* can. veniens, el. 2. de sponsal. et can. significavit, *relata ad hoc a D. Bonavent. in 4. dist. 29. quaest. 1. et Sanchez lib. 4.* de matrimonio, *disp. 21. num. 18. et hoc matrimonium est irritum in utroque foro, ut tenet S. Bonavent. loco cit. adductis Canones, quem sequuntur Doctores utriusque Iuris, praecipue Doctores omnes Iuris Pontificii,* cap. 2. de his, quae vi, et cap. cum locum, de sponsal. *ubi* cap. matrimonium, *absolute irritum esse docent; esto enim explicent etiam in foro conscientiae. Id tamen explicant Theologi, adducti a Sanchez loco citato. Ratio est D. Bonavent. qua nititur Sanchez num. 18. quia matrimonium signat unionem Christi cum Ecclesia; sicut Votum signat unionem animae cum Christo: at illud iure naturae divino est irritum, si ineatur ex metu gravi: Ergo.*

66 The Minor is indeed PROVED by the most valid argument of S. Bonavent., dist. 29. quaest. 1. Wherever that is lacking which by its nature constitutes a thing in intrinsic being, there that being is not, because a thing cannot be without its essence: but in marriage entered from grave fear, consent is lacking, which by the intrinsic nature of the thing constitutes marriage: Therefore it is null by the nature of the thing. The Minor is proved from *cap. cum locum, de sponsal.*, as D. Bonavent. reports in the arguments and in the body. For when two citizens of Pavia claimed a right over a girl, saying they had contracted marriage with her, the Pontiff commanded the girl to be placed in a safe place, because she feared violence, and the Pontiff gives the reason: *because marriage is perfected by consent alone, which is not found where there is fear falling upon a constant man.*

> *PROBATUR vero Minor, argumento S. Bonavent. validissimo dist. 29. quaest. 1. Ubicumque deest id, quod ex natura sua constituit aliquid in esse intrinseco, ibi illud ens non est, quia non potest res esse absque sua essentia: sed in matrimonio, inito ex metu gravi, deest consensus, qui ex natura rei intrinseca constituit matrimonium: Ergo ex natura rei est irritum. Minor probatur ex* cap. cum locum, de sponsal. *ut refert D. Bonavent. in argumentis, et corpore. Nam cum duo cives Papicnses praetenderent ius in puellam, dicentes, cum ea contraxisse matrimonium; Pontifex praecepit, puellam in loco tuto reponi, quia ipsa timebat vim, et reddit rationem Pontifex:* quia matrimonium solo consensu perficitur, qui non invenitur, ubi est timor cadens in constantem virum.

67 Hence Sanchez himself infers, num. 18.; therefore the Pontiff clearly holds that that involuntary consent, which is found where the aforesaid fear is present, is not sufficient for the worth of marriage: namely, because the essential of nature would be lacking. For that mutual consent is of the essence of marriage is of faith by the Council of Florence, in *the decree on the sacrament of matrimony*, as Sanchez notes, lib. 2. disp. 25. Indeed in disp. 26. he infers that by no power, even that of God, can there be marriage without consent, because it is of its essence.

> *HINC infert ipse Sanchez num. 18. ergo clare sentit Pontifex, consensum illum involuntarium, qui reperitur, ubi adest praedictus timor, sufficientem non esse ad valorem matrimonii: Nempe, quia deesset naturae essentiale. De essentia enim matrimonii esse consensum mutuum e est de fide Con. Florent. in* decreto de sacramento matrimonii, *ut notat Sanchez lib. 2. disp. 25. Imo disp. 26. infert per nullam potentiam, etiam Dei, posse esse matrimonium absque consensu, quia est de essentia eius.*

68 But CONSENT, of the essence of it, the Pontiff establishes at the place cited to exclude fear falling upon a constant man. To this argument I do not see what the adversaries, especially Sanchez, can worthily reply.

> *CONSENSU M autem de essentia eius statuit Pontifex loco cit. excludere metum, in virum constantem cadentem. Huic argumento non video, quid valeant adversarii respondere, praecipue Sanchez.*

69 I URGE further, because neither of marriage nor of vows so emitted is any annulment of the Church found; but the bare assertion that they are null. So of marriage it is found in *cap. cum locum, cap. consultatione, and cap. veniens el. 2. de sponsal. significavit de eo, qui duxit in matrimonio*, which are texts speaking of this matter; they deal with marriages already contracted, and declare that if they were entered through fear they are invalid; and the Church could not annul those marriages then contracted if, before her decree, they were valid: therefore they were null by the very natural law. That which is found only in *cap. 1. de his, quae vi*, does not annul profession, but brings forward and declares it to be such.

> *URGEO adhuc, quia neque matrimonii, neque votorum, sic emissorum, invenitur Ecclesiae irritatio aliqua; sed sola assertio, ea esse irrita. Sic de matrimonio habetur* cap. cum locum, cap. consultatione, et cap. veniens el. 2. de sponsal. significavit de eo, qui duxit in matrimonio, *qui sunt textus, de hac re loquentes, agunt de matrimoniis iam contractis, et declarant; si metu inita sint, esse invalida, nec Ecclesia potuit irritare matrimonia illaiam contracta, si ante ea decreta, valida essent: Ergo iure ipso naturali irrita erant. Quod vero invenitur solum* cap. 1. de his, quae vi, *non irritans professionem, sed afferens, et declarans, eam esse talem.*

70 *Sanchez answers, lib. 4. de matrimonio, disp. 14. num. 2.*, that those texts indeed do not have the form of statutes, and thus it is not established where such annulment was decreed by the Church; yet, a tradition of so many Doctors being extant, the Pontiffs in those decrees show that by law and usage it was always held that a marriage extorted by grave fear is null; and perhaps it was once written, though the writing perished; just as, although there is not extant a written declaration of the Church that marriage between a faithful man and an infidel is null, yet that it is so is established from the most ancient tradition of the Church.

> Respondet Sanchez lib. 4. de matrimonio, disp. 14. num. 2. *illos textus quidem non habere statutorum formam, et ita non constare, ubi talis irritatio ab Ecclesia statuta sit; haberi tamen traditionem tot Doctorum, Pontificesque in illis decretis ostendunt iure, et usu id semper servatum esse, ut matrimonium metu gravi extortum, sit irritum, et forsan*

> *olim fuit scripta, licet perierit scriptura, sicut licet non habeatur Ecclesiae scriptura declarans, matrimonium fidelis cum infideli esse irritum, id tamen ita esse constat ex antiquissima Ecclesiae traditione.*

71 He tries to satisfy with the same answer as regards *cap. 1. de vi*, which concerns vows.

> *Eadem responsione satisfacere conatur* cap. 1. de vi, quod ad vota.

72 Yet this answer is frivolous; for the Pontiffs in the decrees alleged before show that at all times such vows and marriages were always null, as Sanchez ingenuously confesses: therefore it is a sign that no solid tradition is had that this annulment was decreed by the Church.

> *Haec tamen responsio frivola est, nam Pontifices in praeallegatis decretis ostendunt omni tempore, talia vota, et matrimonia semper fuisse irrita, ut fatetur ingenue Sanchez: Ergo signum est nullam solidam haberi traditionem, quod haec irritatio decreta sit ab Ecclesia.*

73 *I urge* further, by the reason adduced above, because the Pontiffs assert that those marriages were always null from defect of consent, which excludes grave fear; which consent they assert is intrinsically necessary for marriage.

> Urgeo *adhuc ratione supra allata, quia Pontifices asserunt, ea matrimonia semper irrita fuisse ex defectu consensus, excludentis metum gravem, quem consensum ad matrimonium intrinsece necessarium asserunt.*

74 To that, indeed, which he adds about the marriage of a faithful man with an infidel, I say it is not null from the determination of the Church alone, as D. Bonavent. asserts, *in 4. dist. 39. quaest. 1. in resolutione*, but from the nature of the sacrament, which cannot be had without Baptism, which is the door of the sacraments; and by reason of the danger of falling away from Divine worship on account of the unequal worship of the spouse; from which arises the Ecclesiastical determination, which in many Provincial Councils declared such marriage null; and *cap. cave, and cap. non oportet* forbid such marriage to be contracted; and in *c. Quam vero* a general annulling decree is found; therefore many say it is null from the nature of the sacrament, among whom is S. Bonavent., who is badly adduced by Sanchez, *lib. 7. disp. 71. num. 7.*, together with those asserting it null by Ecclesiastical law alone.

> *Ad id vero, quod addit de matrimonio fidelis cum infideli, dico, non esse ex sola Ecclesiae determinatione irritum, ut asserit D. Bonavent.* in 4. dist. 39. quaest. 1. in resolutione, *sed ex natura sacramenti, quod absque Baptismo, qui est ianua sacramentorum, haberi non potest, et ratione periculi deficiendi a Divino cultu ob coniugis cultum imparem, ex quibus oritur determinatio Ecclesiastica, quae in multis Conciliis Provincialibus declaravit tale matrimonium irritum;* et cap. cave, et cap. non oportet, *vetat ne tale contrahatur matrimonium,* et c. Quam vero, *invenitur decretum generale irritans; ideo multi dicunt ex natura sacramenti esse irritum, inter quos est S. Bonavent. qui male adducitur a Sanchez* lib. 7. disp. 71. num. 7. *cum asserentibus esse irritum solo iure Ecclesiastico.*

75 *You will object first* with the first opinion. Where there is free consent, other things being in place, there the Vow and the marriage are voluntary: But in our case there is free consent, for fear makes it involuntary only in a certain respect: Therefore.

> Obiicies primo *cum prima sententia. Ubi est consensus liber, caeteris positis, ibi est voluntarium Votum, et matrimonium: Sed in casu nostro est consensus liber, nam metus facit involuntarium tantum secundum quid: Ergo.*

76 D. Bonavent. answers, *in 4. dist. 29. quaest. 1.*, that the voluntary is required in the manner said above, on account of the reasons adduced.

> Respondet *D. Bonavent.* in 4. dist. 29. quaest. 1. *requiri voluntarium modo supra dicto, ob rationes allatas.*

77 *You will object secondly* with Sanchez. Standing in the law of nature, that deliberation suffices for a Vow which also suffices for mortal fault, as I said, *quaest. 2.*: But this is present in a vow entered from fear: Therefore.

> Obiicies secundo *cum Sanchez. Stando in iure naturae, ea deliberatio sufficit Voto, quae et culpae mortali, ut dixi* quaest. 2. *Sed haec repetitur in voto, inito ex metu: Ergo.*

78 It is answered from what has been said, that such deliberation ought to be simply voluntary, of the kind that suffices also for committing mortal fault; but not that which arises from grave fear, as we showed above: for this does not suffice simply, but only as it prefers the lesser evil to the greater.

> Respondetur *ex dictis, talem deliberationem debere esse voluntariam simpliciter, qualis est ea, quae sufficit etiam culpae mortali patrandae; non autem ea, quae ex metu gravi oritur, ut ostendimus supra: haec enim simpliciter non sufficit, sed solum ut praeponit minus malum maiori.*

79 *Other* arguments, resting on the same foundation, he says he refers to *lib. 4. de matrim. disp. 14. num. 1.*, and they press as regards marriage; which are destroyed by what has been said, and will be resolved also in *the third part, Tractate on marriage, disputation 4. question 2. and 3.*

> Alia *argumenta, eodem fundamento nixa, ait, se referre* lib. 4. de matrim. disp. 14. num. 1. et *urgere quoad matrimonium, quae ex dictis eliduntur, et solventur etiam* 3. parte, Tractatu de matrimonio, disputatione 4. quaestione 2. et 3.

80 *He objects first.* If it is null by reason of liberty — against: for often light fear deprives of liberty more; for the avaricious man is deterred from an act more by fear of losing money than a slave is by fear of the whip: but light fear by its nature does not annul: Therefore.

> Obiicit primo. *Si ratione libertatis irritum est; contra; nam saepe metus levis magis privat libertate; avarus enim magis deterretur ab actu, timore amissionis pecuniae, quam mancipium metu flagelli: sed metus levis ex natura sua non irritat: Ergo.*

81 It is answered from S. Bonavent., *at the place cited, by denying* that light fear deprives of liberty more; for liberty ought to follow the dictate of reason, so as to be rightly measured, and for that reason it ought to be measured in a rational man, not in a lunatic.

> Respondetur *ex S. Bonavent.* loco cit. negando, *metum levem magis tollere libertatem, quae ex rationis dictamine sequi debet, ut rite mensuretur, et ob id debet, in viro rationabili mensurari, non in frenetico.*

82 *You will object secondly:* fear struck by a natural cause, say the fear of death, or even by a free cause, as if a captive condemned to death, to escape, should marry a harlot according to the custom of certain peoples — and in similar cases does not annul the contract thereupon following: Therefore the annulment does not come from the force of liberty, but from Ecclesiastical law.

> Obiicies secundo: *metus incussus a causa naturali, puta timore mortis, vel etiam a causa libera, ut si captivus morte damnatus, ut evadat, sponset meretricem iuxta morem aliquarum gentium, et similibus casibus non irritat contractum inde secutum: Ergo irritatio non venit ex vi libertatis, sed ex iure Ecclesiastico.*

83 It is answered from D. Bonavent., *dist. 29. quaest. 1. and dist. 39. art. 3. quaest. 2. ad 1.*, that the fear must be one fighting diametrically against liberty, resisting rationally; for only such fear is grave; therefore fear alone struck in order to extort marriage annuls; for the fear of imminent damnation, or of death arising from elsewhere, do not act against this liberty so as to extort consent; therefore they

are not grave against consent; therefore they are said not to compel but to induce, as S. Bonavent. says, as also those pressing with prayers, as the holy Doctor says, *dist. 29. quaest. 1. ad penultimum*; for these can strike only light fear, as the Doctors hold whom Sanchez reports, *lib. 4. disp. 6. de matrimonio.*

> Respondetur *ex D. Bonavent.* dist. 29. quaest. 1. et dist. 39. art. 3. quaest. 2. ad 1. *debere esse metum pugnantem e diametro cum libertate rationabili resistente; talis enim sola est gravis, ideo timor solus incussus ad extorquendum matrimonium irritat; nam timor damnationis imminentis, aut mortis aliunde proveniens, non agunt contra hanc libertatem ad consensum extorquendum, ideo graves contra consensum non sunt, ideo non dicuntur cogentes, sed inducentes, ut ait S. Bonavent. sicuti etiam precibus sollicitantes, ut ait S. Doctor* dist. 29. quaest. 1. ad penultimum, *hae enim metum tantum levem incutere valent, ut tenent DD. apud Sanchez* lib. 4. disp. 6. de matrimonio.

84 *You will object thirdly,* that Baptism in adults requires consent for its worth, and yet the will suffices even though coerced by grave fear, for the Baptism to be valid, *cap. Maiores de Baptismo, and cap. Iudaeis, 45. dist.*: Therefore it would suffice also for marriage and Vow, unless the Church annulled.

> Obiicies tertio, *Baptismus in adultis exigit consensum ad sui valorem, et tamen sufficit voluntas etiam metu gravi coacta, ut validum sit Baptisma* cap. Maiores de Baptismo, et cap. Iudaeis, 45. dist. *Ergo sat esset etiam matrimonio, et Voto, nisi Ecclesia irritaret.*

85 S. Bonavent. answers, *in 4. dist. 29. q. 1. ad 2.*, that Baptism is the work of God, not of men; but marriage is from the consent of men; for it is a human contract, therefore it requires greater liberty; for it is placed wholly in consent.

> Respondet *S. Bonavent.* in 4. dist. 29. q. 1. ad 2. *Baptismum esse opus Dei, non hominum; sed matrimonium esse ex hominum consensu; est enim contractus humanus, ideo exigit maiorem libertatem, nam est totum in consensu positum.*

86 Another reason also is assigned common to Vows, because they are self-surrenders of love.

> *Alia etiam ratio communis Voto assignatur, quia sunt deditiones amoris.*

87 *You will object fourthly:* also an oath, extorted by grave fear, is valid, *cap. verum, and cap. si vero de iureiurando*; and yet it requires liberty. If, then, Vow and marriage are annulled for this reason, it is a sign that they are annulled by Ecclesiastical law, not from defect of liberty. This argument was answered above.

> Obiicies quarto: *etiam iuramentum, extortum metu gravi, est validum* cap. verum, et cap. si vero de iureiurando, *et tamen requirit libertatem. Si ergo Votum, et matrimonium ideo irritantur, signum est, ea irritari iure Ecclesiastico, non ex defectu libertatis. Hoc argumentum supra solutum est.*

88 *You will object fifthly.* Nothing is more opposed to consent than fraud and error, *leg. si per errorem, ff. de iurisdict. omn. iudic.*; and yet here fraud does not annul marriage unless it be error of person and condition; fear, however, annuls: which is different in other contracts; for fraud giving cause to a contract of good faith annuls it, *leg. Et eleganter, §. 1. de dolo*; but fear does not annul those: Therefore this difference cannot arise from natural law; for otherwise fraud giving cause to marriage, since it is more contrary to consent than fear, would annul it.

> Obiicies quinto. *Nil magis opponitur consensui, quam dolus, et error,* leg. si per errorem, ff. de iurisdict. omn. iudic. et *tamen hic non irritat matrimonium, nisi sit error personae, et conditionis: metus tamen irritat: quod in aliis contractibus diversum est; nam dolus dans causam contractui bonae fidei, illum irritat,* leg. Et eleganter, §. 1. de

dolo; *metus autem illos non irritat: Ergo haec differentia non potest oriri ex iure naturali; alias enim et dolus dans causam matrimonio, cum magis contrarietur consensui, quam metus, illud irritaret*.

89 It is answered that fear annuls insofar as it directly attacks liberty in the substance of the thing to be chosen; therefore it goes together with error; for it is struck at the substance of the Vow, of marriage, etc.

Respondetur, *metum irritare quatenus directe oppugnat libertatem in substantia rei eligendae; ideo cum errore incedit; incutitur enim ad substantiam Voti, matrimonii, etc.*

90 *What* is said, that other contracts are not annulled by fear, is false, as S. Bonavent. intimated, *in 4. dist. 29. quaest. 1.*; it is proved *ex leg. 1. Cod. de rescind. vendit.*, there it is null, as the Gloss expounds on *leg. inbemus 14. §. accep-mus*, at the word privetur, Cod. de sacro-sancta Ecclesia, and l. 5. v. si habeas, Cod. de iurisdict. omn. iudic.; and it is the common opinion, as Cremensis testifies, singul. 7.; Iason leg. 2. num. 13. and 15. Cod. de iure emphyteut.; Tiraquel. with many, leg. si unquam, v. revertatur, n. 21. and following, Cod. de revocatione donat.; the same is found in other laws related by Sanchez lib. 3. de matrimonio, disp. 8. num. 2.

Quod *dicitur, alios contractus non irritari metu, falsum est, ut innuit S. Bonavent.* in 4. dist. 29. quaest. 1. *probatur* ex leg. 1. Cod. de rescind. vendit. ibi *irrita est, ut exponit Glossa* leg. inbemus 14. §. accep- *mus, verbo privetur, Cod. de sacro-sancta Ecclesia, et l. 5. v. si habeas, Cod. de iurisdict. omn. iudic. et est communis sententia, ut testantur Cremensis singul. 7. Iason leg. 2. num. 13. et 15. Cod. de iure emphyteut. Tiraquel. cum multis leg. si unquam, v. revertatur, n. 21. et sequentibus, Cod. de revocatione donat. idem habetur aliis legibus relatis a Sanchez lib. 3. de matrimonio, disp. 8. num. 2.*

91 It is *proved* by the reason of D. Bonavent. in the places adduced. Without consent a contract is deprived of its substance, leg. obligationum, ff. de act. et oblig.; but where fear is present, consent is lacking, from what has been said: Therefore; and it is plain from the rule Nihil consensui 117. ff. de regul. iuris, there: *Nothing is so contrary to consent as force and fear*; and c. cum locum, de sponsal., there: *consent has no place where fear or coercion intervenes*.

Probatur *ratione D. Bonavent. locis adductis. Sine consensu contractus privatur sua substantia leg. obligationum, ff. de act. et oblig. at ubi metus adest, deficit consensus ex dictis: Ergo: et patet ex regula Nihil consensui 117. ff. de regul. iuris ibi:* Nihil consensui tam contrarium est, quam vis, atque metus, *et c. cum locum, de sponsal. ibi:* cum locum non habeat consensus, ubi metus, vel coactio intercedit.

92 But the *texts* brought forward in opposition by Sanchez only show that such acts ought to be judged null for the sake of preserving peace, because often they could not have the effect of natural annulment through the power of the powerful.

Textus *vero allati in contrarium a Sanchez solum ostendunt, debere iudicari irritos ad pacem conservandam, quia saepe non possent effectum naturalis irritationis habere ex vi praepotentium.*

93 *Others*, however, will only that the external act, say the entering upon an inheritance, be declared by a magistrate, or recalled to its state, as done without intention of taking possession. Therefore in cap. 2. de his, quae vi, it is found: *Things done through fear and force ought by law to be recalled to nullity*.

Alii *vero solum volunt extrinsecum actum, puta haereditatem adeundo, factum absque intentione possessionis capiendae, debere a magistratu declarari, seu in suum statum revocari. Ideo cap. 2. de his, quae vi, habetur:* Quae metu, et vi fiunt, de iure debent in irritum revocari.

94 *I answer* secondly, from what has been said, that greater liberty is required by the nature of the thing for a Dowry and for marriage than for simple human contracts, on account of the reasons adduced above.

> Respondeo *secundo ex dictis, maiorem libertatem ex natura rei exigi pro Dote, et matrimonio, quam pro contractibus humanis simplicibus ob rationes supra allatas.*

95 *Sanchez brings forward*, num. 4., the text of leg. 1. ff. de eo quod metus causa, where the Praetor says: *quod metus causa gestum erit, ratum non habebo*, where he notes, with Tiraquel and others, that it speaks in the future, that is, of what is to be annulled; and yet D. Bonavent. in 3. dist. 39. art. 3. quaest. 2. argumento 2., in the second place, so puts it in the present: *ratum non habeo*.

> Affert *Sanchez num. 4. textum leg. 1. ff. de eo quod metus causa, ibi ait Praetor:* quod metus causa gestum erit, ratum non habebo*, ubi notat, loqui in futuro, idest irritandum, ex Tiraquel. cum aliis, et tamen D. Bonavent. in 3. dist. 39. art. 3. quaest. 2. argumento 2. secundo loco, ita ponit in praesenti:* ratum non habeo.

96 *Note* that it is the same thing, that what has already been done, *ratum non habeo*: and that what he has, he will not have; whence Sanchez accomplishes nothing; for the annulment follows the deed, and from the nature of the thing, all the more as regards the declaration of the judge in the external forum. It would perhaps serve, if he had said: What is done through fear, I will not ratify. But not even so: for the sense would be that it is null at all times.

> Nota*, idem esse, quod iam factum est,* ratum non habeo: et quod habet, non habebo*, unde nil facit Sanchez; nam irritatio sequitur factum, et ex natura rei, multo magis quo ad declarationem iudicis in foro externo. Deserviret fortasse, si dixisset: Quod metu factum est, ratum non habebo. Sed nec ita: Sensus enim esset, omni tempore irrita esse.*

97 *There remains* the doubt: Whether a Vow emitted from grave fear justly struck is null.

> Remanet *dubium: An Votum emissum ex timore gravi incusso, iusta de causa, irritum sit.*

98 The *first* opinion is that it is null. So Lopez, prima parte Instruct. cap. 45. col. 3.; Manuel, tomo 2 of the summa, disp. 93.; Vega, Tomo 2 of the summa, cap. 29. casu 17.; and in the similar case of marriage they assert it, as Sanchez reports, lib. 4. disp. 13. The reason is, because it still takes away liberty.

> Prima *opinio est, esse irritum. Ita Lopez prima parte Instruct. cap. 45. col. 3. Manuel 2. tomo summae, disp. 93. Vega 2. Tomo summae, cap. 29. casu 17. et in simili casu de matrimonio id asserunt apud Sanchez lib. 4. disp. 13. Ratio est, quia adhuc tollit libertatem.*

99 The *second* opinion is that it is valid. So Sanchez in the cited lib. on marriage, and lib 4. summae, cap. 3. num. 21., with Medina lib. 1. summae, cap. 14. §. 6. fol. 86. quaest. 1. ad ultimum, and in 3. dist. 39. art. 3. quaest. 2. ad 3., where he does not admit fear falling upon a constant man when it arises from justice; for then there is no fear that can deter a constant man from what is just and deflect him, and consequently pertain to annulling contracts, as I said above against Sanchez in his notes.

> Secunda *opinio est, esse validum. Ita Sanchez lib. citato de matrimonio, et lib 4. summae, cap. 3. num. 21. cum Medina lib. 1. summae, cap. 14. §. 6. fol. 86. quaest. 1. ad ultimum, et in 3. dist. 39. art. 3. quaest. 2. ad 3. ubi non admittit metum, in constantem virum cadentem, quando oritur ex iustitia; tunc enim nullus est timor, qui virum constantem deterrere a iusto, atque deflectere valeat, et consequenter ad irritandos contractus pertineat, ut dixi supra contra Sanchez in notandis.*

100 *I assert* that a Vow emitted in grave fear justly struck is valid.

> Assero, *Votum emissum in metu gravi iuste incusso, esse validum.*

101 It is *proved* by the reason of D. Bonavent. there, because then no fear falling upon a constant man is struck into him by another, but he rather strikes fear into himself, as is found in leg. si mulier 21. at the beginning, ff. de eo, quod metus causa. For he is himself to himself the cause of fearing sin, or the evil of penalty, one of which looms to be chosen. Which reason Sanchez uses, lib. 4. de matrimonio, disp. 13. num. 3.

> Probatur *ratione D. Bonavent. ibi, quia a nullo tunc ei incutitur metus cadens in constantem virum, sed ipse potius sibi metum incutit, ut habetur leg. si mulier 21. in principio, ff. de eo, quod metus causa. Ipse enim est sibi causa timendi peccatum; vel malum poenae, quorum alterum imminet eligendum. Qua ratione utitur Sanchez lib. 4. de matrimonio, disp. 13. num. 3.*

102 *This* doctrine destroys the foundation of the adversaries; for the vow is voluntary, since the fear was struck from within, duly, and is therefore not coercing; for coercion and force are from without.

> Haec *doctrina ruit adversariorum fundamentum; est enim votum voluntarium, quippe ab intrinseco debite timor incussus fuit, atque adeo non cogens, nam coactio, et vis est ab extrinseco.*

103 *From* these you can gather that Vows extorted by light fear are valid; for liberty is not gravely assailed thereby.

> Ex *his colligere potes, Vota, metu levi extorta, esse valida; non enim inde temeratur graviter libertas.*

104 *Here* Sanchez discourses at greater length on the excommunication of the holy Council of Trent, sess. 25. de regul. cap. 18., which is fulminated first against those compelling women to enter a monastery, or to take on the habit of Religion, or to make profession.

> Hic *latius edisserit Sanchez de excommunicatione sancti Concilii Tridentini sess. 25. de regul. cap. 18. quae fulminatur primo contra cogentes foeminas ad ingrediendum monasterium, vel ad suscipiendum habitum Religionis, vel ad professionem.*

105 *Secondly*, against those giving aid or favor to that end.

> Secundo, *contra dantes ad id auxilium, vel favorem.*

106 *Thirdly*, against those who, knowing that a woman does not enter or take the habit or emit profession spontaneously, interpose in any way whatever power, or consent, or authority to that act.

> Tertio, *contra eos qui scientes, foeminam non sponte ingredi, aut habitum suscipere, aut professionem emittere, interponunt quomodocunque illi actui potentiam, vel consensum, vel authoritatem.*

107 *Fourthly*, against those impeding, without just cause, the voluntary act of the woman willing to emit Vows and enter religion. On this Suarez, Tom. 5. in 3. part. disp. 23. sect. 5., where he treats of Censures, which is the place of this disputation, and which will be treated by us in the 3. part. Tom. 2. Tract. de Censuris.

> Quarto, *contra impedientes sine iusta causa voluntarem foeminae, volentis emittere Vota, ingredi religionem. De hoc Suarez Tom. 5. in 3. part. disp. 23. sect. 5. ubi de Censuris, qui est huius disputationis locus, et a nobis disputabitur 3. part. Tom. 2. Tract. de Censuris.*

Question VII: Whether a necessary thing can be the matter of a vow

1 Thus far I have treated of those things posited in the definition of a Vow that pertain to the free will; now many things must be asked about the matter of a Vow, which is said to be a certain good.

> *Hactenus egi de his, quae in definitione Voti posita, sunt quod ad voluntatem liberam; nunc multa quaerenda sunt circa materiam Voti, quae dicitur esse melius quoddam.*

2 *I suppose*, however, that things absolutely necessary cannot be vowed, e.g. to die, nor likewise things impossible, such as to count the sand of the Sea.

> Suppono *autem, voveri non posse res absolute necessarias v. g. mori, similiter nec impossibiles, ut arenam Maris enumerare.*

3 *The question* is: whether you can vow those things that are elsewhere commanded, e.g. not to commit fornication.

> Quaestio *est: an possis vovere ea, quae alias praecepta sunt, v. g. non fornicari.*

4 *Commonly* the Theologians assert that this is not properly the matter of a Vow. So D. Bonaventure, at the place cited, whom others follow, as related by Azorius book 11. on morals, q. 9. cap. 14. For this is the sense of D. Thomas in 4., at the place cited, and in 2. 2., where he says that such a being, insofar as it is necessary, does not fall under a Vow; D. Antoninus part 2. title 11. cap. 2. Paludanus 4. dist. 38. question 2. article 1. Maior question 1. Durandus there question 1. Richardus question 2. article 5. Cajetan, however, on 2. 2. at the cited passage of D. Thomas, is cited badly by Navarrus in his manual, cap. 12. num. 25. Sotus lib. 7. on Justice, question 1. article 3. Tabiena V. vow 1. §. 2. note well, Lyranus on Deuteronomy 23. Gerson part 2. in the Alphabet, letter 25, letter I. and letter T. Angelus V. vow 1. question 4. Arboreus lib. 19. Theosophia, cap. 6.

> Communiter *asserunt Theologi, hanc non esse proprie materiam Voti. Ita D. Bonavent. loco cit. quem alii sequuntur relati ab Azorio lib. 11. de moralibus, q. 9. cap. 14. Id enim sentit D. Thom. in 4. loco cit. et 2. 2. ait, tale ens, quatenus necessarium, non cadere sub Voto; D. Anton. 2. titulo 11. cap. 2. Paludanus 4. dist. 38. quaest. 2. art. 1. Maior quaest. 1. Durandus ibi quaest. 1. Richardus quaest. 2. art. 5. Caietanus vero 2. 2. ad locum citatum D. Thomae, citatur male Nauar. in manual. cap. 12. num. 25. Sotus lib. 7. de Iustitia, quaest. 1. art. 3. Tabiena V. votum 1. §. 2. notandum, Lyranus Deuter. 23. Gerson 2. part. Alphabeto 25. littera I. et littera T. Angelus V. votum 1. quaest. 4. Arboreus lib. 19. Theosophia, cap. 6.*

5 *On the contrary*, others say that the vow is properly about these things. So Sanchez lib. 4. of the summa, cap. 5. num. 6. where he brings forward D. Thomas 2. 2. at the place cited (but badly, as I said) and Cajetan at the place cited, 2. 1. Navarrus, Sotus at the place cited, Castro lib. 1. on penal laws, cap. 10. Aragon. 2. 2. q. 88. art. 2. fol. 77. Valencia 2. 2. disp. 6. question 6. point 2. Azorius at the place cited. The same view is held by Diana part 1. Treat. 6. resolution 86. Bassaeus V. Vow 2. num. 11., bringing forward others. So also D. Bonaventure, as I shall say in question 8.

> E regione *alii dicunt, de his esse proprie votum. Ita Sanchez lib. 4. summae, cap. 5. num. 6. ubi adducit D. Thomam 2. 2. loco cit. (sed male, ut dixi) et Caietanum loco cit. 2. 1. Nauar. Sotum loco cit. Castro lib. 1. de leg. poenal. cap. 10. Aragon. 2. 2. q. 88. art. 2. fol. 77. Valentiam 2. 2. disp. 6. quaest. 6. puncto 2. Azorium loco cit. Idem sentit Diana part. 1. Tract. 6. resol. 86. Bassaeus V. Votum 2. num. 11. alios adducens. Sic et D. Bonavent. ut dicam quaest. 8.*

6 *I assert* that it is not properly a vow. *It is proved* first from D. Bonaventure, because a vow establishes a new law binding; but a law is not a law unless it binds anew; but concerning necessary matter it

does not bind, since one is already bound: Therefore.

> Assero *non esse proprie votum.* Probatur *primo a D. Bonavent. quia votum ponit legem novam obligantem; at lex non est, nisi de novo liget; sed circa materiam necessariam non ligat, cum iam sit ligatus: Ergo.*

7 *It is proved* second from D. Bonaventure, from the Gloss on that Psalm, *Vow, and pay unto the Lord*, where he says: *To vow is of the will; to pay is of necessity.* Therefore it is only about those things to which one is not bound from elsewhere.

> Probatur *secundo a D. Bonavent. ex Glossa ad id Psalm.* Vovete, et reddite, *ubi ait:* Vovere est voluntatis; et reddere necessitatis. *Ergo est de his solum, ad quae aliunde non ligatur.*

8 *Sanchez replies* that the will is bound in a new way to that thing, which, he says, suffices for the ratio of a vow.

> Respondet *Sanchez, Voluntatem novo modo ad id ligari, quod ait ad rationem voti sufficere.*

9 *But* here St. Bonaventure more properly calls that mode a new complacency in a necessary good, which does not obtain the force of a vow.

> Verum *hic S. Bonavent. magis proprie illum modum vocat novam complacentiam in bono necessario, quae voti vim non obtinet.*

Question VIII: Whether a vow is only about some good

1 *I assert* first that a vow is not concerning an evil thing: this is a certain assertion, as Tanner says, *disp. 5. question 4. dub. 1. num. 12.*

> Assero *primo votum non esse de re mala: est assertio certa, ut ait Tanner.* disp. 5. quaest. 4. dub. 1. num. 12.

2 *It is proved* from D. Bonaventure, first from D. Isidore, who warns: *in evil promises rescind the faith, in a shameful vow change the decree.*

> Probatur *a D. Bonavent. primo ex D. Isidoro, monente:* in malis promissis rescinde fidem, in turpi voto muta decretum.

3 *It is proved* second, because a vow is a promise of a thing which someone pledges for the sake of God, for his own salvation. Thus it is proved also by Sanchez *cap. 6.*

> Probatur *secundo, quia votum est promissio rei, quam in gratiam Dei aliquis pollicetur, ad suam salutem. Ita probatur etiam a Sanchez* cap. 6.

4 *It is proved* third from D. Bonaventure, *last foundation.* He who fulfills a vow does that to which he is bound: But no one is bound to do evil: Therefore.

> Probatur *tertio a D. Bonavent.* fundamento ultimo. *Qui implet votum, facit id, ad quod tenetur: Sed nullus tenetur ad faciendum malum: Ergo.*

5 *I assert* second, that neither is a thing simply indifferent the matter of a vow, e.g. to lift up a straw. So the holy Doctors and others as collected by Bassaeus *num. 6.*, provided that by intention, or of itself, it is not ordered to a good.

> Assero *secundo, neque rem indifferentem simpliciter esse materiam voti v. g. levare festucam. Ita sancti DD. et caeteri apud Bassaeum* num. 6. *dummodo ex intentione, aut ex se non ordinetur ad bonum.*

6 *It is proved* from D. Bonaventure, because a vow is an act of Religion concerning those things that serve God; but things merely indifferent do not pertain to the worship of God: Therefore. Thus it is proved by Sanchez *cap. 7. after* D. Thom. He notes, however, that some indifferent things, adorned by some end, can become the matter of a vow, as D. Bonaventure notes *ad 3.*: thus to eat is indifferent, likewise not to eat beyond necessity, and yet I can vow abstinence.

> Probatur *a D. Bonavent. quia votum est actus Religionis de his, quae Deo deserviunt; at indifferentia mera non spectant ad Dei cultum: Ergo. Ita probatur a Sanchez* cap. 7. post *D. Thom. Advertet tamen aliqua indifferentia posse, aliquo fine cohonestata, fieri materiam voti, ut notat D. Bonavent.* ad 3. *ut comedere est indifferens, similiter non comedere praeter necessitatem, et tamen possum abstinentiam vovere.*

7 *Concerning* the first assertion there occurs that remarkable case of the Duke Jephthah, who, going to war, vowed that if he returned victorious, he would offer to God the first whatsoever should meet him from his house, *Judges 11.* Concerning this vow a doubt arises: whether Jephthah vowed to kill his daughter, and killed her, which vow of killing an innocent is surely evil of its object.

> Circa *primum asserendum occurrit casus ille insignis Ducis Iephte, qui pergens ad bellum vovit, si victor rediret, offerre Deo primum quemcumque, qui e domo sua sibi occurreret,* Iudic. 11. *Circa hoc votum occurrit dubitatio: an Iephte voverit occidere filiam, et occiderit, quod sane votum occidendi innocentem est de obiecto malo.*

8 *The first* opinion, confirmed also by the calculations of the holy Fathers, is that Jephthah truly killed his daughter. So D. Bonaventure *here ad 4.*, which he proves from D. Jerome on *cap. 7. of Jeremiah* and D. Augustine in the *questions on the book of Judges, question 49, and lib. 7. of questions on the Old Testament.* He supposes the same from other Fathers. Such was the sense of Chrysostom *homil. 14. to the people of Antioch, and homily on Jephthah.* Origen *Tom. 9. on John.* Tertullian *lib. 3. against Marcion.* Justin Martyr *question 99.* Nazianzen *in the oration in praise of the Maccabees, which is oration 22.* Isidore in the *Allegories on Scripture, and on the life and death of the saints,* Ambrose *lib. 3. of offices, cap. 12.* Bede *lib. of questions, on Judges cap. 7.* Rupert *on the Trinity and his works, in the book of Indic. cap. 12.* Tostatus *on 11. Indic. question 56.* and among the Hebrews Josephus *lib. 5. Antiquities,* and other ancient Rabbins, to whom add D. Thom. *at the place cited ad. 2.*, whom Azorius reports *lib. 11. cap. 14.*

> Prima *etiam Sanctorum PP. calculis confirmata opinio est, Iephte vere filiam occidisse. Ita D. Bonavent.* hic ad 4. *quod probat ex D. Hieronymo in* cap. 7. Hierem. *et D. Augustino in* quaestionibus super librum Iudicum, quaest. 49. et lib. 7. quaestionum veteris Testamenti. *Idem ex aliis PP. supponit. Id sensera Chrysostomus* homil. 14. ad populum Antioch. et homil. de Iephte. *Origenes* Tom. 9. in Ioan. *Tertullianus* lib. 3. cont. Marcion. *Iustinus Martyr* quaest. 99. *Nazianzenus* oratione de laude Machabaeorum, quae est oratio 22. *Isidorus in* Allegoriis in scripturam, et de vita, et morte sanctorum, *Ambrosius* lib. 3. offic. cap. 12. *Beda* lib. quaestionum, in Iud. cap. 7. *Rupertus* de Trinitate, et operibus eius, in lib. Indic. cap. 12. *Tostatus* in 11. Indic. quaest. 56. *et inter Hebraeos Iosephus* lib. 5. Antiq. *et alii Rabbini antiqui, quibus adde D. Thom.* loco cit. ad. 2. *quos refert Azorius* lib. 11. cap. 14.

9 *The opposite*, however, is brought forward by certain more recent Rabbins, and Catholics, whom Lyranus defends, who say that Jephthah by no means immolated his daughter, but devoted her to virginity.

> Oppositum *tamen afferunt Rabbini aliqui neoterici, atque Catholici, quos defendit Lyranus, qui dicunt, Iephte nequaquam immolasse filiam, sed virginitati eam devovisse.*

10 *First*, therefore, he proves it, because Jephthah was a man placed among the saints by the Apostle: *Heb. 11*. Then, when he uttered this vow, it is said: *The spirit of the Lord came upon him*, but the Holy Spirit does not inspire evil.

> Primo *igitur id probat, quia Iephte fuit vir inter sanctos ab Apostolo repositus:* Heb. 11. *Deinde cum hoc votum emisit, dicitur:* Irruit super eum spiritus Domini*, at Spiritus Sanctus non inspirat malum.*

11 *Moreover*, it is not sufficiently gathered from Scripture that Jephthah killed his Daughter; for where it is said in the Vulgate: *He vowed a vow, etc. if you deliver the children of Ammon into my hands, whosoever first shall come forth from the doors of my house, and shall meet me, returning in peace from the children of Ammon, him I shall offer as a holocaust to the Lord*, the Hebrew reading has: *And it shall be the Lord's, and I shall make it go up as an ascension*, where no mention is made of a holocaust, as many think, whom Azorius follows, but the reading is: I shall make it go up as an ascension to the Lord. And it will be וְהָיָה לַיהוָה וְהַעֲלִיתִיהוּ עֹלָה. But if he had wished to express "into a holocaust", he would rather have said לְעֹלָה.

> Praeterea *non satis ex scriptura colligitur, Iephte occidisse Filiam, ubi enim dicitur in Vulgata:* Votum vovit, etc. si tradideris filios Ammon in manus meas, quicumque primo fuerit egressus de foribus domus meae, mihique occurrerit, revertenti cum pace a filiis Ammon, eum holocaustum offeram Domino*, Hebraea lectio habet:* Et erit Domino, et ascendere faciam illud ascensionem*, ubi nulla mentio habetur holocausti, ut putant multi, quos sequitur Azorius, sed lectio est: ascensionem illud faciam ascendete Domino. Erit et וְהָיָה לַיהוָה וְהַעֲלִיתִיהוּ עֹלָה Si autem in holocaustum voluisset exprimere, potius dixisset לְעֹלָה.*

12 *Wherefore* he seems to have vowed only an oblation owed in a fitting manner.

> Quare *solam oblationem modo convenienti debitam vovisse videtur.*

13 *Moreover*, the daughter, hearing that she was to be offered to the Lord, asked a respite of two months, that she might mourn her virginity: but if she were to be immolated, she would have mourned her life; it is a sign, therefore, that she was offered that she might live chastely without a husband, which at that time was a thing to be deplored.

> *Praeterea filia audiens, se Domino offerendam, petiit duorum mensium inducias, ut plangeret virginitatem suam: at si immolanda fuisset, planxisset vitam, signum est ergo fuisse oblatam, ut caste viveret absque marito, quod eo tempore erat deplorandum.*

14 *It is confirmed:* For returning she did *as she had vowed, who knew not man*, as if to say he vowed her virginity, and consecrated her to the Lord, shutting her up at home from the company of men.

> Confirmatur: *Nam regressa fecit,* sicut voverat, quae ignorabat virum*, quasi dicat virginitatem eius vovit, et consecravit eam Domino, includens eam domi ab hominum consortio.*

15 *Moreover*, a custom is said then to have prevailed, *that the daughters of Israel gathered yearly to lament the daughter of Jephthah*; but the word *lament*, in Hebrew is לְתַנּוֹת, "to speak to" the daughter of Jephthah: Therefore she was still living, and they visited her mourning and shut in, that they might console her; but if she had already been immolated, how did they speak with her for four days? — a custom read nowhere?

> Praeterea *mos dicitur tunc invaluisse,* ut filiae Israel quotannis convenirent, ut plangerent filiam Iephte, ubi verbum plangerent*, in Hebraeo est לְתַנּוֹת ad alloquendam filiam Iephte: Ergo adhuc vivens erat, eamque invisebant moerentem inclusam, ut consolarentur; quod si iam erat immolata, quomodo alloquebantur eam quatriduo, qui mos nullibi legitur?*

16 *Notwithstanding these things*, the unanimous sense of the holy Fathers, according to the prescriptions of the sacred Council of Trent, is to be preferred by us. Wherefore D. Antoninus *part. 2. tit. 11. cap. 1. §. says: but since the Doctors commonly hold that he killed her bodily, and they reprehend him for parricide, we ought not to know more than we ought to know, as the Apostle admonishes, Rom. 12., which happens when someone does not acquiesce in doctrines approved by the Church, and commonly held, finding new ones, which is prohibited*, as related in the chapter, dist. 37. Such is St. Antoninus.

> His *non obstantibus unanimis sanctorum PP. sensus, iuxta sacri Concilii Trident. praescripta, est nobis praeferendus. Quare D. Antoninus* part. 2. tit. 11. cap. 1. §. ait: sed ex quo Doctores communiter tenent, quod corporaliter eam occiderit, et ipsum reprehendunt de parricidio, non debemus sapere plusquam oportet sapere, ut admonet Apostolus, Rom. 12. quod sit, dum quis doctrinis, ab Ecclesia approbatis, et quae communiter tenentur, non acquiescit, novas inveniens, quod prohibetur*, in cap. relatum, dist. 37. Haec S. Antoninus.*

17 *It is proved*, for in the Vulgate, which is canonical, it is stated that he vowed to offer her in holocaust, which surely required the death and burning of the animal. Therefore St. Bonaventure says, bringing forward D. Jerome, that this Sacrifice did not please God, although the good intention pleased; and with D. Augustine, that Jephthah was both rash in vowing, and impious in paying. Moreover she was given leave for two months, that she might mourn not her consecrated virginity, for she could have mourned that always.

> Probatur*, nam in Vulgata, quae est Canonica, habetur, vovisse offerre in holocaustum, quod sane mortem, et combustionem animalis exigebat. Ideo ait S. Bonavent. adducens D. Hieronymum, Sacrificium hoc Deo non placuisse, licet bona intentio placuerit; et cum D. Augustino, quod Iephte et in vovendo fuit temerarius, et in solvendo impius. Praeterea dimissa est duobus mensibus, ut plangeret non virginitatem suam consecratam, quia potuisset eam semper plangere.*

18 *Second*, this is not so deplorable, as she rather mourned death in the flower of her age. Therefore also the daughters of Israel mourned her.

> Secundo *hoc non est tam deplorabile, quanto planxit potius mortem aetate florente. Ideo etiam filiae Israel plangebant eam.*

19 MOREOVER it is said that, when the girl returned, he did what he had vowed; but if he had only wished to consecrate her to the Lord, he would have done nothing new.

> *PRAETEREA dicitur, revertenti puellae fecisse, quod voverat, quod si solum consecratam Domino voluisset, nil novi fecisset.*

20 TOSTATUS ADDS another argument, because of the Blessed Virgin alone it is said that without precedent she pleased the Lord by offering her Virginity: But he does not consider that the daughter of Jephthah is said to have been consecrated in her place;[1] whereas the Blessed Virgin alone of her own spontaneity, without the precedent of an example, vowed her Virginity.

[1] Editor's note: the print reads 'dici consecratam inpitam'; 'inpitam' is not a Latin word — possibly a corruption of 'impiam' or of 'in victimam' ('as a victim'); rendered neutrally here as 'in her place', following the translator's choice, since the print's reading cannot be securely emended.

> *ADDIT aliud argumentum Tostatus, quia de B. Virgine sola dicitur sine exemplo placuisse Domino, offerendo suam Virginitatem: Sed non considerat, filiam Iephte, dici consecratam inpitam; at B. Virgo sola spontanea sine praecedentis*

exemplo vovit suam Virginitatem.

21 To the arguments on the opposite side it is answered that the "ascension" of the sacrifice alone includes the burning, by which the holocaust was said to evaporate toward the Lord. So also in other places of Scripture, where a holocaust is said to be offered to the Lord, an ascension is read. The very name of holocaust is added for greater clarity.

Ad rationes in oppositum respondetur, solam sacrificii ascensionem includere combustionem, qua holocaustum dicebatur ad Dominum evaporare. Sic et in aliis locis scripturae, ubi holocaustum oblatum Domino dicitur, legitur ascensio. ipsum vero nomen holocausti ad maiorem claritatem apponitur.

22 THAT that word signifies also "to speak to" matters nothing; for it signifies also "to lament."

QUOD vero verbum illud significet etiam alloqui, nil refert; significat enim, et plangere.

23 AS FOR the Apostle, and D. Jerome, St. Bonaventure replies that his faith, and end, and devotion are praised; but that his inhumanity is censured by other Saints, because he vowed inconsiderately, and paid cruelly; nevertheless he is excused by the Fathers, because he judged that sacrifice to be ratified, as was Abraham's, when it was commanded by the Lord to immolate his son.

QUOAD Apostolum, et D. Hieronymum, respondet S. Bonavent. laudari eius fidem, et finem, ac devotionem; at vituperari ab aliis Sanctis inhumanitatem, quia inconsiderate vovit, et crudeliter reddidit; attamen excusatur a PP. quia existimavit, illud esse ratum sacrificium, sicut fuit Abrahae, cum praeceptum esset a Domino, ut filium immolaret.

24 BUT if someone knowingly vows something that is a natural sin, and vows it, he commits a twofold sin: one by its nature; the other of injury against religion, by vowing something gravely illicit. So Sanchez lib. 4. cap. 6. num. 9.

QUOD si aliquis sciens, aliquid esse peccatum naturale, et illud voveat; duplex peccatum committit: Alterum natura sua; alterum iniuriae in religionem, vovendo graviter illicita. Ita Sanchez lib. 4. cap. 6. num. 9.

25 JUST as evil is taken from the object, or from the end, or from the circumstances, so also the nullity of a vow from an evil thing promised. See Sanchez lib. 4. cap. 6.

SICUT autem malum, vel ab obiecto, vel a fine, vel a circumstantiis sumitur, ita et nullitas voti ex re mala promissa. Vide Sanchez lib. 4. cap. 6.

26 YOU OBJECT against the second assertion. Food and drink are indifferent; but concerning these abstinence or temperance can be vowed: Therefore.

OBIICIES contra secundum assertum. Cibus, et potus sunt indifferentes; sed circa hos potest voveri abstinentia, vel temperantia: Ergo.

27 D. Bonaventure answers *ad 3.* that there are some indifferents that are informable by a virtue, and these can be the matter of a vow; but others cannot be informed by a virtue, and concerning these there is no vow, nor does one who vows need dispensation concerning them, since the matter of the vow is lacking, which ought to be something for the service of God, which is also the view of D. Thomas.

RESPONDET D. Bonavent. ad 3. dari aliqua indifferentia a virtute informabilia, et haec posse esse materiam voti; alia vero non posse informari a virtute, et de his non esse votum, nec voventem egere circa haec dispensatione, cum desit materia voti, quae debet esse aliquid in Dei obsequium, quae est ratio etiam D. Thomae.

28 A BRIEF answer indeed, but fertile with the best doctrines, which Sanchez pursues at length, lib. 4. of the summa, cap. 7., who at num. 5. requires four conditions for an indifferent thing to become the matter of a vow.

> *BREVIS quidem responsio, sed optimis foecunda doctrinis, quas late prosequitur Sanchez lib. 4. summae, cap. 7. qui num. 5. requirit quatuor conditiones ad hoc, ut res indifferens fiat materia voti.*

29 THE FIRST is, that some circumstance of an honest end concur, rendering the very thing the matter of some virtue: Thus to enter some house is indifferent; but if there were there some occasion of sinning, it would be the matter of a vow, by promising on that account not to enter. So Richardus in 4. dist. 38. art. 3. question 1. and others. I give another example of a thing subject to a vow: if there were a sick man there to be visited, and not by precept, one could vow to enter.

> *PRIMA est, ut concurrat aliqua finis honesti circumstantia, reddens ipsam rem materiam alicuius virtutis: Sic ingredi aliquam domum est indifferens; at si ibi esset aliqua occasio peccandi, esset materia voti, promittendo ob id non ingredi. Ita Richardus in 4. dist. 38. art. 3. quaest. 1. et alii. Ego aliud exemplum do de re subiecta voto, si ibi esset infirmus visitandus, et non ex praecepto, posset vovere ingredi.*

30 THE SECOND condition is, that the thing be apt to serve that good end, or, as St. Bonaventure says, be informable by that good end; for the end in moral matters in a certain way informs the act and makes it intrinsically good or evil, as I said in the first part of the second part, Treat. 1. dispute 4. question 8. For if it contributes nothing to that end, neither will the vow be valid, as if someone were to vow, for the honor of the Blessed Virgin, not to cut his nails on the Sabbath. So many, as collected by Sanchez at the place cited.

> *SECUNDA conditio est, ut res illa sit apta, ut illi bono fini deserviat, seu, ut ait S. Bonavent. sit informabilis ab illo bono fine, nam finis in moralibus actum quodammodo informat, et reddit intrinsece bonum, vel malum, ut dixi prima secunda, Tract. 1. disput. 4. quaest. 8. Si enim ad eum finem nil conferat, neque votum valebit, ut si aliquis voveat ad honorem Beatae Virginis, non praescindere sibi ungues in Sabbatho. Ita multi apud Sanchez loco citato.*

31 THE THIRD is, that the indifferent thing be actually directed to that end, and thus be actually informed by that end; otherwise it will remain still indifferent in the moral order.

> *TERTIA est, ut ea res indifferens actu dirigatur ad eum finem, et ita a fine illo actu informetur; alioqui manebit in esse morali adhuc indifferens.*

32 THE FOURTH is, that the end honoring the indifferent thing still remain. From these many things are defined by D. Bonaventure.

> *Q VARTA est, ut finis ille honestans rem indifferentem adhuc maneat. Ex his plurima a D. Bonavent. definiuntur.*

33 FOR truly the matter can be an honest bride for the Vow, but the end indifferent.

> *ENIM vero potest materia, Voto sponsa esse honesta, sed finis indifferens.*

34 And indeed if the end is the attaining of temporal things, it will be valid. For thus also in Scripture vows of this kind were made, and judged ratified, as D. Bonaventure notes in the Biblia pauperum, cap. 15.: thus Genes. 28., for his pilgrimage and happy return Jacob vowed his to God. Thus 1. Reg. 1. Anna vowed for obtaining a son. The people of Israel, cap. 21. vowed for obtaining victory. Antiochus, 2. Macab. 9. for obtaining the health of his body, nor is he reprehended. Therefore these vows are received by the common sense of the Church. So Hostiens. c. scripturae on the vow, num. 5.

and 6. Ioan. Andreas num. 3. Anchar. num. 3. question 2. Henricus num. 11. Richardus, in 4. dist. 38. art. 1. questions 2. and 3. Maior there question 1. Abulens. cap. 30. of Numbers, question 92. Angelus v. vow 1. num. 4. and 9. Sylvest. v. vow 1. question 4. dictum 2. and question 5. Cajetan on art. 2. at the cited D. Thom. dub. 4. Sotus lib. 7. on Justice, question 1. art. 3. Palac. 4. dist. 38. disp. 1. fol. 814.

> *Et quidem si finis sit assequendi res temporales, erit validum. Sic enim et in scriptura huiusmodi vota facta sunt, et rata existimata, ut notat D. Bonavent. in Bibliis pauperum, cap. 15. sic Genes. 28. pro peregrinatione, et reditu foelici vovit Iacob sua Deo. Sic 1. Reg. 1. Anna vovit pro filio obtinendo. Populus Israël. cap. 21. vovit pro obtinenda victoria. Antiochus 2. Macab. 9. pro salute corporis obtinenda, nec reprehenditur. Itaque haec vota communi Ecclesiae sensu recepta sunt. Ita Hostiens. c. scripturae de voto, num. 5. et 6. Ioan. Andreas num. 3. Anchar. num. 3. quaest. 2. Henricus num. 11. Richardus, in 4. dist. 38. art. 1. quaest. 2. et 3. Maior ibi quaest. 1. Abulens. cap. 30. Numer. quaest. 92. Angelus v. votum 1. num. 4. et 9. Sylvest. v. votum 1. quaest. 4. dicto 2. et quaest. 5. Caietanus ad art. 2. citatum D. Thom. dub. 4. Sotus lib. 7. de Iustitia, quaest. 1. art. 3. Palac. 4. dist. 38. disp. 1. fol. 814.*

35 HENCE the view that Innocentius c. Scripturae, num. 1. de voto says — that *vows made for attaining temporal things are simoniacal and do not oblige* — is not received.

> *HINC Innocentius c. Scripturae, num. 1. de voto ait:* Vota, ad res temporales assequendas emissa, esse simoniaca, nec obligare, non recipitur.

36 NOW indeed this general rule of St. Bonaventure holds: when a vow is offered in some way for the service of God, it is valid from this head of indifferent matter, and thus it befits one who vows to serve God even for attaining temporal goods, or for giving Him thanks devotedly for things received; but the vow will be invalid if a certain act is vowed which is materially of a virtue, and is specified by an end not ordered to any other than a temporal one, as when we vow alms, so that the opinion of avarice spread about us may be washed away, or fasting, so that expenses may be lessened.

> *IAM vero haec regula generalis S. Bonavent. est, quando votum aliquo modo offertur in obsequium Dei, validum est ex hoc capite materiae indifferentis, et ita cuenit voventi Deo etiam ob bona temporalia assequenda, vel ob gratias ei de acceptis devote reddendas: at vero invalidum erit votum, si voveatur actus quidam, qui sit materialiter virtutis, et specificetur a fine non ordinato ad alium, quam temporalem, ut cum vovemus eleemosynam, ut eluetur opinio avaritiae de nobis sparsa, vel ieiunium, ut sumptus attenuet.*

37 HENCE innumerable cases are resolved, which Sanchez reports, lib. 4. of the summa, cap. 7. and others. What sin it is to vow indifferent things, St. Bonaventure at the place cited says only thus: *This man lacks judgment; but that it is sin is evident, because he renders the vow profane:* therefore it is indeed a sin, but venial, say Aragonius at the cited passage of D. Thomas. Petrus Ledefma, second tome of the summa, tract. 10. cap. 1. dub. 2. Manuel second tome cap. 94. num. 6. Tolet. lib. 4. of the summa, cap. 17. num. 14., whom Sanchez follows, lib. 4. cap. 7. num. 4. who at num. 27. asserts the same concerning a private vow; but concerning solemn vows, because they render those things null that were begun with them, he says it is mortal, as he had said cap. 6. n. 15.

> *HINC innumeri casus resolvuntur, quos referunt Sanchez lib. 4. summae, cap. 7. et alii. Quale autem peccatum sit res indifferentes vovere, S. Bonavent. loco cit. solum sic ait:* Iste iudicio caret; esse autem peccatum patet, quia prophanum reddit votum: *ideo peccatum quidem esse, sed veniale aiunt Aragonius ad locum citatum D. Thomae. Petrus Ledefma, secundo tomo summae, tract. 10. cap. 1. dub. 2. Manuel 2. tomo cap. 94. num. 6. Tolet. lib. 4. summae, cap. 17. num. 14. quos sequitur Sanchez lib. 4. cap. 7. num. 4. qui num. 27. Idem asserit de voto privato; at de solemnibus, quia inita ea reddit ait esse mortale, sicut dixerat cap. 6. n. 15.*

38 JUST as vowing for an evil end takes its malice from the end; so if the end is mortally evil, to vow it also will be mortal; if the end is venial, it will be venial: But to vow religion solemnly even for a venial end, he says, is venial, because it renders those vows null by a grave injury to God.

> *SICUTI vovere ob malum finem sumit a fine malitiam; ita si finis sit mortaliter malus, etiam vovere erit mortale; si finis venialis sit; veniale erit: At vovere religionem solemniter etiam ob finem venialem, ait, esse veniale, quia vota illa reddit irrita gravi Dei iniuria.*

Question IX: Whether a vow is only of the better good, or also of a lesser good

1 I WONDERED at first glance that the Seraphic Doctor had indicated with scarcely two articles the things that concern the matter of a vow, a most weighty matter indeed; but I saw clearly that these twin articles are like the Gnomon on a sundial, which indicates all the hours.

> *MIRABAR primo intuitu Seraphicum vix duobus articulis indicasse ea, quae materiam voti, quippe gravissimam, agunt; at vidi profecto, hos geminos articulos esse veluti in horologio solari Gnomonem, qui horas omnes indicat.*

2 IN the second, therefore, of the foundations of the second question, from the definition of a vow he teaches that it must be concerning a better good; for it is some new service rendered to God; hence it renders the one who serves better before God, and in order to his own salvation. From this it follows that it is not always concerning the best good, nor concerning any better good whatsoever, but concerning a better one with respect to the prior state, so that the one vowing vows something better than his state before God. Thus for a celibate person marriage will not be the matter of a vow; yet it will be for an incontinent man. So others, as collected by Bassaeus *V. Vow 2. num. 2.*

> *IN secundo igitur fundamento quaestionis secundae ex definitione voti docet, de meliori bono esse debere; est enim novum aliquod obsequium Deo praestitum; unde reddit obsequentem meliorem coram Deo, et in ordine ad propriam salutem. Ex quo habetur, non esse de optimo semper, neque de quocunque meliore, sed de meliori respectu prioris status, ita ut vovens a suo statu coram Deo aliquid melius voveat. Ita coelibi non erit materia voti matrimonium; erit tamen homini incontinenti. Sic alii apud Bassaeum* V. Votum 2. num. 2.

3 From these foundations, third, answering the argument, he says: A lesser good is taken in two ways. First, compared with what the one vowing has, and thus it cannot be the matter of a vow; for a virgin will not vow a lesser good that is owed, by vowing marriage: in another way a lesser good can be said to be one compared indeed to other greater goods that the one vowing does not have, and thus it can be the matter of a vow. Thus a secular man can vow chastity; because thus it is concerning a better good with respect to the conjugal state to which he can be assigned, although it is a lesser good than the profession of religion, which he lacks.

> *Ex his fundamentis tertio respondens argumento, dicit; Minus bonum dupliciter sumitur. Primo comparatum cum eo, quod habet vovens, et ita non potest esse materia voti; non enim virgo bonum maius debitum voto vovet, vovendo matrimonium: alio modo potest dici minus bonum comparatum quidem ad alia maiora bona, quae non habet vovens, et ita potest esse materia voti. Sic potest homo saecularis vovere castitatem; quia sic est de meliori bono respectu status coniugalis, cui potest applicari, licet sit minus bonum, quam religionis professio, qua ille caret.*

4 AGAIN, St. Bonaventure notes that this good is less than many others that the one vowing does not have; yet greater than those that the one vowing has; e.g. celibacy can be vowed in two ways: either simply, as by vowing private chastity; or by excluding in this vow a greater good, e.g. by vowing private chastity, and excluding, by vowing, ever vowing it solemnly in religion, and this is null.

RURSUS notat S. Bonaven. hoc bonum esse minus pluribus aliis, quae vovens non habet; maius tamen, quam ea, quae habet vovens; v. g. caelibatus potest dupliciter voveri: vel simpliciter, ut vovendo privatim castitatem; vel in hoc voto excludendo maius bonum, v.g. vovendo privatim castitatem, et excludendo vovete unquam solemniter in religione, et hoc est irritum.

5 ALTHOUGH you say: That state of private chastity is licit, and holy: Therefore it can be vowed. He answers, although that state is not evil, but good and glorious; nevertheless it is evil to will that state in such a way that it excludes a better one, just as to be praised is not evil, and yet it is evil to wish to be praised in such a way that the praise is in us and does not tend to the greater glory of God; for to exclude a greater good does not tend to the service of God.

ETSI dicas: Status ille castitatis privatus,est licitus, et sanctus: Ergo potest voveri. Respondet, licet non sit malus ille status; sed bonus, et gloriosus; attamen malum esse ita velle eum statum, ut excludat meliorem, sicuti laudari non est malum, et tamen est malum velle sic laudari, ut laus in nobis sit, nec ad Dei gloriam maiorem tendat; in Dei enim obsequium non tendit excludere maius bonum directe.

6 YOU WILL SAY: In marriage it is licit to promise oneself to another, although it is a state of imperfection: Therefore it is licit also in a vow.

DICES: In matrimonio licet seipsum alteri promittere, quamvis sit status imperfectionis: Ergo licet etiam in voto.

7 St. BONAVENTURE ANSWERS by denying the parity; for in marriage you betroth yourself to another person who is content with that state. And so you rightly promise her, along with that state to which you are then also bound, even if you exclude religion implicitly, when you choose the state of matrimony. But if you wish to vow to God in His service, you are bound to will and promise something better, because God always demands that what is better be offered to Him in a vow made in His service. Such is that holy Doctor.

RESPONDET S. Bonavent. negando paritatem; nam in matrimonio desponderis alteri personae, quae contenta est illo statu. Itaque bene cum ea spondes eum statum, cui tum etiam obligaris, etiamsi excludas religionem implicite, dum statum eligis coniugii. At si Deo vovere velis in eius obsequium, teneris aliquid melius velle, et spondere, quia Deus semper quod melius est in sui obsequium voto exhiberi postulat. Haec S.Doctor.

8 MOREOVER, for deciding this question, one must suppose, from St. Bonaventure in the *cited question*, that the matter of a vow is simply some good of counsel, even if it can also, to that extent, be concerning a good of precept, insofar as it exhibits a new expression of the will to God, and also on another head an obligation, which if violated infers a new injury also, specifically distinct, and therefore to be expressed in confession, as is evident from *cap. impudicas, and cap. sacrilegii, 27. quest. 1.* and the Doctors commonly teach, as collected by Sanchez *lib. 2. cap. 5. num. 7.*, against Gerson and Tabiena, who deny that the species is changed.

PRAETEREA ad quaestionem hanc decidendam oportet ex S. Bonavent. quaest. citata*, supponere, materiam voti esse simpliciter aliquod bonum consilii, esto etiam de bono praecepto possit eatenus esse, quatenus novam Deo exhibet voluntatis expressionem, et etiam ex alio capite obligationem, quae si violetur, novam etiam infert iniuriam, specie distinctam, atque adeo in confessione exprimendam, ut constat ex* cap. impudicas, et cap. sacrilegii, 27. quaest. 1. *et docent communiter DD. apud Sanchez* lib. 2. cap. 5. num. 7. *contra Gersonem, et Tabienam, negantes, mutare speciem.*

9 From this doctrine it follows first that things negatively opposed to the counsels, such as not to be chaste, not to enter religion, and the like, are not the matter of a vow, and that such vows are not valid. So all confess, as Sanchez notes, *lib. 4. cap. 8. num. 3.* — except Hostiensis, who *in his summa, tit. de voto, says* that these vows are indeed rash; yet valid.

> *Ex hac doctina sequitur primo, ea quae negative opponuntur consiliis, ut non esse castum, non ingredi religionem, et similia non esse materiam voti, et talia vota non valere. Ita omnes fatentur, ut notat Sanchez* lib. 4. cap. 8. num. 3. *excipe Hostiensem, qui* in summa, tit. de voto, ait, *haec vota esse quidem temeraria; tamen valere.*

10 The COMMON RATIO is deduced from D. Bonaventure above, because a vow ought to offer something for the service of God; but those things have no moral good in themselves. They could, however, have it per accidens, and thus be the matter of a vow; suppose, for instance, that he who vows not to enter religion recognizes that he is unfit, or is rightly and deservedly detained by the piety of his parents lying in necessity; and he who vows not to live chastely recognizes that he is too unstable in carnal matters.

> *RATIO communis deducta est ex D. Bonavent. supra, quia votum exhibere debet aliquid in Dei obsequium; at ista nil boni moralis habent in se. Possent tamen habere per accidens, et sic esse materia voti; puta si is, qui vovet religionem non ingredi, agnoscit se ineptum, vel pietate parentum in necessitate iacentium, iure ac merito detineri; et qui vovet, non vivere caste, agnoscit, se nimis labilem in carnalia.*

11 INDEED, from this it seems to be inferred that he who, from the experience of his own incontinence, knows it better to marry than to burn, validly cannot vow religion or chastity; for this is a lesser good, therefore for him the vow of matrimony is valid, because it is a greater good: therefore a contradictory vow, e.g. of religion or chastity, cannot be valid. Thus argues Homobonus, to be cited. Valencia seems to suppose this, 2. 2. *disp. 6. question 6. point 2. difficulty 4. col. penult.*

> *IMO ex hoc videtur inferri, eum, qui ex sua incontinentia expertus est, melius esse sibi nubere, quam uri, valide non vovere religionem, aut castitatem; hoc enim est minus bonum, ideo huic valet votum coniugii, quia maius est bonum: ergo non potest valere contradictorium votum, v. g. religionis, aut castitatis. Ita arguit Homobonus citandus. Id videtur supponere Valentia* 2. 2. disp. 6. quaest. 6. punct. 2. difficul. 4. col. penult.

12 THE SAME Peter of Ledesma asserts, 2. *Tom. of the summa, tract. 10. cap. 2. dub. 5.* He adds, however, that such a one should seek a dispensation.[1] Which surely seems to imply a contradiction; for if the vow is null, it does not need a dispensation. *The same judges it probable* — Homobonus *de Bonis in Consult. moral. col. 1. part. 2. resp. 28.* — as Diana reports, *4. p. Tom. 4. resol. 102.* Adding: *but you consider it, and he adds, that a dispensation should be sought from the Bishop.*

[1] N. Editor's note: the print/OCR reads 'hunc renu timpetrare dispensationem', garbled; rendered from the sense as 'such a one does not easily obtain a dispensation' ('non temere impetrare').

> *IDEM asserit Petrus de Ledesma 2.* Tom. summae, tract. 10. cap. 2. dub. 5. *Addit tamen, hunc non temere impetrare dispensationem. Quod sane videtur implicare; si enim votum est irritum, non eget dispensatione.* Idem probabile censet *Homobonus* de Bonis in Consult. moral. col. 1. part. 2. resp. 28. *ut refert Diana* 4. p. Tom. 4. resol. 102. *Addens:* sed tu cogita, et addit, petendam ab Episcopo dispensationem.

13 FOR HIS PART, Sanchez at *num. 10.* is indeed frightened by the contrary argument: nevertheless he still asserts that those vows of religion and chastity are valid for the incontinent man. He argues [1],

because the Church has been accustomed to grant a dispensation to such persons as for a valid vow, only with the most rigid commutation enjoined.

[1] N. Editor's note: the print here reads the broken form 'I tobar' (OCR 'I tobat'), a corrupted verb; rendered as 'He argued (Probabat)' because the context — Sanchez defends the validity since the Church granted dispensations for such vows — fits Probabat.

> *ENIM vero Sanchez* num. 10. *terretur quidem argumento contrario: adhuc tamen asserit, ea vota religionis, et castitatis esse valida illi incontinenti. I tobat, quia Ecclesia consuevit his dispensationem tanquam de voto valido, non nisi rigidissima commutatione iniuncta, concedere.*

[14] HE ANSWERS, therefore, the argument with Valencia, that such a one, as a singular person, is such that the state of matrimony is better for him: but, as he is a member of the Church, it is better that it be judged ratified and be a vow of continence and religion; otherwise many evils would arise in the Church from this, while, crying out under the pretext of incontinence that the vows of chastity and religion are invalid, they would deliver themselves to pleasures. In this sense what Maiot says is true, *in 4. dist. 38. question 1. col. 2.*: the matter of a vow need not be better for the one vowing, but it suffices if it is better in itself.

> *RESPONDET igitur argumento cum Valentia, illum, ut est persona singularis, talem esse, ut ei sit melior status matrimonii: at vero, ut est membrum Ecclesiae, melius esse, ut ratum censeatur, et sit votum continentiae, et religionis; alioqui multa hinc mala in Ecclesia orirentur, dum praetextu incontinentiae vota castitatis, et religionis invalida clamantes, se traderent voluptatibus. Hoc sensu verum est, quod ait Maiot* in 4. dist. 38. quaest. 1. col. 2. *non oportere materiam voti esse voventi meliorem, sed sat esse, si sit melior in se.*

[15] I WOULD answer otherwise, that such a one can rightly vow, and ought not only to trust in his own strength, but to confide, and to acknowledge with Solomon *that he cannot be continent unless God gives it to him*; and that this grace of avoiding mortal sins is denied to no one, and is necessary for salvation even for the married; for among these some incontinent persons are most lustful, nor are they sated with the pleasures of matrimony, especially if the wife is not at their nod; and yet God does not fail these, if they too do what is in their power. Therefore, just as anyone can validly vow not to sin mortally, as Sanchez probably asserts, *cap. 5. num. 16.*, citing others; much more not to sin in the matter of Temperance, as in chastity, the more so since God would concur with the necessary help, because He does not demand any of those things that He does not grant even to the saints, such as to avoid all venial sins, which surely would not be licit to vow, nor would it be valid, as very many teach with Sanchez, *lib. 4. cap. 5. num. 10.*, Bassaeus *at the place cited*, where he adds that a vow not to sin venially, made after deliberation, is valid.

> *EGO aliter responderem, hunc rite vovere posse, nec fidere tantum debere suis viribus, sed confidere, et agnoscere cum Salomone,* quod non possit esse continens, nisi Deus dederit ei*, hanc autem gratiam vitandi peccata mortalia nemini negari, et necessariam esse etiam coniugatis ad salutem; nam ex his aliqui incontinentes sunt salacissimi, nec matrimonii delectationibus sunt saturi, maxime si uxor non sit ad nutum; et tamen his Deum non deesse, si et ipsi faciant quod in se est. Sicut igitur potest valide quisque vovere non peccare mortaliter, ut probabiliter asserit Sanchez* cap. 5. num. 16. *alios adducens; multo magis non peccare in materia Temperantiae, ut in castitate, eo magis, quo et Deus concurreret ad necessarium auxilium, quia non exigit aliquod ex his, quae neque sanctis concedit, quale est vitare omnia venialia, quod sane vovere non liceret, nec esset validum, ut docent plurimi cum Sanchez* lib. 4. cap. 5. num. 10. *Bassaeus* loco cit. *ubi addit, votum non peccandi venialiter ex deliberatione, esse validum.*

16 YET THESE vows of chastity or religion will sometimes be null on account of some impediment, for instance if someone had previously deflowered a Virgin by betrothal of marriage, or had known an honest woman. The reason is, because a vow does not take away a preceding obligation of justice. Yet he, once his wife is dead, is bound to enter religion, or keep chastity, as he vowed. See Sanchez *lib. 1. de matrimonio, disp. 44. and lib. 8. disp. 36. from num. 8. and lib. 4. of the summa, cap. 8. num. 11.*

> *HAEC tamen vota castitatis, vel religionis irrita erunt aliquando ex aliquo impedimento, puta si quis fide matrimonii prius deflorasset Virginem, aut mulierem honestam eognovisset. Ratio est, quia votum non adimet obligationem praecedentem iustitiae. Is tamen mortua uxore tenetur ut religionem ingredi, vel castitatem servare, ut vovit. Vide Sanchez* lib. 1. de matrimonio, disp. 44. et lib. 8. disp. 36. a num. 8. et lib. 4. summa, cap. 8. num. 11.

17 FURTHERMORE it is elicited from the foundations of D. Bonaventure that good works quasi contrary to, opposed to the counsels, are valid, provided they are goods better than the state of the one vowing, as e.g. to serve in a hospital for the whole course of one's life. So all assert, as Sanchez notes, lib. 4. cap. 8. num. 40., Valencia at the place cited, point 2. col. 8., Paludanus 4. dist. 38. question 1. num. 29., D. Anton. 2. part. tit. 11. cap. 2., Sylvester V. *vow* 1. question 4., Tabiena V. *vow* 1. at the end, who give the reason of D. Bonaventure: because that thing promised is concerning a better good, according to the state of the one vowing: Therefore it is the matter of a vow. So the Doctors, as collected by Bassaeus V. *Vow 2.*

> *ELICITUR praeterea ex fundamentis D. Bonavent. opera bona quasi contraria, opposita consiliis, dummodo sint bona meliora statui voventis, valere, ut v. g. servire Xenodochio toto vitae curriculo. Ita omnes asserunt, ut notat Sanchez lib. 4. cap. 8. num. 40. Valentia loco cit. puncto 2. col. 8. Paludanus 4. dist. 38. quaest. 1. num. 29. D. Anton. 2. part. tit. 11. cap. 2. Sylvester V.* votum *1. quaestio 4. Tabiena V.* votum*, 1. in fine, qui reddunt rationem D. Bonaventurae, quia res illa promissa est de meliori bono, iuxta statum voventis: Ergo est materia voti. Sic DD. apud Bassaeum V.* Votum 2.

18 FOR HIS PART, all cry out with D. Bonaventure that he who by that vow directs himself to a better thing, according to his state, so as to exclude a still better state — for instance, if he were to vow private chastity, so as never to vow it solemnly in religion, or on that account were to vow to serve in a hospital — would vow ineptly. See Sanchez at the place cited, num. 42. The reason of it is, because thus he would fight diametrically against the counsels of Christ, and, a rebel against grace, would shut out his own progress toward the perfection proposed to him by God.

> *ENIM vero omnes cum D. Bonavent. clamant, eum qui eo dirigit votum rei melioris, iuxta statum suum, ut excluderet ulteriorem statum meliorem, puta si voveret privatim castitatem, ne solemniter unquam eam voveret in religione, vel ob id voveret inservire in Xenodochio, is inepte voveret: Vide Sanch. loco cit. num. 42. Ratio eius est, quia sic contra consilia Christi e diametro pugnaret, et rebellis gratiae suum praecluderet profectum ad perfectionem a Deo ipsi propositam.*

19 From these it is gathered that even a vow of matrimony is not valid. So the Doctors commonly, whom Sanchez brings forward, lib. 1. *de matrimonio*, disp. 4.; for thus one descends from celibacy, which is nobler, as the Council of Trent defines, sess. 14. can. 11., and it is the counsel of the Lord.

> *Ex his colligitur, etiam votum matrimonii non esse validum. Ita communiter DD. quos adducit Sanchez lib. 1.* de matrimonio*, disp. 4. nam sic descenditur a caelibatu, qui est nobilior, ut definit Concilium Trident. sess. 14. can. 11. et est consilium Domini.*

20 YET matrimony can be of precept, as if someone deflowered a Virgin by betrothal of marriage, or knew some honest widow; or if matrimony were necessary for the public peace, and then it could fall

under a vow in the broad sense. See the Doctors in Malderus cap. 5. disp. 2. and in Bassaeus at the place cited.

> *POTEST tamen matrimonium esse praeceptum, ut si aliquis fide matrimonii defloravit Virginem, vel cognovit honestam quampiam viduam; aut si matrimonium publicae paci esset necessarium, et tunc cadere posset sub voto late dicto. Vide DD. in Maldero cap. 5. disp. 2. et Bassaeo loco cit.*

21 MOREOVER such a vow can be more useful and better, because such a one is incontinent, according to 1. Corinth. 7.: *it is better to marry than to burn.* This the Doctors commonly hold, as collected by Sanchez at the place cited, num. 7., Maldonatus, and Bassaeus above.

> *DE caetero potest simile votum esse utilius, et melius, quia is incontinens est, iuxta id 1. Corinth. 7.* melius est nubere, quam uri. *Id sentiunt communiter Doctores apud Sanchez loco citato, num. 7. Maldetum, et Bassaeum supra.*

22 IT CAN ALSO be vowed for a pious cause, for instance to take in a girl from danger, or destitute; yet this must be included in the vow, as it were as the matter, as is evident, because otherwise it is invalid. Baldus notes this, *leg. illud Cod. de sacro-sancta Ecclesia*, Azor lib. 11. cap. 14. num. 9. Sanchez holds the opposite at the place cited.

> *POTEST etiam voveri ad causam piam, puta ad accipiendam puellam e periculo, vel inopem; hoc tamen in voto debet includi, tanquam materia, ut pater, quia alias est invalidum. Id notat Bald.* leg. illud Cod. de sacro-sancta Ecclesia, *Azor lib. 11. cap. 14. num. 9. Oppositum tenet Sanchez loco citato.*

23 BUT IF the end is against the Evangelical counsels — for instance, to vow alms in order to obtain matrimony — Sanchez, lib. 4. of the summa, cap. 8. num. 56., says it is valid, with Soto, lib. 7. *de iust. question 1. art. 3.*

> *QUOD si finis sit contra consilia Evangelica, puta vovere eleemosynam ad matrimonium obtinendum, Sanchez lib. 4. summae, cap. 8. num. 56. ait, illud valere, cum Soto lib. 7.* de iust. quaest. 1. art. 3.

Question X: Whether a vow of a thing that can have a good or an evil outcome is valid

1 D. BONAVENTURE answers in a few words: a thing that can have a good and a bad outcome can be vowed, but under the condition of a good outcome; and that if one vows it without condition, it is indiscreet, and one is not bound to the vow.

> ***An VOTUM de re, quae potest habere bonum, et malum eventum, valeat.***
>
> *D. BONAVENTURA paucis verbulis respondet, posse voveri rem, quae potest habere bonum, et malum eventum, sub conditione tamen boni eventus; quod si voveat absque conditione, indiscretum est, et non tenetur ad votum.*

2 WITH REGARD to this, the outcome must be considered at the time when the vow is to be executed, not however the time at which the vow is made: whether the matter is good or not; whether apt or inept. So Sanchez lib. 4. cap. 9. n. 2.

> *QUOAD hoc oportet eventum considerare pro tempore, quo exequendum est votum, non autem tempus, quo emittitur votum: materia sit bona, nec ne; an apta, vel inepta. Ita Sanchez lib. 4. cap. 9. n. 2.*

3 From this it is defined that one who vows an inept thing is bound to observe it once it has been made apt at the time of the intended execution, in which the intention of the one vowing must especially be considered. Hence Navarrus, *summa*, cap. 12. *last num.*, says that one who vows generally something having a successive course is bound for the time at which the matter is apt for the vow,

because the vow comprehends the whole time; but if one vows only for the time at which it is illicit, then it is illicit, he says, with D. Bonaventure.

> *Ex quo definitur, voventem rem ineptam, teneri ad observandum, ea facta apta tempore executionis intentae, in quo intentio voventis maxime est consideranda. Hinc Nauarrus* summa*, cap. 12.* num. ultimo*, ait, voventem generaliter aliquid habens tractum successivum, obligari pro tempore, quo materia est apta voto, quia votum comprehendit totum tempus; at si voveat solum pro tempore, quo est illicita, tunc esse illicitum ait cum D. Bonaventura.*

Question XI: Whether any obligation arises from a vow, and what it is

1 It is certain that a vow binds under sin to its fulfillment, as D. Bonaventure notes *in Speculum animae, cap. 3, long after the middle*, and first from *Prov. c. 20, and Deut. 23, and 1 Tim. 5, and Ps. 75: Vow, and render to God*, where the Gloss explains it: *To vow is of the will; but to render is of necessity*, as D. Bonaventure notes there. That it binds under mortal sin, Innocent III defines in *cap. Licet, de Voto*. So all Catholics hold.

> ***An aliqua obligatio oriatur ex VOTO, et quae sit.***
>
> *CERTUM est, votum obligare sub peccato ad sui complementum, ut notat D. Bonavent.* in speculo animae, cap. 3. longe post medium*, et primo ex* c. 20. Prov. et Deuter. 23. et prima Timot. 5. et Psal. 75. Vovete, et reddite Deo*, ubi id Glossa exponit:* Vovere est voluntatis; sed reddere necessitatis*, ut notat ibi D. Bon. Obligare autem sub mortali definit Innocentius III.* cap. Licet de Voto. *Ita omnes Catholici sentiunt.*

2 The parents of the heretics of this age, Luther and Calvin, most bitter enemies of religion, are not ashamed to do away with even the most solemn vows.[1]

[1] N. Editor's note: the print/OCR reads 'e medio tollere nisi sunt' (djvu: 'e medio tollere nifi funt'); 'nisi sunt' is not Latin here; rendered as 'nixi sunt' (striven), which the context requires.

> *HAERETICORUM huius saeculi parentes, Lutherus, et Calvinus; religionis hostes infensissimi, vota etiam maxime solemnia, e medio tollere nixi sunt.*

3 FIRST they teach that Vows for the worship of God cannot be made except about things commanded; hence there is one common vow of the faithful, which we make in Baptism.

> *PRIMO docent, Vota ad colendum Deum non posse fieri, nisi de rebus praeceptis, proinde unum esse commune votum fidelium, quod in Baptismo emittimus.*

4 SECOND they teach that Vows about things not commanded can be made, if not for the worship of God, at least for carrying on the affairs of this life, or for avoiding sins.

> *SECUNDO docent, Vota de rebus non praeceptis posse fieri, si non ad colendum Deum, saltem ad negotia huius vitae peragenda, aut ad vitanda peccata.*

5 THIRD, that the vows of monks are impious and void: this Luther teaches *de votis monasticis*, and Calvin *lib. 4, Institut. cap. 13*. Nor do they teach dissimilarly the *Augustan Confession, art. 27, and the Confession of Württemberg, c. de votis monast.*, whom Bellarmine reports *lib. 2, de Monach. cap. 15.*

> *TERTIO, Vota monachorum impia, et irrita esse: Haec Lutherus* de votis monasticis*, et Calvinus* lib. 4. Instit. cap. 13. *Nec dissimilia docent* Confess. August. art. 27. et Confess. Vuirtembergae, c. de votis monast. *quos refert Bellarminus* lib. 2. de Monach. cap. 15.

6 Peter Martyr, in his *book on celibacy and monastic vows*, says two things contrary to Luther. One is that all vows are to be reckoned among the Jewish ceremonies and are therefore abrogated; the other is that no vow is made in Baptism. As to monastic vows, he censures them with no less insolence.

> *PETRUS Martyr* lib. de caelibatu, et votis monast. *duo dicit contraria Luthero. Alterum est, vota, omnia esse inter Iudaicas caeremonias computanda, et ideo abrogata: Alterum est, in Baptismo non fieri votum. Quo ad vota monastica, non minori insolentia ea vituperat.*

7 I ASSERT first, that Vows pertain to the worship of God even about things not commanded.

> *ASSERO primo, Vota ad cultum Dei pertinere, etiam de rebus non praeceptis.*

8 It is PROVED first from Isaiah 19: *In that day the Egyptians shall know the Lord, and shall worship him in victims and gifts: and they shall make vows, and shall perform them.*

> *PROBATUR primo ex 19.* Isaia: In illo die cognoscent AEgyptii Dominum, et colent eum in hostiis, et muneribus: et vota vovebunt, et solvent.

9 It is PROVED second, from Bellarmine following D. Bonaventure in 4 Sent., dist. 28, q. 1, art. 2: every honorable thing, even of the supererogation of virtue, is of itself acceptable to God: therefore also when offered by vow. The antecedent is proved from D. Bonaventure from Luke 2, where it is said that that Anna dwelt in the temple, serving God night and day; where the Greek has λατρεύουσα, which properly signifies worship, as D. Bonaventure indicates there *on that passage*, officiously rendering it, *she was devoted, and devout toward God*. The consequence is proved from D. Thomas, because by a vow one is established in good.

> *PROBATUR secundo a Bellarmino ratione D. Bonav. in 4. dist. 28. q. 1. art. 2. Omne honestum, etiam Virtutis supererogationis, est ex se Deo acceptum: Ergo et oblatum voto. Probatur antecedens e D. Bonav. ex 2.* Lucae*, ubi dicitur, quod Anna illa morabatur in templo, serviens Deo nocte, et die; ubi Graece habetur λατρεύουσα quod proprie cultum significat, ut indicat ibi D. Bonavent.* ad eum locum*, transferens officiose,* vacabat, et devote Deo. *Probatur consequentia a D. Thom. quia voto stabilitur in bono.*

10 It is PROVED also from the Socratic Doctor in *lib. 1, Pharetrae, cap. 38*, where, following D. Gregory in *Moralia 15, cap. 12*, he calls virginity *obsequium Deo*, "an obsequy to God"; and D. Augustine in *lib. de virginitate, cap. 27*, where he describes the obsequy of virgins toward God, for they follow the Lamb; and from Cyprian *de disciplina et habitu virginum*, where he teaches that virgins are far and diametrically alien from the worship of the earth, because they follow Christ. See other things there.

> *PROBATUR etiam a S. Doctore* lib. 1. Pharetrae; cap. 38. *ubi ex D. Gregorio* 15. moral. cap. 12. *vocat Virginitatem:* obsequium Deo*, et D. Augustinus* lib. de virginitate, cap. 27. *ubi describit obsequium Virginum in Deum, sequuntur quippe Agnum; et e Cypriano* de discipl. et habitu virginum*, ubi Virgines longe e diametro a cultu terrae alienas esse docet, quia sequuntur Christum. Alia ibi vide.*

11 It is PROVED third from the Scriptures, wherein it is found that the saints made vows about things not commanded. So Jacob in Genesis 28, where he first made a vow, promising God tithes of all things, and to raise upon it a stone house of God, if God had granted good fortune to his journey. But if these things had been commanded, Jacob would ill have done them under the condition of a prosperous journey. In 1 Kings 1, Anna vowed in the same spirit her son, if it should be given her by the Lord. So in 1 Paralipomenon 29, David vowed most many treasures together with his subjects for the temple to be built for the Lord, and it is written: *The people rejoiced, when they promised their vows*

willingly: because they offered all with their whole heart to the Lord: and David the king also rejoiced with a great joy. Indeed, not even David himself heaped up so many treasures by command. So in 2 Paralipomenon 31, the children of Israel offered many animals, which they had vowed spontaneously, not by command. In 3 Esdras, Artaxerxes offered what he had vowed spontaneously. In Jonah 1, the men who were in the ship vowed to God, that they might be delivered from shipwreck; Heliodorus, in 2 Machabees 3, vowed many things for his own deliverance. The Blessed Virgin spontaneously offered and vowed virginity, as is said in Luke 1: *How shall this be done, because I know not a man?* as the holy Fathers testify: Gregory of Nyssa in his *oration on the nativity of the Lord*; Augustine in *lib. de sancta virginitate, cap. 4*; Bede *on cap. 1 of Luke*; Anselm in *lib. de excellentia virginis, cap. 4*; Rupert in *lib. 3 in Cant.*; Bernard in *sermone 4 super Missus est*; D. Bonaventure *on Luke 1, and in the Biblia pauperum, cap. 25*, where he also enumerates as vows all the things said above.

> *PROBATUR tertio Scripturis, quibus habetur, sanctos de rebus non praeceptis vota edidisse. Sic Iacob* Genes. 28. *ubi primum votum edidit, promittens Deo decimas de omnibus, et erigere super eo lapide domum Dei, si Deus foelicitatem itineri suo contulisset. Quod si haec fuissent praecepta, male Iacob haec sub conditione foelicis itineris fecisset.* Primo Reg. 1. *Anna vovit eodem spiritu filiam, si daretur a Domino. Sic* primo Paral. 29. *David plurimos thesauros simul cum subditis vovit ad templum Domino aedificandum, et habetur:* Laetatus est populus, cum vota sponte promitterent: quia corde toto offerebant eam Domino: sed et David Rex laetatus est gaudio magno. *Sane ex praecepto tot thesauros nec David ipse cumulavit. Sic* 2. Paral. 31. *Israel filii obtulerunt plurima animalia, quae sponte voverant, non ex praecepto.* Tertio Esdrae, *Artaxerxes obtulit, quae sponte voverat:* Ionae 1. Viri, qui erant in navi, vovetunt Deo, ut liberarentur a naufragio: Heliodorus 2. Machab. 3. *multa vovit ob sui liberationem. Beata Virgo sponte obtulit, et vovit Virginitatem, ut dicitur,* Lucae 1. Quomodo fiet istud, quoniam virum non cognosco, *ut testantur sancti PP. Gregorius Nyssenus,* oratione de nativitate Domini, *Augustinus* lib. d sancta virginitate, cap. 4. *Beda* in cap. 1. Lucae, *Anselmus* lib. de excellentia virginis, cap. 4. *Rupertus* lib. 3. in cant. *Bernardus* sermone 4. super missus est, *D. Bonavent.* ad 1. Lucae, et in Bibliis pauperum, cap. 25. *ubi supra dicta omnia etiam vota connumerat.*

12 Calvin most immodestly dares to bark in the Commentary on this passage found in Marloratus, first rebuking the Most Blessed Virgin for infidelity, of whom Elizabeth cried out: *Blessed art thou that hast believed*, though the holy Fathers, on this passage, cry out with one voice that she never wavered in faith.

> *Calvinus immodestissime latrare audet in Commentario huius loci apud Marloratum, reprehendens primo infidelitatis Beatissimam Virginem, de qua exclamavit Elizabeth:* Beata, quae credidisti, *quam sancti PP. ad hunc locum, nusquam in fide titubasse conclamant.*

13 Next he rebukes the holy Fathers as absurdly and ridiculously gathering from this the vow of the Blessed Virgin, because (he says) if she had had a vow of virginity, she would have mocked Joseph by taking him as her husband, with great perfidy toward him, and to the mocking of God.

> *Deinde reprehendit SS. PP. quasi absurde, et ridicule hinc votum B. Virginis colligentes, quia (ait) si votum habuisset Virginitatis, illusisset Iosephum, accipiens eum in coniugem magna in eum perfidia, et Dei ludibrio.*

14 But the wisest Fathers thence solidly deduced the vow; for she alleges her difficulty in conceiving, because she will not know a man. And indeed she could, in harmony with Joseph after the betrothal and before the salutation of the Angel, have vowed virginity — upon which the whole edifice of Calvin collapses.

At solide hinc deduxere votum sapientissimi PP. allegat enim suam difficultatem in concipiendo, quia virum non vult cognoscere. Et sane potuit concors cum Iosepho post desponsationem, et ante salutationem Angeli, vovisse Virginitatem, quo ruit tota Calvini moles.

15 Yet I will never grant Calvin that the Blessed Virgin at any time had the mind of consummating the marriage; otherwise she would have been a virgin only in body, not in soul, as Bellarmine indicates in *lib. 2, de Monachis, cap. 22*, after D. Bonaventure *in 4 dist. 30, dub. 5, litt. et quaest. 2.*

At neque unquam Calvino concedam, Beatam Virginem habuisse ullo tempore animum consumandi matrimonium; alioqui fuisset Virgo solum corpore non animo, ut indicat Bellarminus lib. 2. de monachis, cap. 22. *post D. Bonavent.* in 4. dist. 30. dub. 5. litt. et quaest. 2.

16 Therefore it is answered with D. Bonaventure in the *cited question* that the Blessed Virgin before the betrothal had vowed virginity absolutely, and in this Scotus follows him *in 4 dist. 30, quaest. 2.* The same say Albert the Great *de laudibus Virginis*, and before them the holy Fathers Gregory of Nyssa and Augustine in the *places adduced*; nevertheless she had received a revelation concerning Saint Joseph, that he would never seek the conjugal debt, and therefore she confidently associated him with herself for most honorable causes, which we shall relate *in the Treatise on Matrimony*. She therefore entrusted the Most Blessed body to a spouse who could have consummated the marriage; yet she was certain that he would never wish to do so. But she was betrothed while the divine Spirit breathed upon her, which is sufficient for the reason of matrimony, as Bellarmine notes in the *cited place*, and Sanchez proves *lib. 2, de Matrimonio, disp. 28.*

Respondetur ergo cum D. Bonavent. quaest. citata, *B. Virginem ante desponsationem vovisse absolute Virginitatem, et in hoc eum sequuntur Scotus* in 4. dist. 30. quaest 2. *Idem dicunt Albertus Mag.* de laudibus Virginis, *et antea sancti PP. Gregorius Nyssenus, et Augustinus* locis adductis; *attamen habuisse revelationem de sancto Ioseph, eum nunquam petiturum debitum coniugale, et ideo fidenter associasse eum sibi ob honestissimas causas, quas* in Tract. de matrimonio *referemus. Tradidit ergo Beatissima corpus suum sponso, qui potuisset matrimonium consummare; attamen certa erat, eum nunquam id voliturum. Sic autem Divino afflante Spiritu despondit, quod satis est ad rationem matrimonii, ut notat Bellarminus* loco cit. *et probat Sanchez* lib. 2. de matrimonio, disp. 28.

17 Otherwise Calvin objects conjectures from his own inverted fantasy, namely that the Virgin spoke thus out of excess of mind, because she was about to conceive the Son of God, and therefore to exclude the embrace of a man — not that she had a vow of virginity.

Alias coniecturas e phantasia sua inversa obiicit Calvinus, nempe Virginem ita locutam ex mentis excessu, quia esset filium Dei conceptura, et ideo virilem complexum excludere, non quod votum de virginitate haberet.

18 But Calvin rashly prefers his conjectures to the assertion of so many Fathers. Nor does he sufficiently gather that it was said out of admiration; for the Angel answers the doubt, saying: *The Holy Spirit shall come upon thee, etc.*, as D. Bonaventure notes on that passage, and Bellarmine after him. As if the Angel should say (the Socratic Doctor says): You ask how you shall conceive? To this I answer, that you shall be made fruitful without corruption; you shall conceive without lust; you shall bring forth without pain, not from the seed of man, but by the power of the Holy Spirit.

At temere Calvinus suas coniecturas assertioni tot Patrum anteponit. Neque satis colligit id esse ex admiratione dictum; nam Angelus respondet dubio, dicens: Spiritus sanctus superveniet, etc. *ut notat D. Bonavent. ad eum locum, et post eum Bellarminus. Quasi dicat Angelus (ait S. Doctor) Quaeris quomodo concipies? Ad hoc respondeo, quod*

foecundabetis sine corruptione; concipies sine libidine; paries sine dolore, non ex virili semine, sed ex Spiritus Sancti virtute.

19 But what Bellarmine adds, that the Blessed Virgin did not yet think herself to be the mother of God, does not please me; for in the preceding words the Angel had expressed it: *This shall be great, and shall be called the Son of the Most High, etc.*

Quod vero addit Bellarminus, B. Virginem non adhuc cogitasse, se futuram matrem Dei; non placet; nam in praecedentibus verbis id expresserat Angelus: Hic erit magnus: et filius Altissimi vocabitur, etc.

20 Peter Martyr objects further that from those words the vow of the Blessed Virgin is not gathered, just as when Moses says in Exodus 6: *How shall Pharaoh hear me, seeing I am of uncircumcised lips?* and yet we would not gather that Moses vowed the circumcision of his lips. So in John 3 Nicodemus says: *How can a man be born, when he is old?* and yet from that you would not gather that he vowed old age: therefore neither is it gathered from similar words in the Blessed Virgin. These things, however, are senseless and frivolous: for the proposition of Nicodemus was whether a man could be born corporeally again and renew his life, which is impossible; he himself understood regeneration carnally, as proposed to him by the Lord; therefore he sets up a thing impossible and not depending on free will: *How can these things be done?* as D. Bonaventure notes *on John 3*. So Moses sets up an impediment to speaking which is necessary from nature; but the Blessed Virgin sets up an impediment depending on free will, namely to be joined to a man in marriage. But if she objects: *How shall this be,* because she was prohibited by the law — not indeed by the universal law, as is clear: therefore by the proper law of the Vow.

Petrus Martyr obiicit praeterea, ex illis verbis non colligi votum B. V. sicut cum ait Moyses, Exodi 6. Quomodo audiet me Pharao, cum sim labiis incircumcisus*? et tamen non colligeremus, Moysen vovisse labiorum incircumcisionem. Sic et* Ioan. 3. *Nicodemus ait:* Quomodo potest homo nasci, cum sit senex, *et tamen non inde colliges, hunc vovisse senectutem: Ergo neque ex similibus verbis id colligitur in B. V. Haec tamen insulsa et frivola sunt: Propositio enim Nicodemi erat: an posset homo corporaliter nasci rursus, et renovare vitam, quod est impossibile; ipse vero carnaliter regenerationem percipiebat, propositam sibi a Domino; ideo rem impossibilem, nec a libero arbitrio pendentem opponit:* Quomodo possunt haec fieri, *ut notat D. Bonavent.* ad 3. Ioan. *Sic et Moyses opponit impedimentum ad eloquendum, quod a natura est necessarium; at B. Virgo opponit impedimentum pendens a libero arbitrio, nempe coniugatam copulari viro. Quod si obiicit:* Quomodo est, *quia lege prohibebatur, non quidem universali, ut patet: Ergo lege propria Voti.*

21 He objects further that the Virgin answered prudently, even though not bound by a vow — namely, if the birth were to come about in the ordinary way, it stood in the way that she was not yet mingled with a man; but if in a higher manner, she asks to be instructed.

Obiicit adhuc, prudenter respondisse Virginem, tametsi non ligatam voto, nempe si partus Ordinaria via futurus esset, obstare, quod nondum viro admisceretur; si vero modo altiori, quaerit instrui.

22 But he explains it foolishly thus; for since the Angel brings in the future conception, what does it matter that she was not yet mingled with a man? It was enough to be mingled afterward; but if it was to be done in a higher manner, to set up the natural mode would have been beside the point.

At stulte ita exponit; nam cum futurum afferat Angelus conceptum; quid ad rem, si nondum viro admixta est? satis enim erat post misceri; si vero modo altiori faciendum erat, extra rem fuisset modum naturalem opponere.

23 Now I return to our proposition. The vows narrated in the Scriptures were about things not commanded, and yet the Lord required them as most pleasing to himself, as is written in Deut. 23 and Ps. 75: *Vow, and render,* as Saint Bonaventure weighs it *in Speculo animae, cap. 3.*

> *Iam vero ad nostram propositionem redeo. Vota in scripturis narrata erant de rebus non praeceptis, et tamen ea, tanquam sibi gratissima Dominus exigebat, ut habetur* Deuter. 23. et Psalm. 75. Vovete, et reddite, *ut ponderat S. Bonav.* in speculo animae, capite 3.

24 I assert second, that Vows do not pertain to Jewish ceremonies.

> *Assero secundo, Vota non spectare ad Iudaicas caeremonias.*

25 It is PROVED first from the cited place of *Isaiah*, which the holy Fathers Jerome, Cyril, and others interpret of Christians.

> *Probatur primo ex loco citato* Isaiae, *quem SS. PP. Hieron. Cyrillus, et alii de Christianis exponunt.*

26 It is PROVED second from D. Bonaventure *in 4 dist. 38, art. 2, quaest. 3*, from that verse of the Psalm soon adduced: *Vow, and render to the Lord*, which Saint Doctor proves to be understood of us from the Gloss, which says: *To vow is of the will, but to render is of necessity.* The same Saint Augustine has *here.* Hence the heretic's response collapses, that the speech was to the Jews.

> *Probatur secundo a D. Bonav.* in 4. dist. 38. art. 2. quaest. 3. *ex illo Psalmi, mox adducti:* Vovete, et reddite Domino, *quod de nobis intelligi probat S. Doctor ex Gloss. quae ait:* Vovere est voluntatis, sed reddere necessitatis. *Idem habet S. Augustinus* hic. *Unde ruit responsio haeretici, sermonem esse ad Iudaeos.*

27 It is PROVED third from D. Bonaventure *in 4 dist. 38, dub. 4, litt.*, from that passage, *cap. 5 of the former Epistle to Timothy*, where of certain widows he says: *When they have been wanton in Christ, they will marry: having damnation, because they have made void their first faith.* In which place by *first faith* all the Greek and Latin interpreters understand the vow of continence. Hence Saint Augustine on the cited place *of Psalm 75, Vow, and render,* says: *Let each one vow what he can, render it, and be not slothful to vow: for you shall not fulfill it by your own strength,* and then, expounding the place of the Apostle, says: *What is, they have made void their first faith? They vowed, and did not render.*

> *Probatur tertio a D. Bonav.* in 4. dist. 38. dub. 4. litt. *ex illo,* cap. 5. prioris ad Timotheum, *ubi de viduis nonnullis ait:* Cum luxuriatae fuerint in Christo, nubere volunt: habentes damnationem, quia primam fidem irritam fecerunt. *Quo loco per* fidem primam *omnes interpretes Graeci, et Latini intelligunt votum continentiae. Unde S. August. ad locum citatum* Psalmi 75. Vovete, et reddite, *ait:* Quisque quod potest, voveat, reddat, et non sitis pigri ad vovendum: non enim viribus vestris implebitis, *mox locum Apostoli exponens ait :* Quid est primam fidem irritam fecerunt? voverunt, et non reddiderunt.

28 This the Fourth Council of Carthage expounds, which consisted of 214 Bishops, in canon one hundred and four. And the Fourth Council of Toledo, which consisted of seventy Bishops.

> *Id exponit Concilium Carthag. IV. qui fuit 214. Episcoporum, Canone centesimo quarto. Et Concilium Tolet. IV. quod septuaginta Episcopis constabat.*

29 The same three most holy supreme Pontiffs expound with this reasoning: Clement in *lib. 3, Constit. cap. 1 et 2*; Innocent I in *epistola secunda, cap. 13*; Gelasius I in *epistola 1, cap. 23.* Likewise Tertullian in *lib. de monogamia, not far from the end*; Basil in *lib. de Virginitate, past the middle*; Jerome in *lib. 1 in Jovin.*, and *on cap. 44 of Ezech.*; Epiphanius in *haeresi 48*; Augustine in *lib. de sancta Virginitate, cap. 23, and lib. de*

bono viduitatis, cap. 8 et 9, and the cited place on Ps. 75; Fulgentius in *epistola 1*. Besides these also all the expositors thus, both the Greeks, as Chrysostom, Theodoret, Theophylact, and Oecumenius; and the Latins, as Ambrose, Primasius, Bede, Haymo, Sedulius, Anselm, D. Bonaventure, and others.

> *Idem exponunt hac ratione tres summi Pontifices sanctissimi, Clemens* lib. 3. Constit. cap. 1. et 2. *Innocentius I.* epistola secunda, cap. 13. *Gelasius I.* epistola 1. cap. 23. *Itidem Tertullianus* lib. de monogamia, non longe a fine. *Basilius* lib. de Virginitate, ultra medium. *Hieronymus* lib. 1. in Iovin. et in cap. 44. Ezech. *Epiphanius* haeresi 48. *Augustinus* lib. de sancta Virginitate, cap. 23. et lib. de bono viduitatis, cap. 8. et 9. et loco cit. in Psalm. 75. *Fulgentius* epistola 1. *Praeter hos etiam omnes expositores ita, tum Graeci, ut Chrysostomus, Theodoretus, Theophylactus, et Oecumenius; tum Latini, ut Ambrosius, Primasius, Beda, Haymo, Sedulius, Anselmus, D. Bonaventura, et alii.*

30 Luther *de votis monasticis* answers that by the first faith is to be understood, not the vow — which nowhere is taken under the name of faith — but the Christian faith; which those widows had lost, who, that they might more easily be permitted to marry, fell away from the Christian faith. Therefore he says they went after Satan, and raged wantonly against Christ.

> Respondet *Lutherus de votis monasticis, per primam fidem intelligi, non votum, quod nuslibi nomine fidei accipitur, sed fidem Christianam; quam perdiderant viduae illae, quae ut facilius illis liceret nubere, defecerunt a fide Christiana. Ideo dicit, eas abiisse post Sathan, et luxuriatas adversus Christum.*

31 But this interpretation is audacious; and indeed that the promise is meant by faith, D. Bonaventure shows from D. Gregory *to Boniface*, which is found in *17 quaest. 1, cap. Viduae a proposito*, which he also condemns with Apostolic authority, as is related *in the text of dist. 38, cap. 1.* The same Saint Bonaventure observes *in 3 dist. 23, dub. 2*, adducing this passage for the keeping of a promise, where he notes it is also taken for the fidelity of a promise owed: Jerem. 7, *Fidelity is perished*; and of the saint, as is said of Joseph in Gen. 44: *I received him into my fidelity*; so in Rom. 3 it is said: *Shall their unbelief make the faith of God of none effect?*

> At *audax haec interpretatio est, et quidem fide intelligi promissionem, ostendit D. Bonavent. ex D. Gregorio* ad Bonifacium, et habetur 17. quaest. 1. cap. viduae a proposito*, quas et ipse Apostolica authoritate damnat, ut refertur* in littera dist. 38. cap. 1. *Idem observat S. Bonavent.* in 3. dist. 23. dub. 2. *hunc locum adducens pro sponsione, ubi notat, etiam accipi pro fidelitate promissionis debita, Hierem. 7.* Periit fides*, et sanctus de Ioseph, sic dicitur Genes. 44.* Ego hunc in fidem meam accepi*, sic Rom. 3. dicitur :* Nunquid incredulitas illorum fidem Dei evacuabit.

32 But what he says, *that they fell away from the faith in order to marry*, is false; for even Christian widows could marry, as the Apostle says in 1 Corinth. 7. But *to go after Satan, and to wanton against Christ*, aptly signifies the sacrilege of the sin of lust.

> Quod *vero ait,* defecisse a fide, ut nuberent*, falsum est; nam et viduae Christianae poterant nubere, ut ait Apostolus prima* Corinth. 7. Abire autem post Sathanam, et luxuriari contra Christum*, apte significant per peccatum luxuriae sacrilegum.*

33 Calvin's instance was also similar to these, who adds another exposition: that these widows promised continence, but could not licitly unless they were sixty years old, at which time they are no longer fit for marriage. Therefore the Apostle says: *Let a widow be chosen no less than sixty years of age*; this therefore makes nothing toward establishing the vows of religious women, who vow even in the flower of their age.

> *His fuit etiam similis Calvini instantia, qui addit aliam expositionem, has viduas promisisse continentiam; at non potuisse licite, nisi sexaginta essent, annorum, quo tempore non sunt amplius aptae coniugio. Ideo ait Apostolus:* Vidua eligatur non minus sexaginta annorum*, hoc igitur ad vota sanctimonialium statuenda nil facit, quae etiam in aetate florida vovent.*

34 But why does the Apostle rebuke them, if they made void their vows, or if the vows did not bind? Truly the time of sixty years was not prefixed to the vow when making it, but either to the office of a deaconess, as Tertullian says *de velandis virginibus, and lib. 1 ad Uxorem*, and others; or to admission into the number of those widows who were to be fed from the alms of the Church, as Chrysostom and Ambrose expound here, and Jerome in his *epistle to Salvina.*

> At *cur Apostolus eas reprehendit, si irrita facere, vel non obligantia vota? Id vero sexaginta annorum tempus non erat voto praefixum emittendo, sed vel officio Diaconissae, ut ait Tertullianus* de velandis virginibus, et lib. 1. ad uxorem*, et alii; vel admissione ad numerum earum viduarum, quae ex eleemosynis Ecclesiae erant alendae, ut exponunt Chrysostomus, et Ambrosius hic, et Hieron.* epist. ad Salvinam.

35 Calvin's THIRD answer is, that that promise was not a vow made to God, but a pledge to the Church not to marry, that they might more freely discharge the office of deaconesses.

> Tertia *Calvini responsio est, illam promissionem non fuisse votum Deo factum, sed sponsionem Ecclesiae non nubendi, ut expeditius Diaconissarum officio fungerentur.*

36 But the Fathers say the opposite: that if the pledge had been made to the Church alone, it could easily have been dispensed.

> At *Patres oppositum dicunt, quod si Ecclesiae soli facta esset sponsio, potuissent facile dispensari.*

37 They INSTANCE: the Apostle there says: *I will that the younger marry.*

> Instant: *Apostolus ibidem ait:* Volo iuniores nubere.

38 It is ANSWERED that he says this by way of indulgence, not of command, as he himself testifies. But of this below.

> Respondetvr*, id dicere indulgendo, non imperando, ut ipse testatur: Sed de hoc infra.*

39 Peter Martyr says this passage is ambiguous, because it is expounded in many ways, and therefore is not fit for doctrine; then he says it sounds not of damnation, but of a certain infamy, or accusation, or mark, because they did not persevere; and he draws this from Bucer.

> *Petrvs Martyr dicit, locum hunc ambiguum esse, quia multis modis exponitur, et ideo ad dogma non esse aptum: deinde non damnationem sonare, sed infamiam quandam ait; seu accusationem, seu notam, eo quod non perseverarent, et hoc e Bucero deducit.*

40 But all the holy Fathers expound a true eternal damnation of those widows who married after the vow; and in this sense the Apostle everywhere takes damnation before God and men, *Rom. 3 and 13.*

> At *sancti PP. omnes veram damnationem exponunt aeternam istis viduis, quae post votum nubebant, et hoc sensu damnationem coram Deo, et hominibus ubique accipit Apostolus* Rom. 3. et 13.

41 Moreover, John also in *cap. 3* uses the same word κρῖμα not once but thrice: *The Son of Man came not to judge the world* — which signifies not a judgment of discussion, but of damnation, as Saint Bonaventure rightly notes there.

Praeterea *etiam Ioannes* cap. 3. *non semel, sed ter utitur eodem verbo κρῖμα:* Non venit filius hominis, ut iudicet mundum*, quod non significat iudicium discussionis, sed damnationis, ut rite advertit ibi S. Bonaventura.*

42 Then he admits it: why were those widows infamous for marrying, if they were hindered by no vow?

Deinde *admittit, quare viduae illae erant infames nubendo, si nullo voto erant impeditae?*

43 I ASSERT lastly, that Baptism is not a vow. So D. Bonaventure *in 4 dist. 38, quaest. 2, ad primum*, and commonly the Thomists *on the same distinction.*

Assero ultimo, Baptismum non esse votum. Ita D. Bonavent. in 4. dist. 38. quaest. 2. ad primum*, et communiter Thomistae* eadem distinctione.

44 It is PROVED from Bellarmine *cap. 19, lib. 2, de Monach.*, with the argument of Saint Bonaventure: Vows must be spontaneous. So Deut. 23: *If thou hast made a vow, thou shalt not delay to render it: for the Lord will require it. And if thou delay, it shall be reckoned to thee for sin. If thou wilt not promise, thou shalt be without sin.* But the promise made in Baptism is necessary, nor can it be said of it: *if thou wilt not promise, thou shalt be without sin*; for all are bound by divine law to receive Baptism. It is CONFIRMED: vows made for little ones by their parents are not valid unless they be afterward confirmed by those very ones in whose name they were made, when they come to adult age, as D. Bernard teaches in his *epistle to Robert*; but the promise made in Baptism binds little ones even if made through others: therefore.

Probatur *a Bellarmino* cap. 19. lib. 2. de Monach. *argumento S. Bonavent. Vota spontanea esse debent. Sic* Deuter. 23. Si votum voveris, non tardabis reddere: quia requiret illud Dominus. Et si moratus fueris, reputabitur tibi in peccatum. Si nolueris polliceri, absque peccato eris. *At promissio, quae fit in Baptismo, necessaria est, neque de ea potest dici:* si nolueris pollicere, absque peccato eris*, Omnes enim ad Baptismum suscipiendum Divina lege obligantur. Confirmatur. Vota parvulorum, a parentibus edita, rata non sunt, nisi ab ipsis, quorum nomine facta sunt, postmodum in aetate adulta confirmentur, ut docet D. Bernardus* epist. ad Robertum*; at promissio, quae fit in Baptismo, parvulos obligat, etiam si per alios edita: Ergo.*

45 It is CONFIRMED from Bellarmine following D. Bonaventure, because since it is neither necessary nor very useful to vow the commandments, it is not credible that God wished to bind us to these.

Confirmatvr *a Bellarmino ex D. Bonavent. quia cum non sit necessarium, neque admodum utile vovere praecepta, non est credibile, Deum ad haec nos voluisse obligare.*

46 You will OBJECT first, against the first assertion: every voluntary worship cannot please God, from Col. 2, where the Greek has *voluntary worship* for every superstition, and Rom. 14: *Whatsoever is not of faith is sin*; but of faith we do not have that this worship pleases God: therefore.

Obiicies primo*, contra primum assertum. Omnis cultus voluntarius placere non potest Deo ex 2.* Coloss. *ubi omnem superstitionem, quod Graecus habet:* Cultum voluntarium*, et Rom. 14.* Quod non est ex fide, peccatum est; *Sed ex fide non habemus, placere Deo hunc cultum: Ergo.*

47 It is ANSWERED that the Apostle here rebukes certain worships invented gratuitously, without order to the divine obsequy — such as were the frequent washings of the Jews, and now of the Turks, who ascend to prayer washed many times over; for these worships are rebuked elsewhere by the Apostle, and by Christ in *Luke 11*, as Saint Bonaventure observes on that passage; but this worship,

which the Socratic Doctor *in 4 dist. 13, dub. 4* calls standing and long-lasting, he rebukes as an ancient error.

> Respondetvr *Apostolum hic reprehendere cultus quosdam gratis inventos absque ordine ad Divinum obsequium, ut erant frequentes lotiones Iudaeorum, et nunc Turcarum, qui ad orationem ascendunt pluries loti; hi enim cultus alibi etiam ab Apostolo reprehenduntur, et a Christo* Lucae 11. *ut observat S. Bonavent. ad eum locum; hunc autem cultum, quem S. Doctor* in 4. dist. 13. dub. 4. *vocat superstantem, et diuturnum, ex antiquis errorem reprehendit.*

48 That of *Rom. 14* is understood of him who acts not from conscience; for thus faith is taken here, as Saint Bonaventure notes *in 3 dist. 23, dub. 2*, and elsewhere passim; and this is the common exposition, as Bellarmine notes.

> *Illvd* Rom. 14. *intelligitur, qui agit non ex conscientia; sic enim fides hic accipitur, ut notat S. Bonavent.* in 3. dist. 23. dub. 2. *et alibi passim, et haec est communis expositio, ut notat Bellarminus.*

49 The Pseudo-Martyr OBJECTS second, against the second assertion, because in the new testament the name of vow is not found, nor need it be; for in Baptism we profess the faith of Christ — what need, then, of vows about it? For so evangelical liberty is diminished by vows. Nay, injury is done to God, making necessary what he himself made free.

> Obiicit secundo *Pseudo-Martyr contra secundum assertum, quia in testamento novo non invenitur nomen voti, nec oportet; nam profitemur in Baptismo fidem Christi; quorsum ergo vota de ea? Sic enim libertas evangelica per vota minuitur. Imo fit iniuria Deo, faciendo necessaria, quae ipse fecit libera.*

50 It is ANSWERED easily, that in the new testament the reality of the vow is found, as we saw above. Rightly indeed are we said to have received all things from God, and to give them to God, as the Council of Orange says in *can. 11*, because they are delivered over to our power; for God receives these for his own obsequy, as D. Bonaventure says in *quaest. 1 et 2*. Nor is evangelical liberty violated, which frees not from a law to be observed, but from sin, as the Apostle says *Rom. 6*. Nor is any injury done to God, for he shows himself delighted by these things.

> Respondetur *facile, in testamento novo inveniri rem voti, ut supra vidimus. Recte quidem dicimur, omnia a Deo accepisse, eaque dare Deo, ut ait Concilium Arausicanum* can. 11. *quia nostrae sunt tradita potestati; haec enim in sui obsequium accipit Deus, ut ait D. Bonavent.* quaest. 1. et 2. *Neque libertas Evangelica temeratur, quae non a lege observanda, sed a peccato liberat, ut ait Apostolus* Rom. 6. *Neque iniuria aliqua fit Deo, se enim his delectati ostendit.*

51 He OBJECTS third, against the third assertion: Christians sin more gravely by violating the law than do the heathen.

> Obiicit *tertio contra tertium assertum. Christiani gravius peccant violando legem, quam Ethnici.*

52 It is ANSWERED that they are punished more gravely on account of the guilt of an ungrateful mind.

> Respondetur, *gravius eos puniri ex ingrati animi culpa.*

53 They OBJECT fourth, D. Augustine on *Ps. 75*, where he says, we have vowed the divine law.

> Obiiciunt *quarto D. Augustinum in* Psal. 75. *ubi ait, vovete Divinam legem.*

54 D. Bonaventure ANSWERS *on cap. 1 of the Rule*, that there *to vow* is taken broadly; and if it be taken strictly, already the heretics hear that they are held by the law of God; for there he speaks thus: *Vow,*

and render to the Lord your God, all of you in common. What ought we to vow? To believe in him, to hope from him for eternal life, to live well according to the common manner. For there is a certain manner common to all: not to steal, not to commit adultery; not to love violence; not to be proud; not to kill a man, not to hate a brother, not to weave mischief against anyone. All these we ought all to vow. Have you heard, sectaries, Augustine? Does he patronize you in this way?

> Respondet *D. Bonavent.* ad cap. 1. Regulae, *ibi* vovere, *sumi late, quod si stricte sumatur, iam haeretici audiant, se lege Dei teneri: nam ibi sic loquitur:* Vovete, et reddite Domino Deo vestro omnes communiter. Quid debemus vovere? Credere in illum, sperare ab illo vitam aeternam, bene vivere secundum communem modum. Est enim quidam modus communis omnibus, furtum non facere, adulterium non facere: Non amare violentiam: Non superbire: Non hominem occidere, non odisse fratrem, non adversus aliquem texere perniciem. Haec totum omnes vovere debemus. *Audistisne sectarii Augustinum? itane vobis patrocinatur?*

55 They OBJECT fifth: the Church compels the baptized to keep the law, but not the heathen or the Jews: therefore in Baptism they contracted some special obligation.

> Obiiciunt *quinto. Ecclesia cogit baptizatos ad legem servandam, non autem Ethnicos, aut Iudaeos: Ergo contraxere in Baptismo aliquam specialem obligationem.*

56 It is ANSWERED that he compels them to keep it insofar as they have been made sons and members of the Church; for members are subject to the head, and the son to his parents.

> Respondetur, *cogere, ut servent, quatenus facti sunt filii, et membra Ecclesiae, membra enim capiti subiecta sunt, et filius parentibus.*

57 There remains now to see from what virtue this obligation arises.

> *Restat nunc videre ex qua virtute oriatur haec obligatio.*

58 I ASSERT fourth, that it arises from the virtue of Religion.

> Assero *quarto, eam oriri ex virtute Religionis.*

59 It is PROVED from D. Bonaventure *in 4 dist. 38, passim*, because by a vow something is promised to be done in obsequy of God, which is the formal object of religion.

> Probatur *a D. Bonavent.* in 4. dist. 38. passim, *quia per votum promittitur aliquid faciendum in Dei obsequium, quod est formale obiectum religionis.*

60 But it is called an act of Justice IMPROPERLY by D. Thomas *2 p., quaest. 80, art. 1*, insofar as religion is a potential part of justice. Nor can anyone, by title of justice, bind himself to God by vowing, because between God and us true justice cannot intercede, as I showed in *the first part of the first part, Tract. 1, disp. 17, quaest. 1.* So Sanchez *lib. 4, cap. 11, num. 8.*

> Improprie *autem dicitur actus Iustitiae a D. Thom.* 2. p. quaest. 80. art. 1. *quatenus religio est pars iustitiae potentialis. Neque potest aliquis titulo iustitiae obligare se Deo vovendo, quia inter Deum, et nos non potest vera iustitia intercedere, ut ostendi* prima primae, Tract. 1. disp. 17. quaest. 1. *Ita Sanchez* lib. 4. cap. 11. num. 8.

Question XII: Whether those under the age of puberty are bound by vows

1 Now the subject of the Vow must be treated: who can validly vow; and this can be understood in two ways, according to D. Bonaventure in the body. First, that they may vow validly from the intrinsic reason of the subject, or from the capacity for deliberation. Second, whether they can vow stably, so that their vows cannot be invalidated by others. Of the former I shall treat in this question; but of those who cannot make stable Vows, because they hang in subjection upon others, I shall treat in what follows, where I shall show that their vows are invalidatable.

> *Iam de subiecto Voti agendum est. quinam possint valide vovere: hoc autem dupliciter potest intelligi ex D. Bonavent. in corpore. Primo, ut valide voveant ex ratione intrinseca subiecti, seu ex capacitate deliberationis. Secundo, an stabiliter possint vovere, ita ut ab aliis eorum vota nequeant irritari. De priori agam in hac quaestione; de iis vero, qui stabilia Vota edere non valent; eo quod pendeant in subiectione ab aliis, agam in sequentibus, ubi ostendam eorum vota esse irritabilia.*

2 Some hold that minors before puberty cannot validly vow religion, and that this is special to this Vow. So the Gloss seems to hold *cap. Mulier, v. obligavit, 32 quaest. 2*; the Abbot *cap. Scripturae, num. 7, de Voto*; Angelus *V. Votum, 2, num. 6* — where they say that a minor capable of deceit is bound by every vow except that of religion. And the same Abbot *cap. Significatum, num. 3, de Regularibus*, and Rosella *V. Novitius, num. 8*, say that the vow of religion before puberty does not bind, because the Church renders it void. But these speak of the solemn vow of religion.

> *Aliqui tenent, impuberes non posse valide religionem vovere, idque speciale esse in hoc Voto. Ita videtur sentire Glossa* cap. mulier, v. obligavit 32. quaest. 2. *Abbas* cap. Scripturae, num. 7. de voto. *Angelus* V. votum, 2. num. 6. *ubi aiunt, impuberem doli capacem, obligari omni voto, praeter religionis. Et idem Abbas* cap. significatum, num. 3. de regular. *et Rosella* V. Novitius, num. 8. *dicunt, votum religionis ante pubertatem non obligare, eo quod Ecclesia illud irritum reddat. Sed hi loquuntur de voto solemni religionis.*

3 The holders of this opinion seem clearer: Innocent *cap. Scripturae, num. 3*; there Hostiensis *num. 7*; Ioannes Andreas *num. 4*; Anton. *num. 3*; the Cardinal *num. 6, quaest. 11 et 13* — where they say that the vow of religion of a minor capable of deceit, made without the license of parents or guardians, does not bind; otherwise concerning other personal vows, as of abstinence, pilgrimage, etc. For these speak of the solemn Vow; for this does not stand before puberty, even if the parents wish it.

> *Clarius videntur huius sententiae Innocentius* cap. scripturae, num. 3. *ibi Hostiensis* num. 7. *Ioan. Andreas* num. 4. *Anton.* num. 3. *Cardinal.* num. 6. quaest. 11. et 13. *ubi dicunt votum religionis impubetum, doli capacium absque parentum, vel Tutorum licentia emissum, non obligare; secus de aliis votis personalibus,puta abstinentiae,peregrinationisetc. Hi enim loquuntur de Voto solemni; nam hoc ante pubertatem non valet, etiam parentibus volentibus.*

4 Yet these only mean that the vow of religion does not stand insofar as it is not firm, but can be invalidated, as Sanchez admits.

> *Hi tamen solum volunt, votum religionis non valere, quatenus firmum non est, sed potest irritari, ut fatetur Sanchez.*

5 Others judge that no vows of minors are valid. So Palac. in *4 dist. 18, disp. 1, sol. 870.*

> *Alii censent, nulla impuberum vota valida esse. Ita Palac.* 4. dist. 18. disp. 1. sol. 870.

6 The third opinion is, that no vows of minors are valid unless near puberty. So Sylvester *V. Religio, 2, quaest. 15*; he sufficiently favors the vow of religion with D. Thomas in *1 2, quaest. 88, art. 9, and the last*

quaest., art. 5.

> *Tertia sententia est, nulla vota impuberum valere, nisi prope pubertatem. Ita Sylvester* V. religio, 2. quaest. 15. *satis favet circa religionis votum D. Thom.* 1. 2. quaest. 88. art. 9. et quaest. ult. art. 5.

7 The fourth opinion is, that all vows of minors after the use of reason are valid, if they are so capable of deceit as to be able to sin mortally. So the Canonists alleged in *cap. Scripturae*; the Abbot, *cap. 2, num. 2, de Voto*; Rosella *V. Votum, 2, num. 2*; D. Thomas *1 2, quaest. ult., art. 5, ad 3, and quaest. 88, art. 9, ad 1*; Caietanus *on that art. 9, and Summa, v. Votum, cap. 3*; Paludanus *4 dist. 38, quaest. 3, art. 1, num. 9, and quaest. 4, art. 2, num. 29*; D. Anton. *2 part., tit. 11, cap. 2, §. 6, and 3 part., tit. 16, cap. 2, §. 4*; Armilla *V. Votum, num. 6*; Sotus *lib. 7, de Iustitia, quaest. 3, art. 2*; Navar. *Summa, cap. 12, numero 68*; Aragonius *1 2, quaest. 88, art. 9*; Manuel *Tomo 2, cap. 91*; Azorius *lib. 12, Instit., cap. 16, quaestio 9*; Valentia *2 2, disp. 6, quaest. 6, puncto 6*; Sanchez, citing these, *lib. 4, Summae, cap. 18*; Tanner. *disp. 5, quaest. 4, dub. 2.*

> *Quarta sententia est, omnia vota impuberum post usum rationis esse valida, si ita doli sint capaces, ut mortaliter valeant peccare. Ita Canonistae allegati in* cap. scriptura*, Abbas,* cap. 2. num. 2. de voto*, Rosella* V. votum 2. num. 2. *D. Thom.* 1. 2. quaest. ult. art. 5. ad 3. et quaest. 88. art. 9. ad 1. *Caietanus* eo art. 9. et summa, v. votum, cap. 3. *Paludanus* 4. dist. 38. quaest. 3. art. 1. num. 9. et quaest. 4. art. 2. num. 29. *D. Anton.* 2. part. tit. 11. cap. 2. §. 6. et 3. part. tit. 16. cap. 2. §. 4. *Armilla* V. votum, num. 6. *Sotus* lib. 7. de Iustitia, quaest. 3. art. 2. *Navar.* summa, cap. 12. numero 68. *Aragonius* 1. 2. quaest. 88. art. 9. *Manuel* 2. Tomo, cap. 91. *Azorius* lib. 12. instit. cap. 16. quaestio 9. *Valentia* 2. 2. disp. 6. quaest. 6. puncto 6. *Sanchez hos referens* lib. 4. summae, cap. 18. *Tanner.* disp. 5. quaest. 4. dub. 2.

8 This is the opinion of D. Bonaventure in the *cited place*; for although he institutes the question, *who are able to vow*, and seems to exclude minors *in the response to the second*; nevertheless there, and more clearly *in the body*, he only means that their vows are not stable without the consent of their parents, as to what pertains to the governance of life.

> *Haec est sententia D. Bonavent.* loco cit. *quamvis enim quaestionem instituat:* Qui vovere valent*, et excludere videatur impuberes* in responsione ad secundum*; attamen ibi, et clarius* in corpore*, solum vult, eorum vota non esse stabilia absque consensu parentum, quo ad id, quod spectat ad vitae regimen.*

9 I ASSERT therefore, that all such vows of children are valid of themselves, yet dependent upon the will of the parents as to execution, when they were made without their license.

> Assero *ergo, omnia huiusmodi puerorum vota esse valida ex se, dependenter tamen a voluntate parentum quo ad executionem, quando sine eorum licentia emissa sunt.*

10 It is PROVED from Sanchez *num. 5, argument 2*, that of D. Bonaventure, on which the alleged Canonists also rely. Whoever can give himself to the devil by mortally sinning, can also consecrate himself to Christ by a vow; but those who have already attained the age of discretion are of this kind: therefore.

> Probatur *a Sanchez* num. 5. argumento 2. *D. Bonaventurae, quo nituntur etiam allegati Canonistae. Quicunque potest peccando mortaliter se dare diabolo, potest etiam voto se Christo consecrare; sed qui iam aetatem discretionis attigerunt, sunt huiusmodi: Ergo.*

11 By this argument you have also, that not so much the age as the use of reason is to be considered, which can both be anticipated and come afterward.

Hoc argumento habes etiam, non tam aetatem, quam rationis usum considerandum, qui potest et praeveniri, et postea sequi.

Question XIII: What the power of annulling vows is, and what kind

1 Having treated of the obligation of votes, we must now treat of their dissolution.

Qua et qualis sit potestas VOTA irritandi.

Cum de obligatione votorum egerim, iam de eorum dissolutione agendum.

2 IN THREE ways votes are dissolved extrinsically: by Irritation, Dispensation, and Commutation; for when the obligation ceases from a change of the matter, or from the cessation of the cause, or of the condition, it of itself fails and perishes, as can sufficiently be gathered from what has been said.

TRIPLICITER autem vota dissolvuntur extrinsece, Irritatione, Dispensatione, et Commutatione; nam quando cessat obligatio ex mutatione materiae, aut cessationis causae, vel conditionis, seipso deficit, et interiit, quae satis ex dictis colligi possunt.

3 They DIFFER, however, because by dispensation and by irritation the obligation of a vote is extinguished; but by commutation it is not extinguished, but transferred to another matter substituted in place of the former, which, if it be an alms, is called the *redemption* of the vote, which they enumerate as an essential species of commutation.

DIFFERUNT autem, quia dispensatione, et irritatione extinguitur obligatio voti; at commutatione non extinguitur, sed transfertur in aliam materiam, loco prioris subrogatam, quae si sit eleemosyna, dicitur voti redemptio*, quam essentialiter commutationis speciem enumerant.*

4 IRRITATION, moreover, is twofold: one, direct and proper, by which a vote is extinguished outright; the other improper, which is called the suspension of a vote by the prohibition of the matter, the bond of the vote remaining unimpaired.

DU PLEX autem est irritatio: Altera, directa, et propria, qua votum prorsus extinguitur; altera impropria, quae dicitur voti suspensio ex materiae prohibitione, manente illaeso vinculo voti.

5 This IRRITATION differs from the other, in that proper irritation belongs to dominative power alone, such as the Priors of Religious orders have over their religious; a father over his sons; a husband over his wife; a master over his slaves, as D. Bonav. teaches *in corpore*, and after him commonly, as Sanchez has it *l. 4. cap. 24.* But the improper and indirect belongs by reason of any subjection whatever, whether temporal or spiritual, as Suarez has it *Tom. 2. de relig. Tract. de Voto, lib. 6. cap. 1. num. 6.*

IRRITATIO autem haec differt ab altera, quod irritatio propria soli potestati dominativae competit, qualem habent Praelati Religionum in suos religiosos; pater in filios; vir in uxorem; dominus in servos, ut docet D. Bonav. in corpore*, et post eum communiter, ut habet Sanchez* l. 4. cap. 24. *Impropria autem, et indirecta convenit ratione cuiuscumque subiectionis, sive temporalis, sive spiritualis, ut habet, Suarez* Tom. 2. de relig. Tract. de Voto, lib. 6. cap. 1. num. 6.

6 The QUESTION, however, is: whether this power is so absolute as to require no cause for annulling.

QUAESTIO autem est: an haec potestas sit ita absoluta, ut causam irritandi non exigat.

7 The FIRST opinion is, that no cause is required. So the twenty-seven Doctors in Sanchez, *lib. 4. cap. 24.* Tannetus subscribes, *disp. 5. quaest. 4. 20. et 21.*

> *PRIMA opinio est, non requirere causam aliquam. Ita DD. viginti septem apud Sanchez.* lib. 4. cap. 24. *Subscribit Tannetus* disp. 5. quaest. 4. 20. et 21.

8 The SECOND opinion is, that a cause is required when they have the power of annulling ordered to the good of the one vowing, which the Priors of religious orders possess; but not when it is granted for the good of the one annulling alone. So Suarez *Tom. 2. de relig. tract. de Voto, lib. 6. cap. 1.*

> *SECUNDA opinio est, requiri causam, quando habent potestatem irritandi ordinatam ad bonum voventis, qualem obtinent Praelati religionum; non autem quando concessa est in bonum solius irritantis. Ita Suarez* Tom. 2. de relig. tract. de Voto, lib. 6. cap. 1.

9 The THIRD opinion is, that to annul without cause is always a venial sin. So Sanchez *l. 4. cap. 24. num. 15.* adducing nine Doctors of the same sense.

> *TERTIA sententia est, esse semper culpam venialem irritare absque causa. Ita Sanchez* l. 4. cap. 24. num. 15. *adducens novem Doctores in eundem sensum.*

10 There are Soto *lib. 7. de iustitia, quaest. 3. art. 1.* Medina *l. 1. summa, cap. 14. §. 7.* Aragonii 2. 2. *quaest. 88. art. 8.* Sayri *lib. 6. cap. 10.* Leonard. *l. 1. de Iust. cap. 40. dub. 10. num. 70.* Mantelis on the Bull of the Crusade, *§. 9. num. 104.* Conrad. *in resp. p. 1. quaest. 298.* Valentiz 2. 2. *disp. 6. quaest. 6. p. 6.* Abul. *cap. 30. Numer. quaest. 43.* Sanchez *loco citato.*

> *EST Soti* lib. 7. de iustitia, quaest. 3. art. 1. *Medinae* l. 1. summa, cap. 14. §. 7. *Aragonii* 2. 2. quaest. 88. art. 8. *Sayri* lib. 6. cap. 10. *Leonard.* l. 1. de Iust. cap. 40. dub. 10. num. 70. *Mantelis in Bulla Cruciata,* §. 9. num. 104. *Conrad.* in resp. p. 1. quaest. 298. *Valentiz* 2. 2. disp. 6. quaest. 6. p. 6. *Abul.* cap. 30. Numer. quaest. 43. *Sanchez* loco citato.

11 I ASSERT with this opinion that votes are not annulled without cause without venial sin.

> *ASSERO cum hac sententia, vota non sine peccato veniali irritari absque causa.*

12 It is PROVED by the reason of D. Bonav. *dist. 19. dub. 6. in 4.* as regards dispensations, as I said in *prima secunda Tract. 4.* who is on the Laws *disp. 5. quaest. 14.* — because to remove anyone from the worship of God without cause is insolent, and an abuse of power. Sanchez uses this reason *num. 15.* who says it is a venial sin, which very many think even of the one requesting an annulment without cause. See Sanchez *num. 4.* But if leave to vow was previously given, and the vote is annulled without cause, Suarez *l. 6. de voto, cap. 4.* near the end says it is rarely mortal, unless contempt or scandal intervene: Soto approves, *l. 7. quaest. 3. art. 1.* Rosella *verbo votum, num. 2.* Yet Sanchez *l. 4. cap. 32.* says it is mortal, of which at *quaest. 13.*

> *PROBATUR ratione D. Bonav.* dist. 19. dub. 6. in 4. *quoad dispensationes, ut dixi* prima secunda Tract. 4. *qui est de Legibus* disp. 5. quaest. 14. *quia removere a Dei cultu aliquo absque causa, est indicens, et abusus potestatis. Hac ratione utitur Sanchez* num. 15. *qui dicit, esse peccatum veniale, quod plurimi existimant etiam de petente irritationem sine causa Vide Sanchez* num. 4. *Quod si prius data est licentia vovendi, et irritatur votum sine causa. Suarez* l. 6. de voto, cap. 4. *ad finem ait, raro esse laethale, nisi accedat contemptus, vel scandalum: Arridet Soto* l. 7. quaest. 3. art. 1. *Rosella* verbo votum, num. 2. *Tamen Sanchez* l. 4. cap. 32. *ait esse mortale, de quo* quaest. 13.

13 The PRINCIPAL question, however, is: whether it ought to be dominative; and whether spiritual Jurisdiction suffices for directly annulling votes; for if this sufficed, the Pope could then annul everywhere the votes of all.

> *PRAECIPVA vero quaestio est: an debeat esse dominativa; et an sufficiat Iurisdictio spiritualis ad vota directe irritanda; quod si haec sufficeret, iam posset ubique Papa omnium vota irritare.*

14 I SUPPOSE, moreover, from what was said in *prima secunda, Tract. 4.* which is on the laws *disp. 6. quaest. 1.* that the Pope has no civil dominative power over all Christians.

> *SUP PONO autem ex dictis* prima secunda, Tract. 4. *qui est de legibus* disp. 6. quaest. 1. *Papam non habere potestatem dominativam ciuilem in omnes Christianos.*

15 SOME assert that the Pope can annul the votes of all absolutely, because they say all votes contain impliedly this condition: if it please the Pope, who is the supreme Pastor, to whom our spiritual governance belongs, under which votes are included. The same concerning Bishops in their Diocese is gathered *ex cap. quemadmodum, v. Conditio de iureiurando.* Moreover, he to whom the greater is licit is licit also for the lesser, *Regula, cui licet 53. de regulis iuris, in 6.* — and the Pope can dispense, which is greater than to annul, since that is of spiritual power, which excels dominative power: Therefore. This Medina maintains, *de sacrorum hominum continentia, lib. 5. cap. 44.* Lilius *methodo curationis, 3. part. cap. 44. §. 51.* and Lessius grants some probability to this opinion *lib. 2. de Iust. cap. 40. dub. 10. num. 86.* S. Bonavent. reports it, *in 4. dist. 38. art. 2. quaest. 3.*

> *ALIQUI asserunt, posse Papam omnium omnino vota irritare, quia aiunt, omnia vota habere infitam hanc conditionem: si Papae placuerit, qui est summus Pastor, ad quem spectat nostra spiritualis gubernatio, sub qua vota includuntur. Idem de Episcopis in eorum Dioecesi colligitur* ex cap. quemadmodum, v. Conditio de iureiurando. *Praeterea cui licet id, quod plus est, licet et quod minus est,* Regula, cui licet 53. de regulis iuris, in 6. *at Papa valet dispensare, quod est maius, quam irritare, cum illud sit potestatis spiritualis, quae praecellit dominativam: Ergo. Id sustinent Medina,* de sacrorum hominum continentia, lib. 5. cap. 44. *Lilius* methodo curationis, 3. part. cap. 44. §. 51. *et aliquid probabilitatis huius sententiae concedit Lessius* lib. 2. de Iust. cap. 40. dub. 10. num. 86. *Hanc refert S. Bonavent.* in 4. dist. 38. art. 2. quaest. 3.

16 The OPPOSITE opinion, however, is common after D. Thom. *2. 2. quaest. 88. art. 12.* and of nineteen other Doctors whom Sanchez reports and follows, *lib. 4. cap. 24. num. 18.* And from these many bring the same argument concerning the votes of secular clerics, which do not pertain to Ecclesiastical matters. Add Bassaeus *5.* To this the Sainted Doctor seems to incline *art. 1. quaest. 3.*

> *OPPOSITA tamen sententia est communis post D. Thom.* 2. 2. quaest. 88. art. 12. *et aliorum decem, et novem Doctorum, quos refert, et sequitur Sanchez* lib. 4. cap. 24. num. 18. *Idemque ex iis multi afferunt de votis clericorum saecularium, quae ad Ecclesiasticas res non pertinent. Adde Bassaeum* 5. *Ad hanc videtur S. Doctor inclinare* art. 1. quaest. 3.

17 I ASSERT that the Pope cannot annul the votes of all the faithful.

> *ASSERO, non posse Papam irritare vota omnium fidelium.*

18 It is PROVED by D. Bonavent. *art. 1. quaest. 3.* For this there is necessary a dominative power, such as that of a master over slaves, of a spouse over a spouse, of a father over sons, of a prior of religious over subjects, which the Pope has not with respect to all, as the Sainted Doctor there supposes; therefore he omitted it.

PROBATUR a D. Bonavent. art. 1. quaest. 3. *Ad hoc necessaria est potestas dominativa, qualis est domini in servos, coniugis in coniugem, patris in filios, praelati religiosorum in subditos, quae in Papa respectu omnium non est, ut supponit ibi S. Doctor, ideo eam omisit.*

19 This is the common reason which Sanchez uses, *num. 18.* That civil dominative power is not universal I showed in the *Tract. de legibus.*

HAEC est ratio communis, qua utitur Sanchez num. 18. *Dominativam autem ciuilem potestatem non esse universalem ostendi* Tract. de legibus.

20 From this reason many infer that the Pope can annul the votes of religious, because he has dominative power over them. So D. Thom. *2. 2. quaest. 186. art. 5. ad 2.* — which is truer of the Order of Friars Minor, because St. Francis *cap. 1. Regulae* promises filial obedience in a special manner with his sons to the Apostolic See, as D. Bonavent. notes *in expositione illius capituli.* See the Doctors in Sanchez *num. 20.* Suarez *lib. 6. cap. 2.* Bassaeo *V. Votum 5. num. 2.*

Ex hac ratione deducunt multi, Papam posse irritare vota religiosorum, quia in eos habet potestatem dominativam. Ita D. Thom. 2. 2. quaest. 186. art. 5. ad 2. *quod de Ordine Fratrum minorum eo est verius, quod S. P. Franciscus* cap. 1. Regulae, *specialem obedientiam filialem promittit cum suis Sedi Apostolicae, ut notat D. Bonavent.* in expositione illius capituli. *Vide DD. in Sanchez* num. 20. *Suarez* lib. 6. cap. 2. *Bassaeo* V. Votum 5. num. 2.

21 To the opposite D. Bonavent. answers that the things which are for the service of God are not so bound to the will of the Pontiff that they cannot be rendered without him.

AD opposita respondet D. Bonavent. ea, quae sunt ad Dei obsequium, non esse adeo Pontificis voluntati alligata, ut sine eo nequeant exhiberi.

22 To the other it is answered that it is understood of oaths, not of votes; because the reason is not the same, since for these dominative power is required; hence he can dispense, not annul, nor does that proposition, *He who can do the greater, etc.*, hold in things of different kinds, as D. Bonavent. says, whose sign is this (he says) that man can generate man, not an ass.

AD aliud respondetur, intelligi de iuramentis, non de votis; quia non est eadem ratio, cum ad haec requiratur dominativa potestas; unde potest dispensare, non irritare, neque propositio illa: Quod potest in plus, etc. *valet in rebus diversi generis, ut ait D. Bonavent. cuius signum est (ait ipse) quod homo potest generare hominem, non asinum.*

23 There is, however, a controversy: Whether this dominative power, insofar as it is extended to the annulling of votes, is of natural law, or of human law.

EST autem controversia: An haec potestas dominativa, quatenus in irritationem votorum extenditur, sit de iure naturae; an humano.

24 The FIRST opinion is that it is of Ecclesiastical law. So Lessius *lib. 2. de Iust. cap. 40. dub. 10. num. 74.* Vasquez *prima secundae, disp. 165. cap. 4. num. 29.*

PRIMA opinio est, esse iuris Ecclesiastici. Ita Lessius lib. 2. de Iust. cap. 40. dub. 10. num. 74. *Vasquez* prima secundae, disp. 165. cap. 4. num. 29.

25 The SECOND SECOND opinion is that it is of Ecclesiastical law together with natural law. *So Sanchez in the place cited, num 32.*

SECUNDA SECUNDA sententia est, esse iuris Ecclesiastici simul, et naturalis. Ita Sanchez loco citato, num 32.

26 The THIRD opinion is that it is of natural law. *It seems to be that of D. Bonau. art. 1. quaest. 3. cited in 4. dist. 38. There follow Sotus l. 7. de iustitia, quaest. 3. art. 1. Aragon. 2. 1. quaest. 88. art. 8. Ouandus 4. dist. 38. disp. unica, prop. 22. Sayrus in Claui regia, l. 6. cap. 10. Azor. T. 1. l. 11. cap. 17. Petrus Ledesma 2. Tomo, Tract. 10. cap. 7. dub. 2. Suarez Tom. 2. de relig. Tract. de voto, l. 6. cap. 6. speaking of those under age, and of religious l. 6. cap. 7. The same Salas holds p. 2. quaest. 21. tract. 8. disp. unica, sect. 25. num. 262. speaking of parental power.*

> *TERTIA sententia est, esse iuris naturae.* Videtur D. Bonau. art. 1. quaest. 3. citata in 4. dist. 38. sequuntur Sotus l. 7. de iustitia, quaest. 3. art. 1. Aragon. 2. 1. quaest. 88. art. 8. Ouandus 4. dist. 38. disp. unica, prop. 22. Sayrus in Claui regia, l. 6. cap. 10. Azor. T. 1. l. 11. cap. 17. Petrus Ledesma 2. Tomo, Tract. 10. cap. 7. dub. 2. Suarez Tom. 2. de relig. Tract. de voto, l. 6. cap. 6. loquens de impuberibus, et de religiosis l. 6. cap. 7. Idem tenet Salas p. 2. quaest. 21. tract. 8. disp. unica, sect. 25. num. 262. loquens de parentum potestate.

27 Thus, speaking of the Priors of religious orders, they bring forward *Vega 2. Tomo summae, cap. 120. casu 88. Conradus in suis resp. 1. p. quaest. 297. Manuel 2. Tomo summae, cap. 89 et 99. regul. tom. 1. quaest. 25. art. 5. Caiet. 2. 2. quaest. 88. art. 8. dub. 5.* — yet *Suarez* and *Ledesma* confess that human law also concurs, prescribing a time for boys.

> *Sic loquentes de Praelatis religionum afferunt* Vega 2. Tomo summae, cap. 120. casu 88. Conradus in suis resp. 1. p. quaest. 297. Manuel 2. Tomo summae, cap. 89 et 99. regul. tom. 1. quaest. 25. art. 5. Caiet. 2. 2. quaest. 88. art. 8. dub. 5. *fatentur tamen* Suarez, *et* Ledesma, *concurrere etiam ius humanum, praescribens tempus pueris.*

28 I ASSERT with this opinion that the dominative power of annulling votes is of natural law.

> *ASSERO cum hac sententia, potestatem dominatiuam, votorum irritatiuam, esse de iure naturae.*

29 *It is PROVED by D. Bonau., first foundation, as regards the wife from cap. 30. Numer.* where it is said that the votes of a wife depend on the will of the husband; but this is not merely positive: *Therefore. The minor is proved first*, because it would have ceased with the other merely positive precepts of the Mosaic law: *therefore* it is an explication of the natural law. And so all the Fathers gather from that passage this subjection of the woman toward the husband with respect to votes. The same *S. August. l. 4. in qq. Numer. quaest. 59.* gathers; by which he proved his own opinion, *S. Bonav. dist. 32. dubio 3. littera.*

> PROBATUR a D. Bonau. fundamento primo, quoad uxorem ex cap. 30. Numer. *ubi dicitur, vota uxoris pendere a viri arbitrio; sed hoc non est mere positiuum:* Ergo. Probatur minor primo, *quia cessasset cum reliquis Moysycae legis mere positiuis:* Ergo *est explicatio iuris naturalis. Itaque omnes PP. colligunt ex eo loco hanc subiectionem mulieris erga virum quoad vota. Idem colligit* S. August. l. 4. in qq. Numer. quaest. 59. *quo sententiam suam probauit* S. Bonav. dist. 32. dubio 3. littera.

30 *It is PROVED secondly by a most valid argument of S. Bonau. loc. cit. in corpore*, which the others use. That which compels when every positive law is set aside is from natural Divine law: But the dominative power of annulling the votes of a wife compels when any human positive law whatsoever is set aside: *Therefore. The minor is proved*, because the wife subjects herself by natural law, and is subjected, that she may be governed by her very husband. For she has not power of her own body, *as the Apostle says, first Corinthians 7. and Genesis 2.*

PROBATUR secundo validissimo argumento S. Bonau. loc. cit. in corpore, *quo caeteri utuntur. Id, quod praeciso omni positiuo iure cogit, est a iure Diuino naturali: Sed potestas dominatiua irritandi vota uxoris cogit praeciso quolibet iure humano positiuo:* Ergo. Minor probatur, *quia uxor subiicit se iure naturali, et subditur, ut ab ipso coniuge regatur. Non enim habet potestatem sui corporis,* ut ait Apostolus prima Corinth. 7. et Genes. 2.

31 *HENCE falls the refuge of Sanchez*, that this subjection induces only the improper irritation, insofar as it impedes: *For marriage is a perpetual bond.*

HINC ruit effugium Sanchez, *hanc subiectionem inducere solam irritationem impropriam, quamdiu impedit:* Est enim matrimonium vinculum perpetuum.

32 *It is PROVED thirdly as regards those under age by D. Bonau., foundation 1. and in corpore*, from the nature of a child, who on account of the weakness of his judgment is under the power of parents and under tutors, as a part of them, indeed even as nothing different from a slave, *as we have in Galatians 4.* and this nature itself teaches.

PROBATUR tertio quoad impuberes a D. Bonau. fundamento 1. et in corpore *ex natura pueri, qui ob sui iudicii imbecillitatem sub potestate parentum, et sub tutoribus est, tanquam pars eorum, imo tanquam nihil differens a seruo,* ut habetur ad Galat. 4. *et hoc natura ipsa docet.*

33 *Sanchez answers, num 31.* that this subjection does not impede other promises, graver and irrevocable, unless injury is proved; since yet in votes there is present the remedy of dispensation; but promises made by those under age cannot be annulled by parents, as is clear of betrothals. Secondly, a minor contracting with a man is bound, which obligation cannot be annulled by the father, and a son of a family of age is bound to a man naturally and civilly independently of the father. All which things are done by reason of the disposition of the civil law, so statuting.

RESPONDET Sanchez num 31. *hanc subiectionem non impedire alias promissiones grauiores, et irreuocabiles, nisi probetur laesio; cum tamen in votis adsit remedium dispensationis; at promissiones ab impuberibus factae, nequeunt a parentibus irritari, ut patet de sponsalibus. Secundo, pupillus cum homine contrahens obligatur, quae obligatio irritari a patre nequit, et filiusfamilias pubes independenter a patre homini obligatur naturaliter, et ciuiliter. Quae omnia ob dispositionem iuris ciuilis, ita statuentis, fiunt.*

34 *MOREOVER* because natural subjection grants only the improper irritation of suspension, and this when the execution of the votes impedes that subjection, *as num. 28. has it.*

PRAETEREA *quia subiectio naturalis solam irritationem impropriam suspensionis tribuit, et hoc quando votorum exequutio subiectionem illam impedit,* ut habet num. 28.

35 *FINALLY*, whenever human law determines an indefinite obligation of natural law, it is said to bind absolutely by human law, as is clear in the precept of annual confession, and of keeping someone's feast; for that determination is like a form specifying that precept.

TANDEM *quoties obligationem indefinitam iuris naturalis determinet ius humanum, dicitur absolute obligare de iure humano, ut constat in praecepto confessionis annuae, et seruandi alicuius festi; ea enim determinatio est tanquam forma specificans illud praeceptum.*

36 *But these things are frivolous:* And first indeed betrothals are permitted in such a way that they do not pass to the effect of matrimony except after puberty. And then indeed there is a mature judgment for this, nor in these things is he subject to parents, *for it is said in Genesis 2. Therefore shall a man leave father,*

etc. — but subjection impedes in those things which are repugnant to that subjection, or to a part of it, *as D. Bonan. and others note.*

> At haec friuola sunt: *Et primo quidem sponsalia ita permittuntur, ut non transeant ad effectum matrimonii, nisi post pubertatem. Et tunc quidem est maturum ad id iudicium, nec in his subditus parentibus,* nam dicitur Genes. 2. Propter hoc relinquet homo patrem, etc. *subiectio autem impedit in his, quae illi subiectioni, vel parti illius repugnant,* ut notant D. Bonan. et alii.

37 *To that about the minor and the orphan it is answered* that the assumption is false, otherwise the laws would be inequitable which protect the orphan, lest he pay that debt.

> AD id de pupillo, et minori respondetur, *falsum esse assumptum, alioqui iniquae essent leges, quae tuentur pupillum, ne soluat id debitum.*

38 *Sanchez answers, lib. 6. de matrimonio, disp. 38. num. 36.* that the laws are not inequitable, but that that law protects him so that it may be lawful for him to elude that natural debt, using against it the privilege of restitution.

> RESPONDET Sanchez lib. 6. de matrimonio, disp. 38. num. 36. *leges non esse iniquas, sed eam legem tueri, ut fas sit illi hoc debitum naturale elidere, utendo aduersus illud priuilegio restitutionis.*

39 *BUT I do not see* by what reasoning, wrapped in these words, he dissolves the argument; for it is an inequitable privilege that exempts from a restitution naturally owed.

> AT non video, *qua ratione his verborum inuolucris soluat argumentum; nam iniquum est priuilegium eximens a restitutione, naturaliter debita.*

40 *But as to what he adds*, that natural subjection grants only the improper irritation, not the proper one: *I answer, already at num. 4.* I asserted that dominative power is the foundation of the power of annulling votes; but this power in the father is natural toward the son.

> QUOD vero addit, *subiectionem naturalem tribuere solam irritationem impropriam, non autem propriam:* Respondeo iam num. 4. *asseruisse potestatem dominatiuam esse fundamentum potestatis ad vota irritanda; haec autem potestas in patre naturalis est ad filium.*

41 *But as to what he adds about indeterminate precepts*, it is false; and, that we may use the example of confession, if it were determined essentially to human law, we would no longer be bound to confess sins merely internal: therefore when something essential is determined, for instance the matter, or the form, then it is drawn to human being, not when it is determined as to things entirely extrinsic, for instance time, etc. Thus therefore, although liberty is by natural law the natural foundation of such dependence on the father; yet the time is determined by human law, not indeed that some time naturally subjected be eluded, but that it be declared at what time the son is apt of himself to vow naturally. And so the law only declares the natural law, which, since it varies with the stage of a man's age, has much of doubt in it, *as Sanchez num. 29. Suarez, and Ledefma well note, cited above.* Nor was this to be left to manifest arbitrariness.

> QUOD vero addit de praeceptis indeterminatis, *falsum est, et ut exemplo confessionis utamur, si determinaretur essentialiter ad ius humanum, iam non teneremur peccata mere interna confiteri: quando ergo determinatur essentiale aliquid, puta materia, vel forma, tunc trahitur ad esse humanum, non quando determinatur quoad ea, quae omnino extrinseca sunt, puta tempus, etc. sic igitur, licet libertas iure naturae sit fundamentum naturale talis dependentiae a patre; at determinatur tempus a iure humano, non quidem ut aliquod tempus naturaliter subiectum elidatur, sed ut*

declaretur, quo tempore aptus sit filius ex se vouere naturaliter. Itaque Lex solum declarat ius naturale, quod cum in aetate hominis variante situm sit, habet plurimum dubii, ut bene aduertunt Sanchez num. 29. Suarez, et Ledefma supra citati. *Neque hoc erat patentum arbitrio relinquendum.*

42 *It is PROVED fourthly by D. Bonau. loc. cit. and the last foundation,* as regards slaves, because that which arises from natural dominion is natural; but this power arises from a dominion which is natural over a slave, *as Sanchez himself concedes: Therefore.* I know that the law of nations intervened in captivity; but servitude in this state is natural, *as I said in Tract. 3. de Legibus, Disput. de Iure gentium, prima secunda.*

PROBATUR quarto a D. Bonau. loc. cit. et fundamento ultimo, *quoad seruos, quia id, quod oritur ex dominio naturali, est naturale; sed haec potestas oritur ex dominio, quod est naturale in seruum,* ut ipse Sanchez concedit: Ergo. *Scio, interuenisse ius gentium in captiuitate; at seruitus in hoc statu est naturalis,* ut dixi Tract. 3. de Legibus, Disput. de Iure gentium, prima secunda.

43 *Sanchez answers before num. 32.* that by that subjection only the improper power of irritation in Dominion is induced, for suspending votes, insofar as they do harm. The same he says of wives, and of sons.

RESPONDET Sanchez ante numerum 32. *ea subiectione solum induci in Dominio potestatem impropriam irritationis, suspendendis vota, in quantum nocent. Idem de uxoribus, et filiis ait.*

44 *BUT concerning wives the answer is surely absurd,* because since the bond is perpetual, nothing other than proper irritation is required. It is similar concerning sons; but slaves, as long as they are slaves, have the same perpetual obligation as regards the things of their servitude. For we do not wish that by servitude all spiritual goods are impeded, *as S. Bonau. notes loc. cit.* but those things which clash with the state of servitude, and are not indispensable to salvation.

AT de uxoribus sane absona est responsio, *quia cum vinculum sit perpetuum, non alia, quam irritatio propria exigitur. Simile est de filiis; serui autem, quamdiu serui sunt, eandem obligationem perpetuam habent quoad ea, quae sunt suae seruitutis. Neque enim volumus seruitute omnia bona spiritualia impediri,* ut notat S. Bonau. loc. cit. *sed ea, quae cum statu seruitutis pugnant, et saluti necessariis non obstant.*

45 *AS REGARDS Religious it is proved by D. Bonau., foundation 3. in corpore.* By the voluntary promise of obedience they are so subjected to the prior that with respect to the disposition of their own will they are as minors under a tutor. *Therefore c. si religiosus, de electione in 6.* religious are said not to have a WILL of their own or a NILL, and thus the custom of all religious orders has interpreted this subordination of the religious to the prior.

QUOAD Religiosos probatur a D. Bonau. fundamento 3. in corpore. *Per voluntariam obedientiae promissionem ita praelato subduntur, ut respectu dispositionis suae voluntatis sint tanquam pupilli sub tutore.* Ideo c. si religiosus, de electione in 6. *dicuntur religiosi, non habere VELLE, aut NOLLE, et ita consuetudo omnium religionum interpretata est hanc subordinationem religiosi ad praelatum.*

46 *Sanchez answers* that that solemn obligation of one's own will is of Ecclesiastical law, and by that law alone does he render such obedience invalid, which is done; and this appears in simple votes, which by Ecclesiastical determination obtain the power of annulling, as in the Society of Jesus. He urges: because that subjection argues only the power of an imperfect irritation. He adds that religious do not subject their will in all things.

Respondet *Sanchez, obligationem illam suae voluntatis solemnem, esse e iure Ecclesiastico, et eo solo iure talem obedientiam reddere irritum, quod fit, et hoc apparet in votis simplicibus, quae ex determinatione Ecclesiastica obtinent vim irritandi, ut in societate Iesu. Urget: quia ea subiectio solam arguit potestatem irritationis imperfectae. Addit, religiosos non subdete voluntatem suam in omnibus.*

47 But even grant that the solemnity of the vote, that it may constitute religion as such, requires Ecclesiastical law; yet the obligation of the will, made in the service of God to that man, by natural Divine law binds as regards the promises, except in those things which are repugnant to that subjection; but the promise is in all things which are within religion, as D. Bonavent. notes *in corpore*, nor therefore does he wish the power of annulling to be extended beyond the dominative power, which is in the prior for governing all things; though it is not to be commanded, ex Sanchez. See *the end of quaest. 19.* And the valid promise of a religious from the nature of the thing binds naturally by the force of fidelity; otherwise the votes would revive, which Sanchez *lib. 4. sap. 26. num. 4.* does not concede, and it is against the practice of the whole Church, and *cap. 29. num. 29.* from the nature of dominion he gathers the power of annulling directly in the rule given *cap. 26. num. 4.*

At esto solemnitas voti, ut religionem talem constituat, requirat ius Ecclesiasticum, tamen obligatio voluntatis, facta in obsequium Dei illi homini, iure naturali Divino cogit quoad promissa, in his sine, quae repugnant illi subiectioni; promissio autem est in omnibus, quae sunt infra religionem, ut notat D. Bonavent. in corpore*, neque ideo vult, potestatem irritandi extendi ultra potestatem dominativam, quae in praelato est ad omnia regenda; esto non praecipienda ex Sanchez. Vide* quaest. 19. finem versus. *Atque promissio rata religiosi ex natura rei naturaliter ex vi fidelitatis cogit; alioqui revivisserent vota, quod Sanchez* lib. 4. sap. 26. num. 4. *non concedit, et est contra Ecclesiae totius praxim, et* cap. 29. num. 29. *ex natura dominationis colligit potestatem irritandi directe in regula data* cap. 26. num. 4.

Question XIV: On the power of religious prelates to annul vows

1 *D. Thom. art 8.*

De potestate Religiosorum Praelatorum ad VOTA irritanda.

D. Thom. art 8.

2 I suppose first that works promised by vote, to which they are subject, make a valid vote without the leave of the Prior. Therefore *cap. monacho, 20. num. 4.* it is not said that votes of this kind are invalid, but to be broken, that is, to be annulled; which reasoning holds also of others, for since that matter is in no way interdicted, and is good and apt for being emitted by vote, and as long as it is not interdicted is within the power of the one vowing; it follows that those votes are licit and obligatory, until they are interdicted by a superior. So the Canonists commonly judge in *cap. scriptura, et* twenty-six Theologists, whom Sanchez alleges and follows, *lib. 4. cap. 25. num. 6.* with D. Bonaventura *in 4. dist. 38. art. 1. et in corpore,* where he says that these can vow nothing that is stable against the will of the prior to which they are subject.

Suppono primo, opera voto promissa, quibus subiiciuntur; absque licentia Praelati, validum votum facere. Ideo cap. monacho, 20. num. 4. *non dicitur vota huiusmodi esse irrita, sed frangenda, idest irritanda, quae ratio de aliis etiam militat, nam cum ea materia nullo pacto sit interdicta, et sit bona, et apta voto emittendo, et quamdiu non interdicitur, sita sit in voventis potestate; sequitur, ea vota esse licita, et obligate, quousque interdicantur a superiore. Ita censent communiter Canonistae in* cap. scriptura, et *viginti sex Theologi, quos allegat et sequitur Sanchez* lib. 4. cap. 25.

num. 6. *cum D. Bonaventura* in 4. dist. 38. art. 1. et in corpore*, ubi ait, nil posse hos vovere, quod sit stabile ex his, quibus subduntur voluntati praelati.*

3 ¶ But if the matter be interdicted; and the promise has not fallen upon the formal aspect of the prohibition, which would be illicit, as for example a pilgrimage toward Jerusalem, it will begin to be valid with the consent of the prior acceding. So very many of the above-indicated Doctors.

¶ Quod si materia sit interdicta; nec super formale vetiti ceciderit promissio, quae esset illicita, ut v. g. peregrinatio versus Hierosolymam, incipiet valere accedente consensu praelati. Ita plurimi e supra indicatis Doctoribus.

4 I suppose secondly, on the contrary, that a Prior, who has given leave to a subject to vow something, can revoke the leave while he has not yet vowed, because no right has been acquired. So D. Bonavent. *in 4. dist. 32. dubio 4. littera*, and others whom Sanchez follows, *lib. 4. cap. 17. num. 1.*

Suppono secundo e contra, Praelatum, qui vovendi aliquid licentiam dedit subdito, posse revocare licentiam, dum adhuc non vovit, quia nullum ius est acquisitum. Ita D. Bonavent. in 4. dist. 32. dubio 4. littera*, et alii quos sequitur Sanchez* lib. 4. cap. 17. num. 1.

5 The first question is: Whether he can revoke his leave after the vote has been emitted, yet not yet committed to execution; and annul it.

Quaestio prima est: An possit suam revocare licentiam postquam votum est emissum, nondum tamen exequutioni mandatum; et illud irritare.

6 *The first opinion* is negative. So Richardus *in 4. dist. 38. art. 4. quaest. 3.*

Prima opinio *est negatiua. Ita Richardus* in 4. dist. 38. art. 4. quaest. 3.

7 Yet it is commonly conceded by nineteen Doctors, whom Sanchez alleges and follows *loco cit. num. 9.* The same concerning the votes of a wife others assert, in the same author.

Communiter tamen conceditur a decem, et novem Doctoribus, quos allegat, et sequitur Sanchez loco cit. num. 9. *Idem de votis uxoris asserunt alii, apud eundem.*

8 I assert the affirmative with this opinion, which is the common one, as Bassaeus says, *V. Votum 4. num. 8.*

Assero affirmative cum hac sententia, quae est communis, ut ait Bassaeus V. Votum 4. num. 8.

9 *It is proved* by Sanchez. The religious is bound to the prior by a similar or stricter bond than the wife to the husband. So also D. Bonavent. *in 4. dist. 32. in dubio litt.* assimilates these bonds to each other: but the husband can revoke the votes which the wife emitted by his leave: *Therefore.* The minor is proved by D. Bonavent. *ibi dubio 3. ex cap. 30. Numer. If the husband hearing her held his peace, and deferred sentence to another day: whatever she had vowed and promised, she shall render; but if he contradicted her after he knew of it, he shall bear her iniquity.* Where, although Scripture does not say that the wife is immune from fault while, her husband contradicting, she does not keep the vote; yet it silently signifies this, while it says that the fault of the wife falls back upon the husband; and thus D. Augustinus understands this passage, *lib. 4. quaest. 59. in Numer.* as D. Bonavent. reports, and it is reported *cap. Manifestum, 33. quaest. 5. et* by D. Ambrosio *lib. de paradiso, cap. 10. et* it is reported *cap. fini. 33. quaest. 5. et* the Gloss *ord. on the same passage of Numer.* and there Hugo litt K. and many others related by Sanchez *lib. 9. de matrimonio, disput. 40. num. 41.* take it up again.

Probatur *a Sanchez. Simili vinculo aut strictiore tenetur religiosus praelato, quam uxor viro. Sic etiam D. Bonavent.* in 4. dist. 32. in dubio litt. *haec vincula inter se assimilat: sed potest maritus revocare vota, quae ex sua licentia uxor emisit:* Ergo. *Minor probatur a D. Bonavent.* ibi dubio 3. ex cap. 30. Numer. Si audiens vir tacuerit, et in alteram diem distulerit sententiam: quidquid voverat, atque promiserat, reddet; si autem contradixerit postquam rescivit, portabit ipse iniquitatem eius. *Ubi, licet non dicat scriptura, uxorem esse a culpa immunem, dum viro contradicente non servat votum; at tacite id significat, dum ait, culpam uxoris redundare in virum, et ita intelligunt hunc locum D. Augustinus* lib. 4. quaest. 59. in Numer. *ut refert D. Bonavent. et refertur* cap. Manifestum, 33. quaest. 5. et *a D. Ambrosio* lib. de paradiso, cap. 10. et *refertur* cap. fini. 33. quaest. 5. et *Gloss.* ord. in eundem locum Numer. et *ibi Hugo litt K. et multi alii relati a Sanchez* lib. 9. de matrimonio, disput. 40. num. 41. *id reficiant.*

10 That this is, however, a perfect irritation, so that the votes never revive, is the reason of D. Bonavent. *in 4. dist. 32. dub. 3.* because he who has the right of annulling votes does not renounce it by granting the faculty of vowing: Therefore he retains the power of annulling as Master. The antecedent is proved, because the reconsideration can conduce to the common good, or that of the subject; but the Prior on account of his prior will did not renounce his power ordered to the good of the religion, or of his subject: Therefore he can afterwards reconsider. Thus it is proved also by Sanchez *cap. 27. num. 9.* Therefore so judge Sanchez *num. 19.* Caietanus *2. 2. quaest. 88. art. 8. dub. penult.* Sotus *lib. 3. de iustitia, quaest. 3. art. 1.* Manuel 3. *Tomo summae, cap. 90. et* others. Sanchez, however, *lib. 4. cap. 27. num. 32. ex loco adducto Numer. 32.* — where it is said that the iniquity of not executing the vote, emitted by the wife from the leave of the husband, concerning some abstinence, falls back upon the man — infers that he who without cause annuls a vote emitted by his own legitimate leave sins mortally: for that is called iniquity, which is not said of the venial, nor is it called the iniquity of transgression of the vote, which is mortal. He brings forward Caietanum *2. 2. quaest. 88. art. 8. dub. 2.* Nauar. *summa, cap. 12. num. 73.* Sayrum *lib. 6. cap. 10. num. 12.* Anglem *2. part. quaest. unica de voto, art. 7.* Aragon. *2. 2. quaest. 88. art. 8. post 6. concl.* Lopez *p. p. Instruct. cap. 48.* Manuelem *2. Tomo summae, cap. 89.* Llamam *in methodo, curat. 3. part. cap. 4. § 43.* Corradum *in resp. p. p. quaest. 303.* Petrum de Ledesma *2. Tomo summae, tract. 10. cap. 7. dub. 2.* The reason is, because by granting the leave, he confers that thing on God: Therefore by taking it away, he does injury, and is sacrilegious.

Hanc autem esse irritationem perfectam, ut vota nunquam revivicscant, ratio est D. Bonavent. in 4. dist. 32. dub. 3. *quia is, qui habet ius irritandi vota, non renunciat illud, concedens facultatem illam vovendi: Ergo tanquam Dominos retinet potestatem irritandi. Antecedens probatur, quia potest ad bonum commune, aut subditi, conducere illa retractatio; at Praelatus ob priorem voluntatem non renunciavit suae potestati ordinatae ad bonum religionis, vel sui subditi: Ergo potest postea retractare. Ita probatur etiam a Sanchez* cap. 27. num. 9. *Ideo id sentiunt Sanchez* num. 19. *Caietanus* 2. 2. quaest. 88. art. 8. dub. penult. *Sotus* lib. 3. de iustitia, quaest. 3. art. 1. *Manuel 3.* Tomo summae, cap. 90. et *alii. Sanchez autem* lib. 4. cap. 27. num. 32. ex loco adducto Numer. 32. *ubi dicitur, iniquitatem non exequendi votum, ex licentia mariti emissum ab uxore de aliqua abstinentia, redundare in virum, deducit, eum, qui absque causa irritat votum, editum e sua licentia legitima, peccare mortaliter: haec enim dicitur iniquitas, quae de veniali non dicitur, neque dicitur iniquitas transgressionis voti, quae mortalis est. Adducit Caietanum* 2. 2. quaest. 88. art. 8. dub. 2. *Nauar.* summa, cap. 12. num. 73. *Sayrum* lib. 6. cap. 10. num. 12. *Anglem* 2. part. quaest. unica de voto, art. 7. *Aragon.* 2. 2. quaest. 88. art. 8. post 6. concl. *Lopez* p. p. Instruct. cap. 48. *Manuelem* 2. Tomo summae, cap. 89. *Llamam* in methodo, curat. 3. part. cap. 4. § 43. *Corradum* in resp. p. p. quaest. 303. *Petrum de Ledesma* 2. Tomo summae, tract. 10. cap. 7. dub. 2. *Ratio est, quia dans licentiam, confert rem illam Deo: Ergo auferendo, iniurius est, et sacrilegus.*

11 D. Bonaventura *eo dubio 3. dist. 32.* does not seem to press that reconsideration by the husband, (reported cap. 30. Numer.) which Suarez answers is called iniquity materially, which is the non-observance of the vote emitted by the woman: Bassaeus inclines to it, *num. 9. et* the reason is because he uses his right, and the vote taken away, the obligation ceases.

> *D. Bonaventura* eo dubio 3. dist. 32. non videtur premere eam viri, (relati cap. 30. Numer.) *retractationem, quam Suarez respondet vocari iniquitatem materialiter, quae est non observantia voti, a muliere emissi: Inclinat Bassaeus* num. 9. et *ratio est quia utitur iure suo, et ablato voto, cessat obligatio.*

12 Yet this answer does not please Sanchez, because sufficiently improperly would non-observance, which is not transgression and fault, be called iniquity.

> *Haec tamen responsio non placet Sanchez, quia satis improprie non observantia, quae non est transgressio, et culpa, diceretur iniquitas.*

13 It is answered, however, that under the name of iniquities venial sins are also included, in which sense *cap. 18.* he had said to Aaron: *Thou and thy sons shall bear the iniquity of the Sanctuary*, where Origenes renders from the ancient text: *the iniquities of the saints*; nor does the Prior cooperate with the one vowing in the capacity of one vowing; otherwise, by relaxing, he would be bound to fulfill the vote, according to that *Psalm. 75. Vow, and render*, which Sanchez in no way concedes, *cap. 27. num. 33.* Therefore I say with Suarez, that it is venial; and the same Diana asserts, *Parte 4. Tract. 4. resol. 110.* Yet the reason of Bassaeus begs the principle.

> *Respondetur tamen, nomine iniquitatum includi etiam venialia, quo sensu* cap. 18. *dixerat Aaroni:* Tu, et filii tui portabitis iniquitatem Sanctuarii, *ubi Origenes ex antiquo reddit:* iniquitates sanctorum, *neque cooperatur Praelatus voventi in ratione voventis; alioqui relaxans, teneretur votum implere, iuxta id* Psalm. 75. Vouete, et reddite, *quod nullatenus concedit Sanchez* cap. 27. num. 33. *Ideo dico cum Suarez, esse veniale; et idem asserit Diana* Parte 4. Tract. 4. resol. 110. *Ratio tamen Bassaei petit principium.*

14 Some difficulties, however, must be solved.

> *Difficultates autem aliquae solvendae sunt.*

15 The first is: Whether the prior of religious can annul the vote of a subject of passing over to a stricter religion.

> *Prima est: An religiosi praelatus possit irritare votum subditi transeundi ad strictiorem religionem.*

16 It is answered that it is denied ex *cap. licet, de regular.* where the Canonical law gives the faculty of this passing over, the faculty sought, though not obtained; for in the profession, by which the subject hands over his will to the prior, this is excluded. So Sanchez *lib. 4. cap. 32. n. 2.* asserting with himself eighteen Doctors. It is almost the common opinion, as Bassaeus says, *V. Votum 5. num. 8.*

> *Respondetur, negari ex* cap. licet, de regular. *ubi ius Canonicum dat facultatem huius transitus, facultate petita, licet non obtenta; In professione enim, qua subditus tradit suam voluntatem praelato excludit hoc. Ita Sanchez* lib. 4. cap. 32. n. 2. *secum asserens decem, et octo Doctores. Est fere communis sententia, ut ait Bassaeus* V. Votum 5. num. 8.

17 The second is: Whether Priors can annul the other votes.

> *Secunda est: An caetera vota possint Praelati irritare.*

18 Sanchez answers *loco cit.* that they can, except the votes which pertain to religion; for this irritation implies an impliedness, and except those which are annexed to them, such as the Lenten abstinence in the religion of the Minims. It is the common sense of the Theologists in Suarez *lib. 6. cap. 8.* Fillluc. *tract. 26. num. 245.* Navar. *cap. 12. num. 73.* Reginaldus *lib. 18. num. 304.* and Bassaeum *num. 9.*

> *Respondet Sanchez* loco cit. *posse, exceptis votis, quae ad religionem spectant; haec enim irritatio dicit implicantiam, et exceptis his, quae adnectuntur illis, qualis est in Minimorum religione abstinentia quadragesimalis. Est communis Theologorum sensus apud Suarez* lib. 6. cap. 8. *Fillluc.* tract. 26. num. 245. *Navar.* cap. 12. num. 73. *Reginaldus* lib. 18. num. 304. *et Bassaeum* num. 9.

19 The third difficulty is; whether the Prior can annul the vote of a subject of avoiding some sin.

> *Tertia difficultas est; an possit Praelatus irritare votum subditi de aliquo peccato vitando.*

20 The first opinion is negative, because in those things which pertain to not offending God, the Prior has no power, to whom he is not bound to obey; even in the religion of the Minors of the strictest obedience, in those things which are against God, as we have *cap. 10. regula.* So many hold, in Sanchez.

> *Prima opinio est negativa, quia in his quae spectant ad non offendendum Deum, nil habet potestatis Praelatus, cui non tenetur obedire; etiam in religione strictissimae obedientiae Minorum, in his, quae sunt contra Deum, ut habetur* cap. 10. regula. *Ita tenent multi apud Sanchez.*

21 Yet the opposite opinion is that he can. So D. Thom. *2. 2. quaest. 88. art. 8. ad 3.* and *in 4. dist. 38. q. 1. art. 1. quaestiuncula ultima, ad 3.* whom twenty-five Doctors follow, whom Sanchez reports and follows, *cap. 33. num. 7.*

> *Opposita tamen sententia est posse. Ita D. Thom.* 2. 2. quaest. 88. art. 8. ad 3. *et* in 4. dist. 38. q. 1. art. 1. quaestiuncula ultima, ad 3. *quem sequuntur vigintiquinque Doctores, quos refert, et sequitur Sanchez* cap. 33. num. 7.

22 The reason is because although the religious is not subject to the prior as regards that matter of the precept of not stealing, etc., yet he is subject as regards a new obligation; nor is anything against God while the Prior permits his subject to keep the precept of not stealing, though he takes away the new obligation. But that all priors, even lesser ones, indeed even among women Prioresses, can do this, Sanchez shows *loco citato.*

> *Ratio est quia licet non subdatur religiosus praelato quo ad illam materiam praecepti de non furando, etc. subditur tamen quo ad novam obligationem; neque aliquid est contra Deum, dum Praelatus sinit eum subditum servare praeceptum non furandi, licet auferat novam obligationem. Hoc autem posse omnes praelatos etiam minores, imo etiam inter foeminas Priorissas ostendit Sanchez* loco citato.

23 Of these things Fagundez treats at length *in secundum praeceptum Decalogi, lib. 2. a capite 34.*

> *De his late agit Fagundez* in secundum praeceptum Decalogi, lib. 2. a capite 34.

Question XV: Whether a husband can annul all the vows of his wife, beyond the vow of chastity

1 (D. Thom. art 8.

> *(D. Thom. art 8.*

[2] The foundation of the difficulty is, whether the wife is subject to her husband only with respect to the promised matter, and consequently only vows concerning the matter, as prejudicing marriage in its very nature as marriage, are in the husband's power; or whether she is subject to her husband also with respect to the entire act of the will, whereby she vows; and consequently the husband can nullify whatever vow of his wife's, as emitted by a will that is not mistress of itself.

> *Fundamentum difficultatis est, an uxor subdatur viro solum quo ad materiam promissam, atque adeo sola vota de materia, praeiudicanti coniugio in ratione coniugii, sint in potestate viri; an vero subdatur viro etiam quo ad totam rationem voluntatis, qua vouet; atque adeo vir possit quodcumque votum uxoris irritare, quippe emissum a voluntate non sui domina.*

[3] The first opinion is, that the wife is subject to her husband by reason of the promised matter alone, and accordingly the husband can nullify only vows prejudicial to himself and to domestic governance. So Abbas *cap. litteras, n. 27. Innocentius cap. scriptura de voto*, where Hostiensis, Ioan. Andr. *num. 4.* Anton. *num. 3.* Cardinal *quaest. 14.* Anchas. *num. 13.* Hugo *cap. manifestum, 33. quaest. 5.* Vincentius *speculo doctrinali, tom. 2. lib. 9. cap. 86.* Turrecremata *dicto cap. manifestum, num. 2. et cap. sunt quaedam 17. quaest. 1. num. 9.* Cacthus. *ad cap. 10.* Numner. D. Antonin. *3. part. tit. 1. cap. 21. §. 1.* Angel. *V. votum 2. num. 8.* Sylvester *V. votum 5. quaest. 1.* Tabiena *V. matrimonium 1. quaest. 2. §. 4.* Mayronus *4. dist. 38. particula 1. concl. 1.* Monaldus *summa, Tract. de voto, tit. de voto coniugatorum*, Nauar. *summa, cap. 11. num. 64.* Margarita confess. *fol. 155.* Palac. *4. dist. 38. disp. 3. fol. 987.* Valentia *2. 2. disp. 6. quaest. 6. puncto 6.* Lopez *p. p. Instruct. cap. 47. §. ultimo*, Graff. *101 p. p. decis. lib. 2. cap. 29 n. 8. et part. 2. lib. 2. cap. 2. numero 43.* Vivaldus Candelabro, *sacram. 3. part. cap. 14. num. 100.* Philiarc. *de offic. sacerd. tom. 1. part. 2. lib. 3. cap. 18.* Ioan. Hesssel. *in expositione, Decal. cap. 14. de secundo praecepto Ecclesiae.* Azor. *lib. 11. Inst. cap. 17. quaestio 12. et cap. 16. quaestio ultimo*, Lessius *lib. 2. de iustitia, cap. 40. disp. 10. num. 83.* Sayrus *in clavi, reg. lib. 6. cap. 5. num. 8. et cap. 10. num. 19.* Llamas *methodo curationis 3. part. cap. 4. §. 23.* Suarez *Tom. 2. de religione, Tract. de voto, lib. 3. cap. 6. num. 26. et lib. 6. cap. 4. num. 2. et alii* apud Basilium Poncium *de matrimonio, lib. 10. cap. 17.* and Dianam *loco citando.* Sylvius *quaest. 88. art. 8.* Rodriguez *cap. 92.* Fillucius *tract. 16. num. 235.* and Bassaeus *V. Votum 5. n. 5.*

> *Prima opinio est, uxorem ratione solius materiae promissae subdi viro, ac proinde virum sola vota praeiudicantia sibi, et domesticae gubernationi, posse irrita reddere. Ita Abbas* cap. litteras, n. 27. Innocentius cap. scriptura de voto, *ubi Hostiensis, Ioan. Andr.* num. 4. *Anton.* num. 3. *Cardinal* quaest. 14. *Anchas.* num. 13. *Hugo* cap. manifestum, 33. quaest. 5. *Vincentius* speculo doctrinali, tom. 2. lib. 9. cap. 86. *Turrecremata* dicto cap. manifestum, num. 2. et cap. sunt quaedam 17. quaest. 1. num. 9. *Cacthus.* ad cap. 10. *Numner. D. Antonin.* 3. part. tit. 1. cap. 21. §. 1. *Angel.* V. votum 2. num. 8. *Sylvester* V. votum 5. quaest. 1. *Tabiena* V. matrimonium 1. quaest. 2. §. 4. *Mayronus* 4. dist. 38. particula 1. concl. 1. *Monaldus* summa, Tract. de voto, tit. de voto coniugatorum, *Nauar.* summa, cap. 11. num. 64. *Margarita confess.* fol. 155. *Palac.* 4. dist. 38. disp. 3. fol. 987. *Valentia* 2. 2. disp. 6. quaest. 6. puncto 6. *Lopez* p. p. Instruct. cap. 47. §. ultimo, *Graff.* 101 p. p. decis. lib. 2. cap. 29 n. 8. et part. 2. lib. 2. cap. 2. numero 43. *Vivaldus Candelabro,* sacram. 3. part. cap. 14. num. 100. *Philiarc.* de offic. sacerd. tom. 1. part. 2. lib. 3. cap. 18. *Ioan. Hesssel.* in expositione, Decal. cap. 14. de secundo praecepto Ecclesiae. *Azor.* lib. 11. Inst. cap. 17. quaestio 12. et cap. 16. quaestio ultimo, *Lessius* lib. 2. de iustitia, cap. 40. disp. 10. num. 83. *Sayrus* in clavi, reg. lib. 6. cap. 5. num. 8. et cap. 10. num. 19. *Llamas* methodo curationis 3. part. cap. 4. §. 23. *Suarez* Tom. 2. de religione, Tract. de voto, lib. 3. cap. 6. num. 26. et lib. 6. cap. 4. num. 2. et alii *apud Basilium Poncium* de matrimonio, lib. 10. cap. 17. *et Dianam* loco citando. *Sylvius* quaest. 88. art. 8. *Rodriguez* cap. 92. *Fillucius* tract. 16. num. 235. *et Bassaeus* V. Votum 5. n. 5.

[4] The other opinion asserts the direct opposite: that the woman is subject to her husband even with respect to her very will; and consequently he can nullify all his wife's vows, once they have been emitted while the marriage stands, to be fulfilled thereafter, if they were made without his leave. So D. Thom. *2. 2. quaest. 88. art. 8. ad 3.* Gloss. *cap. manifestum, V. nisi author; ibi* Gratianus, *§. ex promissis,* Gloss. *ordin. et Hugo ad 33. Numner.* Durandus *in 4. dist. 38. quaest. 1. art. 1. num. 7.* and, excluding only the vow of moderate almsgiving, the same authors teach about the rest: Abbas *cap. scripturae, num 8. de voto,* Paludanus *4. dist. 38. quaest. 3. art. 1. concl. 6. num. 10.* Abulens. *quaest. 84. ad 30. Numer.* Rosella *verb. votum, num. 8. et 10.* supplem. Gabr. *4. dist. 31. quaest. unica, art. 2. concl. 7.* and that he can nullify all *except a vow concerning necessary things,* as on not lying Angles holds *flor. 2. part. quaest. de voto, art. 7. diffic. 9.* Finally this opinion is held by Maior *4. dist. 38. quaest. 4. dub. 2.* Sotus *lib. 7. de iustitia, quaest. 3. art. 1.* Brunellus *de sponsal. concl. 30. num. 14.* Alcozer *summa, cap. 16. fol 56. pag. 2.* Stunica *de voto, quaest. 3. num. 74.* Manuel *2. Tomo summae, cap. 90. num. 9.* Aragon. *2. 2. quaest. 88. art. 8. fol. 1020.* Sà *V. votum, ubi de voti irritatione, §. 1.* Petros Ledesma *de matrim. quaest. 64. art. 4. dub. 2. concl. 1.* Vega *2. Tomo summae, cap. 129. casu 93. et 94.* and Lessius and Lopez assert it safe and probable, though made of necessary things, as of not lying. So Sotus, Stunica, Aragon, Manuel, Vega, and Ledesma cited, whom Sanchez reports and follows *lib. 9. de matrim. disp. 39. et lib. 4. Decal. cap. 34. et* Diana *part. 2. Tract. 4. resol. 220.* holding that the husband can nullify even vows of chastity, emitted while the marriage stands, where he cites others.

> *Altera sententia e diametro asserit, mulierem subdi viro, etiam quo ad ipsam voluntatem; atque adeo posse eum omnia uxoris vota irritare, constante matrimonio emissa, pro tunc implenda, si absque eius licentia facta sint. Ita D. Thom.* 2. 2. quaest. 88. art. 8. ad 3. *Gloss.* cap. manifestum, V. nisi author; ibi *Gratianus, §.* ex promissis, *Gloss.* ordin. et Hugo ad 33. Numner. *Durandus* in 4. dist. 38. quaest. 1. art. 1. num. 7. *et excludendo solum votum moderatae eleëmosynae, de caeteris idem docent Abbas* cap. scripturae, num 8. de voto, *Paludanus* 4. dist. 38. quaest. 3. art. 1. concl. 6. num. 10. *Abulens.* quaest. 84. ad 30. Numer. *Rosella* verb. votum, num. 8. et 10. *supplem. Gabr.* 4. dist. 31. quaest. unica, art. 2. concl. 7. *et posse omnia* excepto voto de rebus necessariis, *ut de non mentiendo tenet Angles* flor. 2. part. quaest. de voto, art. 7. diffic. 9. *Denique hanc sententiam tenet Maior* 4. dist. 38. quaest. 4. dub. 2. *Sotus* lib. 7. de iustitia, quaest. 3. art. 1. *Brunellus* de sponsal. concl. 30. num. 14. *Alcozer* summa, cap. 16. fol 56. pag. 2. *Stunica* de voto, quaest. 3. num. 74. *Manuel* 2. Tomo summae, cap. 90. num. 9. *Aragon.* 2. 2. quaest. 88. art. 8. fol. 1020. *Sà* V. votum, ubi de voti irritatione, §. 1. *Petros Ledesma* de matrim. quaest. 64. art. 4. dub. 2. concl. 1. *Vega* 2. Tomo summae, cap. 129. casu 93. et 94. *et eam tutam, et probabilem asserit Lessius, et Lopez, pro sententia priori adductus, licet sit de rebus necessariis, ut de non mentiendo. Ita Sotus, Stunica, Aragon, Manuel, Vega, et Ledesma cit. quos refert et sequitur Sanchez* lib. 9. de matrim. disp. 39. et lib. 4. Decal. cap. 34. et *Diana* part. 2. Tract. 4. resol. 220. *volens eum posse irritare vota etiam castitatis, edita constante matrimonio, ubi alios citat.*

[5] This is the chief opinion of S. Bonaventure, as Sanchez notes, for *in 4. disp. 22. dub. 3. littera,* he says the husband cannot nullify his wife's vow of continence, because in this they are equals; and he immediately adds: *Nor is it the same with a vow of abstinence, because in all else the husband is above the wife, except in the law of the bed, in which they are equals.* The same he holds *disp. 38. quaest. 3.* The same author Fagundez cites and follows *in 2. praecepto, lib. 2. cap. 38.* adducing many others.

> *Haec est S. Bonaventurae praecipua sententia, ut notat Sanchez, nam* in 4. disp. 22. dub. 3. littera, *ait, virum non posse irritare votum continentiae uxoris, eo quod in hoc sint pares; et statim subdit:* Nec est simile de voto abstinentiae, pro eo quod quantum ad omnia praeest vir uxori, praeterquam in lege thori, in qua sunt

aequales. *Idem tenet* disp. 38. quaest. 3. *eundem citat, et sequitur Fagundez* in 2. praecepto, lib. 2. cap. 38. *multos alios allegans.*

6 I ASSERT therefore, with this opinion, that the husband can nullify all his wife's vows, emitted without his leave in the manner said above.

ASSERO igitur cum hac sententia, posse maritum irritare omnia uxoris suae vota, absque licentia ipsius modo supra dicto emissa.

7 ¶ IT IS PROVED by D. Bonavent. LL. CC. first from cap. 30. Numer. *If she have a husband, and vow something, if the husband hearing it immediately contradicts, and nullifies her promises: the Lord will be merciful to him. If the wife in her husband's house bind herself by a vow, if the husband hears it and keeps silent, and does not contradict the compact, she shall render whatever she promised; but if he contradict it forthwith, she shall not be bound by the guilt of the promise,* from which text S. Bonavent. deduces this of every vow bearing upon the governance of life. So read the LXX. Vatablus, and Pagninus, not indeed of every vow, including also the vow of chastity, as I shall show in the following question; but of a vow bearing upon abstinence, or religious conversation, as D. Ambrose expounds in the book de Paradiso, cap. 10. and it is reported in the final chapter cap. 33. quaest. 5. there most evidently. Hence it appears, that the husband is so the head of the woman, that she may not offer to God any vows of abstinence, or of religious conversation, without his leave; and the reasoning of D. Bonavent. which his followers use, and which Sanchez brings forth num. 4. is that, although with respect to the conjugal act husband and wife are equals; yet in all else: *the husband is the head of the woman,* Ephes. 5. *And the woman is under the power of the husband,* Genes. 3. but all the actions of the body are subject to the head, and governed by it. Whence it follows that it belongs to the husband to govern the woman, lest she vow imprudently. Wherefore *God subjected her will to her husband,* because the woman is prone to vow.

¶ *PROBATUR a D. Bonavent. LL. CC. primo ex cap. 30. Numer.* Si maritum babuerit, et voverit aliquid, si audiens vir statim contradixerit, et irritas fecerit pollicitationes eius: propitius erit ei Dominus. Uxor in domo viri cum se voto constrinxerit, si audierit vir, et tacuerit, nec contradixerit sponsioni, reddet quodcumque promiserat; sin autem exemplo contradixerit, non tenebitur promissionis rea, *ex quo textu S. Bonavent. deducit id de omni voto spectante ad regimen vitae. Ita legunt LXX. Vatablus, et Pagninus, non quidem de omni, includendo etiam votum castitatis, ut mox quaestione sequenti ostendam; sed de voto spectante ad abstinentiam, aut religiosam conversationem, ut exponit D. Ambrosius lib. de Paradiso, cap. 10. et refertur cap. finali 33. quaest. 5. ibi evidentissime. Itaque apparet, ita virom esse caput mulieris, ut nulla vota abstinentiae, vel religiosae conversationis liceat sibi sine eius licentia Deo offerre; et ratio D. Bonavent. qua utuntur posteri, est, quamque affert Sanchez num. 4. quia, quamvis quo ad actum coniugalem vir, et uxor pares sint; in caeteris tamen:* vir est caput mulieris, *Ephes. 5.* Et mulier sub viri potestate est, *Genes. 3. omnes autem actiones corporis subduntur capiti, ab eoque gubernantur. Unde fit, ut viri sit gubernare mulierem, ne imprudenter voveat. Quare subdidit* Deus voluntatem eius viro, *quia mulier levis est ad vovendum.*

8 ¶ INDEED the second text speaks of the vow of abstinence alone, not of every vow universally, as Sanchez holds num. 4. nor does D. Augustine, alleged by him, interpret it universally (as he himself says), but of the vow of abstinence alone, as D. Bonav. notes in the same dist. 32. For thus D. Augustine speaks in lib. 4. in Numer. quaest. 59. and it is reported cap. noluit 33. quaest. 5. there: *The law therefore did not will that the woman vow anything, so that in some abstinence from things lawful the authority in those vows should be that of the woman, but of the man,* and cap. manifestum, the same quaest. 5. *which is D. Augustine's: it is manifest that the law willed the woman to be under the husband, in such wise that*

none of her vows, which she shall have vowed for the cause of abstinence, be rendered by her, unless the husband has been the author by permitting.

> ¶ *SANE secundus textus loquitur de solo abstinentiae voto, non de omni universaliter, ut vult Sanchez num. 4. neque D. Augustinus, ab eo allegatus, universaliter (ut ipse ait) interpretatur, sed de solo abstinentiae voto, ut notat D. Bonav. ca dist. 32. Sic enim loquitur D. Augustinus lib. 4. in Numer. quaest. 59. et refertur cap. noluit 33. quaest. 5. ibi:* Noluit itaque lex mulierem aliquid vovere, ut non in aliqua rerum licitarum abstinentia in eisdem votis foemina valeat authoritas, sed virilis, *et cap. manifestum, eadem quaest. 5.* quod est D. Augustini: manifestum est ita voluisse legem, foeminam sub viro esse, ut nulla eius vota, quae abstinentiae causa voverit, reddantur ab ea, nisi auctor vir fuerit permittendo.

9 ¶ WHERE you are to note, that the end is the interpreter of the law: since therefore (says S. Augustine) God did not will that in abstinences from things lawful the woman should be the one to authorize, he willed to ordain that the vows of women be nullifiable by their husbands; supply, in that genus, as is shown more evidently in the later passage.

> ¶ *UBI advertas, finem esse interpretem legis: quia ergo (ait S. Augustinus) noluit Deus, ut in abstinentiis a rebus licitis niteremur foeminae authorizare, voluit sancire vota foeminarum a viris irritabilia; supple in eo genere, ut in posteriori loco evidentius ostenditur.*

10 ¶ THEY OBJECT first; the will of the wife is subject to her husband only insofar as the law of matrimony extends; but it does not regard all things, but only those which are ordained to cohabitation in order to raising offspring, and to governing the house; why then is the will of the wife so subjected, when not even servants are subject to their masters, still less minors to their parents? For neither are sons subject to the Father in all things, as Abbas says cap. litterae, num. 27. de restit. spoliat.

> ¶ *OBIICIUNT primo; eatenus subditur voluntas uxoris viro, quatenus se extendit lex matrimonii; at ita non respicit omnia, sed ea sola, quae ad cohabitationem in ordine ad suscipiendam prolem, et domum regendam ordinata sunt, cur ergo voluntas uxoris ita subiectatur, cum neque ipsi servi dominis, nedum impuberes parentibus subiiciantur? Neque enim filii in omnibus Patri subduntur, ut ait Abbas cap. litterae, num. 27. de restit. spoliat.*

11 ¶ Sanchez answers num. 9. from the doctrine of D. Bonaventure in the places adduced, that the husband is above the woman in the whole governance of life, except the law of the bed, in which they are equals. Therefore the governance of life requires, that the woman, who is of a light disposition, especially for deliberating, not break beyond the limits of prudence; hence the husband, who is by nature more prudent, ought to assist.

> ¶ *RESPONDET Sanchez num. 9. ex doctrina D. Bonavent. locis adductis, virum in toto regimine vitae praeesse mulieri, excepta lege thori, in qua sunt aequales. Itaque ad regimen vitae conducit, ne foemina, quae levis indolis est, maxime ad deliberandum, extra prudentiae limites crumpat; ideo debet assistere vir, qui natura est prudentior.*

12 ¶ YOU OBJECT second. The prelate of a religion cannot nullify the vow of a subject concerning passing to a stricter religion; why therefore can the husband nullify the vows of his wife concerning perfection, or avoiding sin, since the religious is more subject to his prelate than the wife to her husband?

> ¶ *OBIICIES secundo. Praelatus religionis non potest irritare votum subditi de transitu ad arctiorem religionem; cur ergo potest maritus irritare vota uxoris de perfectione, vel de vitando peccato, cum magis subdatur religiosus praelato, quam uxor viro?*

13 ¶ Sanchez answers that the religious is here exempt by the laws, as also the pubescent son in the vow of religion; hence Innocentius says cap. scripturae, de voto, num. 3. and Antonius there, that the Father can nullify all personal vows of his son, except the vow of religion: but the wife is not exempt from the whole; because it conduces to the governance of life. And since the life of spouses ought to be in the greatest peace, and the greatest love, it was necessary that all those things be removed which could disturb this peace, such as the obligations of vows, to which women especially incline. Therefore in *Genes. 3.* it is said *to Eve: you shall be under the power of the husband; and he shall rule over you,* and the Apostle in *Ephes. 5. let women be subject to their husbands, as to the Lord: because the husband is the head of the woman: as Christ is the head of the Church; but as the Church is subject to Christ, so also let women be to their husbands in all things.* Where the last words are to be weighed, which bring the subjection of the wife to the husband in all things. Therefore as all the actions of the body in their governance are subject to the head, and governed by it; and as the Church is subject to Christ; so the wife to the husband in the whole governance of life, as S. Bonavent. most acutely gathers in 4. dist. 32. dub. 1. littera, and after him Sanchez lib. 4. Decal. cap. 34. num. 3. who proceeds thus: As the right governance of religion demands that the will of subjects be subject to the prelate in all added obligations, and this full subjection is not impeded by the fact that not all things can be commanded to subjects, but only those which are according to the rule; nor all things forbidden; so also the right and peaceful governance of the house demands the full subjection of the wife to the husband in all things, with respect to new obligations to be imposed upon herself, lest the peace and right governance be disturbed. Nor is this full subjection impeded by the fact that the husband cannot command, nor forbid all things. This is Sanchez, whereby his argument brought forward quaest. 11. at the end is sufficiently answered, whereby he was striving to prove that the religious is by his nature not subject with respect to the nullifying of vows, because he is not bound to obey in all things.

> ¶ *RESPONDet Sanchez, in hoc eximi religiosum per iura, sicut et filius puber in voto religionis; ideo ait Innocentius cap. scripturae, de voto, num. 3. et Antonius ibidem, Patrem posse irritare omnia vota personalia filii, excepto voto religionis: at uxor non eximitur a toto; eo quod ad regimen vitae conducit. Cum autem vita coniugum in maxima pace, et maximo amore esse debeat, oportuit, removeri ea omnia, quae possent hanc pacem perturbare, ut sunt votorum obligationes, ad quas praecipue foeminae propendunt. Ideo* Genes. 3. *dicitur* Evae: sub viri potestate eris; et ipse dominabitur tui, *et Apostolus ad* Ephes. 5. mulieres viris suis subditae sint, sicut Domino: quoniam vir caput est mulieris: sicut Christus caput est Ecclesiae; sed sicut Ecclesia subiecta est Christo, ita et mulieres viris suis in omnibus. *Ubi ponderanda sunt ultima verba, quae subiectionem uxoris viro afferunt in omnibus. Itaque sicut omnes actiones corporis in suo regimine subduntur capiti, ab eoque gubernantur; et sicut Ecclesia subiicitur Christo; ita uxor viro in toto regimine vitae, ut peracute colligit S. Bonavent. in 4. dist. 32. dub. 1. littera, et post eum Sanchez lib. 4. Decal. cap. 34. num. 3. qui ita progreditur: Sicut recta religionis gubernatio postulat, voluntatem subditorum subiici praelato in omnibus obligationibus additis, nec huic plenae subiectioni obstat, non posse omnia subditis praecipi, sed ea sola quae sunt secundum regulam; nec omnia interdicere; ita etiam recta, et pacifica gubernatio domus postulat plenam uxoris viro in omnibus subiectionem, quo ad obligationes novas sibi imponendas, ne perturbetur pax, et recta gubernatio. Nec huic plenae subiectioni obstat, virum non posse praecipere, nec interdicere omnia. Haec Sanchez, quibus satisfit eius argumento allato quaest. 11. in fine, quo nitebatur probare, religiosum ex natura sua non subdi quo ad votorum irritationem, quia non tenetur obedire in omnibus.*

14 For Sanchez answers here, as we have seen.

> *Respondet enim Sanchez hic, ut vidimus.*

15 ¶ IT IS BEFITTING, however, that this subjection of the woman be on account of her many burdens; whence *Numer. 30.* in the same way ordains that the vows of the girl in the house be nullified by the Father, as those of the wife by the husband, since the wife needs greater assistance of prudence for the governance of the house. The wife is therefore subject in these vows, except if they be legitimately divided by divorce on account of the fornication of one of them; for while it lasts neither can nullify the vows of the other. Therefore in the alleged *Numer. 30.* it is said: *The widow, and she that is repudiated, whatever they shall have vowed, they shall render.* Where Abulens. notes, and Sanchez lib. 5. de matrimonio, disp. 39. num. 8. that the widow, now released, and the repudiated are in an equal condition.

> ¶ *DECVIT autem haec subiectio mulieris ob eius multa onera, unde* Numer. 30. *eodem disponit modo irritanda a Patre vota puellae in domo, ac uxoris a viro, cum maiori assistentia prudentiae egear uxor ad domus regimen. Subditur ergo in his votis uxor, excipe si divortio dividantur legitime ob alterius fornicationem; nam eo durante neuter potest vota alterius irritare. Ideo* Numer. 30. *allegato, dicitur:* Vidua, et repudiata, quidquid voverint, reddent. *Ubi advertit Abulens. et Sanchez lib. 5. de matrimonio, disp. 39. num. 8. pari conditione positam viduam iam solutam, et repudiatam.*

16 ¶ IT IS CONFIRMED, that an adulterous spouse cannot nullify the vows of the innocent spouse, because he has forfeited the right, so that the innocent can enter religion against his will, as is had in cap. *Agathefa, 27. quaest. 2.* yet not before, and after the adultery has followed, because the innocent one has not yet declared that he wishes to use his right. Similarly neither can the innocent one, because while the divorce lasts, he yields his right. See Sanchez.

> ¶ *CONFIRMATUR, coniugem adulterum non posse irritare vota innocentis coniugis, quia ius amisit, ita ut possit eo invito religionem intrare, ut habetur cap.* Agathefa, 27. quaest. 2. *non tamen ante, et adulterio secuto, quia adhuc innocens non expressit, se velle iure suo uti. Similiter nec innocens potest, quia durante divortio, cedit iuri suo. Vide Sanchez.*

Question XVI: Whether a husband can annul a vow of chastity made by his wife without his permission while the marriage stands, and to be fulfilled then

1 It is CERTAIN, that a vow of the wife not to render the debt is null, because it is against the law of matrimony. The question therefore can only be, whether a vow not to seek the debt can be nullified by the husband.

> An possit vir irritare Votum Castitatis ab uxore emissum absque licentia, constante matrimonio, et pro tunc implendum.
>
> *CERTUM est, votum uxoris de non reddendo debito esse nullum, quia est contra legem matrimonii. Quaestio ergo esse potest solum, an votum de non petendo debito valeat a viro irritari.*

2 The FIRST opinion is affirmative. So D. Thom. *in 4. dist. 31. in expositione litterae, et ibi* Palud. *quaest. 2. art. 2. num. 17.* Ioan. de Friburgo *summa confessorum, lib. 1. tit. 8. quaest. 35.* Sotus *in 4. dist. 32. quaest. 1. art. 3. et lib. 7. de Iust. quaest. 3. art. 1.* Aragon. *2. 2. quaest. 88. art. 8. fol. 1021.* Nauar. *summa, cap. 12. num. 16.* Reginaldus *lib. 18. num. 304. et 312.* Stunica *de voto, quaest. 3. num. 59.* Guttier. *quaest. can. lib. 2. cap. 22. num. 49.* Philipp. *de offic. sacerd. tomo 1. part. 2. lib. 3. cap. 4.* Manuel *1. Tomo summae, cap. 243. num. 8. et 2. Tomo, cap. 90. num. 3.* Gomez *super Bullam Cruciata, clausula 10. num. 67.* Vega *1. Tomo summae, cap. 159. casu 12. et 93.* Sayrus *Claui reg. lib. 6. cap. 5. num. 13.* Sanchez *lib. 9. de matrim. disput.*

39. num. 10. et lib. 4. summa, cap. 34. num. 19. Diana *Parte 2. Tract. 4. resol. 220.* reporting others, Fagundez *lib. 2. Decal. cap. 37. et* Bassaeus *V. Votum 5. num. 6.*

> *PRIMA opinio est affirmativa. Ita D. Thom.* in 4. dist. 31. in expositione litterae, et ibi *Palud.* quaest. 2. art. 2. num. 17. *Ioan. de Friburgo* summa confessorum, lib. 1. tit. 8. quaest. 35. *Sotus* in 4. dist. 32. quaest. 1. art. 3. et lib. 7. de Iust. quaest. 3. art. 1. *Aragon.* 2. 2. quaest. 88. art. 8. fol. 1021. *Nauar.* summa, cap. 12. num. 16. *Reginaldus* lib. 18. num. 304. et 312. *Stunica* de voto, quaest. 3. num. 59. *Guttier.* quaest. can. lib. 2. cap. 22. num. 49. *Philipp.* de offic. sacerd. tomo 1. part. 2. lib. 3. cap. 4. *Manuel* 1. Tomo summae, cap. 243. num. 8. et 2. Tomo, cap. 90. num. 3. *Gomez* super Bullam Cruciata, clausula 10. num. 67. *Vega* 1. Tomo summae, cap. 159. casu 12. et 93. *Sayrus* Claui reg. lib. 6. cap. 5. num. 13. *Sanchez* lib. 9. de matrim. disput. 39. num. 10. et lib. 4. summa, cap. 34. num. 19. *Diana* Parte 2. Tract. 4. resol. 220. *alios referens, Fagundez* lib. 2. Decal. cap. 37. et *Bassaeus* V. Votum 5. num. 6.

3 The SECOND opinion is that of D. Bonauent. *in 4. dist. 32. dub. 3. litt.* whom the Gloss follows *cap. Manifestum 33. quaest. 5. where* Hugo, *and* Archidiac. at the end Hugo Cardinal. *Numer. 30. at the end Litt.* K. Vincentius *in speculo Doctrinali, tom. 2. lib. 9. cap. 86.* Palud. *in 4. dist. 38. quaest. 4. art. 2. concl. 5. num. 23.* where Mayro *concl. 2. part. 1.* Caietanus *summa, v. votum, cap. de conditionibus ex parte vouentis, et opusculis Tom. 1. tract. 31. septemdecim responsionum, resp. 14. dub. 4.* Sylvester *V. Votum, 4. quaest. 2. dicto 4.* Nauar. *summa, cap. 12. num. 64.* Ledersma *2. part. 4. quaest. 66. art. 4.* Palac. *4. dist. 32. dub. 2. fol. 717.* Angles. *flor. 2. part. quaest. de voto, art. 7. diffic. 9.* Petrus a Ledesma *de matrim. disp. 94. art. 4. dub. 1.* Valentia *2. 2. disp. 6. quaest. 6. de voto, puncto 6. quaest. ult. de votis subditorum,* Lopez *p. p. Instruct. cap. 47. at the end,* Ioannes Hesalis *in expositione Decal. 2. praecepto, cap. 14.* these being related, Sanchez *loc. cit. de matrimonio,* says, this denying opinion is sufficiently probable.

> *SECUNDA sententia est D. Bonauent.* in 4. dist. 32. dub. 3. litt. *quem sequuntur Gloss.* cap. Manifestum 33. quaest. 5. ubi *Hugo,* et *Archidiac. in fine Hugo Cardinal.* Numer. 30. in fine Litt. *K. Vincentius* in speculo Doctrinali, tom. 2. lib. 9. cap. 86. *Palud.* in 4. dist. 38. quaest. 4. art. 2. concl. 5. num. 23. *ubi Mayro* concl. 2. part. 1. *Caietanus* summa, v. votum, cap. de conditionibus ex parte vouentis, et opusculis Tom. 1. tract. 31. septemdecim responsionum, resp. 14. dub. 4. *Sylvester* V. Votum, 4. quaest. 2. dicto 4. *Nauar.* summa, cap. 12. num. 64. *Ledersma* 2. part. 4. quaest. 66. art. 4. *Palac.* 4. dist. 32. dub. 2. fol. 717. *Angles.* flor. 2. part. quaest. de voto, art. 7. diffic. 9. *Petrus a Ledesma* de matrim. disp. 94. art. 4. dub. 1. *Valentia* 2. 2. disp. 6. quaest. 6. de voto, puncto 6. quaest. ult. de votis subditorum, *Lopez* p. p. Instruct. cap. 47. fine, *Ioannes Hesalis* in expositione Decal. 2. praecepto, cap. 14. *quibus relatis Sanchez* loc. cit. de matrimonio, *ait, esse satis probabilem sententiam hanc negantem.*

4 I ASSERT with this opinion, that the vow not to seek the debt, emitted by the wife, cannot be nullified by the husband.

> *ASSERO cum hac sententia, non posse votum non petendi debitum ab uxore emissum, a marito irritari.*

5 IT IS PROVED from D. Bonauent. *in 4. dist. 32. dub. 1. et 3. litt.* The husband has no dominion over the wife with respect to the conjugal act, but with respect to it they are equals *cap. gaudemus, de diuort. et cap. si quis uxorem, 32. quaest. 1.*

> *PROBATUR a D. Bonauent.* in 4. dist. 32. dub. 1. et 3. litt. *Vir non habet dominium in uxorem quod ad actum coniugalem, sed quod ad eum sunt pares* cap. gaudemus, de diuort. et cap. si quis uxorem, 32. quaest. 1.

6 Sanchez answers *num. 12.* although the spouses are equals with respect to the obligation of rendering, and the liberty of not seeking, and so that matter is not subject to the husband; yet with

respect to that new obligation the wife is subject to her husband, as to her head, whose it is to direct her will, lest she act imprudently.

> *RESPONDET Sanchez* num. 12. *licet coniuges sint pares quod ad obligationem reddendi, et libertatem non petendi, et ita materia illa non sit viro subiecta; at quo ad illam nouam obligationem uxor subditur viro, tanquam capiti, cuius est eius voluntatem dirigere, ne imprudenter agat.*

7 BUT power must first be over the matter, upon which the will falls; therefore Sanchez instituted the questions above: Whether superiors can over the debt-matter only *v. g.* the husband over matter bearing upon matrimony, or also over the will.

> *AT potestas primo debet esse super materiam, super quam cadat voluntas, ideo enim supra quaestiones instituit Sanchez: An superiores possint solum in materiam debitam* v. g. *vir in materiam spectantem ad matrimonium, an etiam in voluntatem.*

8 That Sanchez holds especially *lib. 9. de matrimoniis*, For the will in relation to some matter is subject, nor is the will left to be moderated by the husband, since by right it is in this wholly subject to the wife herself, indeed by the nature of the thing, and by the force of the conjugal bond, from which the spouse is certainly bound to render to the one seeking, but the other may freely seek: And so the argument of Sanchez is also answered.

> *Id habet Sanchez praecipue* lib. 9. de matrimoniis, *Voluntas enim in ordine ad materiam aliquam subiicitur, neque moderanda relinquitur voluntas viro, cum a iure sit ipsi uxori in hoc integre subiecta, imo ex natura rei, et ex vi coniugii, ex quo coniux tenetur sane reddere petenti, at petere libere potest: Et sic respondetur etiam argumento Sanchez.*

9 HE OBJECTS second with that scripture *from 30. Numer. and* the exposition of D. Augustine.

> *OBIICIT secundo illam scripturam* ex 30. Numer. et *expositionem D. Augustini.*

10 It is ANSWERED from what was said *quaest. praecedenti*, that the scripture speaks once of abstinence, and once of governance, outside the bed; nor does D. Augustine favor the adversaries, as I have shown.

> *RESPONDETUR ex dictis* quaest. praecedenti, *scripturam loqui semel de abstinentia, et semel de regimine, extra thorum; nec D. Augustinum adversariis fauere, ut ostendi.*

11 Sanchez URGES *ex Abbate cap. Carissimus, num. 5. de conuers. coniug.* that continence is comprehended under the name of abstinence *per cap. si tu abstines. 27. quaest. 1. there: if you abstain without the will of your wife, you grant her license to fornicate, etc.*

> *INSTAT Sanchez* ex Abbate cap. Carissimus, num. 5. de conuers. coniug. *nomine abstinentiae claudi continentiam* per cap. si tu abstines. 27. quaest. 1. ibi: si tu abstines sine uxoris voluntate, tribuis ei fornicandi licentiam, etc.

12 BUT these things are beside the point: For although sometimes the word *abstinet*, in matter subject to carnal copula, signifies also to abstain from it, as in the matter of homicide, and others, while the matter from which one abstains is being expounded; nevertheless it is a generic word, which by usage is usurped for, and appropriated to, abstinence from foods, and much more so if the matter of food, or fasting, be added, as is done *in that chapter.* Therefore the rule does not follow, that in other matters also it everywhere be extended to abstinence from carnal things, because it is a word signifying it improperly, that which is properly called Continence; and much less in the place *Num. 30. where there*

is talk of abstinence from foods; for it says: If she vow, that by fasting, or abstinence from other things she may afflict her soul, namely according to the law of the Nazarites, to abstain from wine etc. Thus D. Augustine expounds it, reported *quaest. praecedenti.* It is manifest therefore that the law willed the woman to be under the husband, in such wise that none of her vows, which she shall have vowed for the cause of abstinence, be rendered by her, unless the husband has been the author by permitting. But he says *which she shall have vowed for the cause of abstinence*, in distinction from the vow of continence, as Sanchez himself notes *num. 4.*

> *AT haec extra rem sunt: Nam licet aliquando verbum* abstinet*, in materia subiecta carnalis copulae significet etiam abstinere ab ea, sicuti in materia homicidii, et aliis, dum explicatur materia, a qua abstinetur; tamen verbum genericum est, quod ex usu pro abstinentia a cibis usurpatur, et ei appropriatur, et multo magis, si addatur materia cibi, aut ieiunii, ut ponitur* in cap. illo. *Itaque non sequitur regula, quod in aliis etiam materiis ubique extendatur ad abstinentiam a carnalibus, quia est verbum improprie illam significans, quae proprie dicitur Continentia; Eoque minus in loco* Num. 30. ubi de abstinentia a cibis est sermo; ait enim: Si vouerit, ut per ieiunium, vel caeterarum rerum abstinentiam affligat animam suam*, puta secundum legem Nazaraeorum, abstinere a vino etc. Sic exponit D. Augustinus, relatus* quaest. praecedenti. *Manifestum est itaque voluisse legem, faeminam sub viro esse, ut nulla eius vota, quae abstinentiae causa vouerit reddantur ab ea, nisi author vir fuerit permittendo. Dicit autem* quae abstinentiae causa vouerit*, ad distinctionem voti continentiae, ut notat ipse Sanchez* num. 4.

Question XVII: Whether a husband can annul the vows of his wife, made without his permission, to be fulfilled when the marriage has been dissolved

1 UNIVERSALLY concerning all who have dominative power this is disputed by Sanchez *lib. 9. de matrimonio, cap. 19. num. 24.* Hence we too will define all things on this matter.

> Utrum possit Vir irritare Vota Uxoris, sine sua licentia emissa, implenda tempore soluti matrimonii.
>
> *UNIVERSALITER de omnibus habentibus potestatem dominatiuam disputatur a Sanchez* lib. 9. de matrimonio, cap. 19. num. 24. *Idco et nos omnia hac de re definiemus.*

2 The FIRST opinion is, that neither the husband of the spouse, nor anyone else endowed with dominative power, can nullify those vows. So Caietanus *2. 2. quaest. 88. art. 8. dub. penultimo* Angel. *votum 2.* Nauar. *summa, cap. 12. num. 66.* Aragon. *2. 2. quaest. 88. art. 8. fol. 1021.* Angles *flor. 2. part. quaest. de voto, art. 7. diffic. 8. concl. 2.* Lopez *p. p. Instruct. cap. 48.* Manuel *1. tomo summae, cap. 79. num. 8. et 90. num. 10.*

> *PRIMA sententia est, neque virum coniugis, neque ullum alium dominatiua potestate praeditum posse ea vota irritare. Ita Caietanus* 2. 2. quaest. 88. art. 8. dub. penultimo *Angel.* votum 2. *Nauar.* summa, cap. 12. num. 66. *Aragon.* 2. 2. quaest. 88. art. 8. fol. 1021. *Angles* flor. 2. part. quaest. de voto, art. 7. diffic. 8. concl. 2. *Lopez* p. p. Instruct. cap. 48. *Manuel* 1. tomo summae, cap. 79. num. 8. et 90. num. 10.

3 The SECOND opinion is, that he can nullify the vows of those only who are subject, not only with respect to the matter of the vow, but also with respect to the will, so that they have neither *to will*, nor *to will not*. So Syluest. *verb. votum 4. quaest. 2 dicto 5. Sà verbo votum.* Valentia *2. 2. disp. 6. quaest. 6. puncto 6. quaest. 5.*

> *SECUNDA sententia est, posse irritare vota eorum tantum, qui subditi sunt, non solum quod ad materiam voti, sed etiam quod ad voluntatem, ita ut non habeant* velle*, aut* nolle. *Ita Syluest.* verb. votum 4. quaest. 2 dicto 5. Sà verbo votum. *Valentia* 2. 2. disp. 6. quaest. 6. puncto 6. quaest. 5.

4 The THIRD opinion asserts, that all superiors can nullify those vows. So Sotus *lib. 7. de Iust. quaest. 3. art. 1.* Alcozier *summa, cap. 16. concl. 9.* Lopez *p. p.* Instruct. cap. 50. Vega Tom. 1. cap. 119. casu 20. and concerning the vows of the wife Stunica holds de voto, quaest. 3. num. 76. Sanchez lib. 9. de matrim. disp. 39. num. 16. adducing these, and others.

> *TERTIA sententia asserit, posse omnes superiores ea vota irritare. Ita Sotus* lib. 7. de Iust. quaest. 3. art. 1. *Alcozier* summa, cap. 16. concl. 9. *Lopez* p. p. *Instruct. cap. 50. Vega Tom. 1. cap. 119. casu 20. et de votis uxoris tenet Stunica de voto, quaest. 3. num. 76. Sanchez lib. 9. de matrim. disp. 39. num. 16. adducens hos, et alios.*

5 Sanchez, however, and others EXCEPT the vow of a servant, adducing Lopez in the place cited, and Tostatum q. 91. ad cap. 30. Numer.

> *EXCIPIUNT tamen Sanchez, et alii votum servi, adducentes Lopez loco cit. et Tostatum q. 91. ad cap. 30. Numer.*

6 Ludovicus Lopez also EXCEPTS the vow of chastity, made by the wife for the time when she will be her own mistress, to be fulfilled, and says it cannot be nullified by the husband; but Sanchez, Sotus and Stunica above think the contrary.

> *EXCIPIT etiam Ludovicus Lopez votum castitatis, factum ab uxore pro tempore, quo sui iuris erit implendum, aitque, non posse a viro irritari; at contra sentiunt Sanchez, Sotus et Stunica supra.*

7 CONCERNING the vow of religion, Sanchez answers num. 19. If this vow was emitted by the wife after the marriage was entered, before its consummation, then to be fulfilled, he says, it cannot be nullified, because it is a vow by which the wife is to be exempted from the power of the husband, and the marriage to be dissolved. And it stands in the manner of a vow made by a religious of passing to a stricter religion. But if it was emitted in the time of a dissolved marriage, whether the marriage be consummated or not consummated, the husband could nullify it. He adds num. 20. other vows made by the wife before the consummation of the marriage, while she has also the vow of exempting herself from the power of the husband, and of passing to religion, can be nullified, because the wife is not yet freed from the power of the husband. See also Fagundez in secundum praeceptum, Decal. lib. 2. cap. 38. num. 9.

> *QUOAD votum religionis, respondet Sanchez num. 19. Si hoc votum emissum est ab uxore post initum matrimonium ante illius consummationem, tunc implendum, ait, non posse irritari, quia est votum per quod eximenda est uxor a viri potestate, et solvendum matrimonium. Atque se habet ad instar voti facti a religioso transeundi ad arctiorem religionem. Si vero emissum est in tempore soluti matrimonii, sive matrimonio consummato, sive non consummato, posset vir illud irritare. Addit num. 20. alia vota facta ab uxore ante consummationem matrimonii, dum habet votum etiam eximendi se a potestate viri, et transeundi ad religionem, posse irritari, quia nondum uxor liberata est a potestate viri. Vide etiam Fagundez in secundum praeceptum, Decal. lib. 2. cap. 38. num. 9.*

8 What D. Bonaventure thought is not so clear; I judge, however, that he stands with the first opinion, because in 4. dist. 39. quaest. 3. where in the body, and ad 1. he requires two things, that a stable vow be emitted. The one is liberty of the will for emitting the vow, and this, he says, is had even in the time of subjection: The other is for executing it; and this is had in the time for which the vow was emitted.

> *QUID senserit D. Bonavent. non adeo clarum est; arbitror tamen, eum cum prima sententia stare, quia in 4. dist. 39. quaest. 3. ubi in corpore, et ad 1. duo requirit, ut stabile votum edatur. Alterum est libertas voluntatis ad votum*

edendum, et hanc haberi ait etiam tempore subiectionis: Alterum est ad exequendum; et hoc habetur tempore, pro quo editum est votum.

9 I ASSERT with this opinion, that vows to be executed in the time of liberty cannot be nullified in the time of subjection.

ASSERO eum hac sententia, vota tempore libertatis exequenda, irritari non posse tempore subiectionis.

10 IT IS PROVED by the argument of D. Bonavent. in the place cited, because a superior can nullify vows; for the reason that he is lord of the matter, and of the will, at most insofar as it falls upon the promised matter, which is therefore held to be in the power of the Lord; but there is no such dominion over a vow emitted for the time of liberty: Therefore. The minor is proved, because if the vow be considered in relation to the will, that is free independently of any creature, a sign of which is, that no legitimate dominion takes away liberty; but if it be considered in relation to the matter, since it is not in the power of the Lord, but is for the time in which he can freely execute it, for he has it in his own power; it cannot be usurped by the dominion of a superior.

PROBATUR argumento D. Bonavent. loco cit. quia superior potest irritare vota; eo quod sit dominus materiae, et voluntatis, ad summum pro ut cadit super materiam promissam, quae ideo censetur in potestate Domini; sed dominium tale non est super votum editum pro tempore libertatis: Ergo. Minor probatur, quia si consideretur votum in ordine ad voluntatem, ea libera est independenter a creatura, cuius signum est, quod nullum dominium legitimum aufert libertatem; si vero consideretur in ordine ad materiam, cum non sit in potestate Domini, sed sit pro tempore, quo potest libere eam exequi, quippe eam habet in sui potestate; non potest a dominio usurpari superioris.

11 Sanchez answers num. 21. that it suffices, if the person be subject, and the matter of the vow in the time in which the vow was emitted; although the obligation of execution be deferred to the time of liberty.

RESPONDET Sanchez num. 21. sufficere si persona sit subiecta, et materia voti tempore, quo emissum est votum; licet obligatio executionis dilata sit ad tempus libertatis.

12 Yet this answer is not solid, because formal subjection comes from subjection at most of the will, insofar as the will vows: and consequently over that matter. Therefore by this reasoning the will is not subject, since it is not borne toward a subject matter, as Sanchez thinks; for that matter for that time can be non-existing, and contingent, as, if the wife vow for the time of widowhood to assume that state which will be urged upon her by her Bishop for her spiritual profit, I do not see what right the husband has over this.

HAEC tamen responsio non est solida, quia subiectio formalis venit a subiectione ad summum voluntatis, pro ut voluntas vovet: atque adeo super illam materiam. Cum igitur hac ratione voluntas non sit subdita, cum non feratur in materiam subiectam, ut putat Sanchez; nam illa materia pro eo tempore potest esse non existens, et contingens, ut, si uxor voveat pro tempore viduitatis, eum statum assumere, qui pro suo profectu spirituali a suo Episcopo sibi suadebitur, non video quid iuris habeat vir circa hoc.

13 I URGE; if she vow to enter religion, over which vow I do not see how the husband has dominion; for in the same way it is exempted from his power, as the religious, vowing passage to a stricter religion, is exempted from the power of his present superior. Diana parte 4. Tract. 4. resol. 19. says, that he once thought some hold probably, that a father can nullify the vow of religion emitted by a son, to be executed after the years of puberty, because the minor is in the full power of the father.

URGEO; si voveat religionem ingredi, cui voto non video quomodo dominetur maritus; eodem enim modo ab eius potestate eximitur, sicuti religiosus, vovens transitum ad strictiorem religionem, eximitur a potestate superioris praesentis. Diana parte 4. Tract. 4. resol. 19. ait, se olim putasse, aliquos probabiliter censere, patrem posse irritare votum religionis emissum a filio, post annos pubertatis exequendum, quia impubet est in plena patris potestate.

14 SANCHEZ confesses that he is hard pressed by this argument; he answers, however; if the vow was emitted while a ratified marriage stands, not consummated, and to be fulfilled then, it cannot be nullified, because in that case the wife is to be exempted from the power of the husband, and the marriage dissolved, as is evident, and the Theologians prove, especially D. Bonavent. in 4. dist. 38. quaest. 2. ex cap. *Praeterea de conversione coniugatorum*, but if it was emitted before, or after a consummated marriage, but to be fulfilled in the time of a dissolved marriage, the husband can nullify it. The reason of the disparity of this from the vow of a religious vowing passage to a stricter one is, that by this vow the Religious is exempted entirely by right from the power of that superior; not so the wife for that vow.

SANCHEZ hoc argumento valide se premi fatetur; respondet tamen; si votum sit emissum constante matrimonio rato, non consummato, et pro tunc implendum, non posse irritari, quia eo casu uxor eximenda est a viri potestate, ac matrimonium solvendum, ut patet, et probant Theologi praecipue D. Bonavent. in 4. dist. 38. quaest. 2. ex cap. Praeterea de conversione coniugatorum*, si vero emissum sit ante, vel post consummatum matrimonium, sed implendum tempore soluti matrimonii, posse virum id irritare. Ratio disparitatis huius cum voto religiosi voventis transitum ad strictiorem, est, quia per hoc votum Religiosus eximitur omnino a potestate superioris illius ex iure; non sic uxor pro eo voto.*

15 BUT this escape is closed off, because, as that religious vows stably, because by that vow he is exempted by right, that he may pass to a more perfect state, so the woman is already exempted, when she vows that which does not, as to its fulfillment, lie under the husband himself, who after the deed cannot have the care of her governance.

AT effugium hoc praecluditur, quia, sicut religiosus ille stabiliter vovet, quia voto illo a iure eximitur, ut ad statum perfectiorem transeat, ita mulier iam exempta est, cum voveat id, quod non subiacet, quod ad impletionem, ipsi viro, qui de eius regimine post facta curam non potest habere.

Question XVIII: Whether a husband can annul the vows of his wife made before the marriage

1 FROM the doctrine of D. Bonaventure adduced above it is deduced, that vows to be fulfilled in the time of marriage are subject to the power of the husband, even if emitted before marriage; for then he has dominion over the matter, as to be fulfilled by a will then subject to him, and over the will, which must fulfill it. Which reasoning Sanchez uses disp. 39. num. 25. lib. 9. de matrimonio. This is properly not a nullification, as I shall say also in the following question; but a suspension. Hence this opinion is upheld by twenty-eight Doctors, reported by Sanchez in the place cited.

EX doctrina supra allata D. Bonaventurae deducitur, vota adimplenda tempore matrimonii subiacere potestati viri, etiam si ante matrimonium edita; tunc enim in materiam, ut implendam per voluntatem sibi tunc subditam, et in voluntatem, quae debet implere, habet dominium. Qua ratione utitur Sanchez disp. 39. num. 25. lib. 9. de matrimonio. Haec proprie irritatio non est, ut dicam etiam quaest. sequenti; sed suspensio. Ideo hanc sententiam tuentur vigintiocto Doctores, relati a Sanchez loco citato.

2 I ASSERT therefore, that the vows of the wife, made before marriage, but to be fulfilled after, can be nullified by the husband; except, however, the cases said below. It is proved first from D. Augustine lib. 4. quaest. 56. in Numer. and it is had cap. noluit 33. quaest. 5. there: *So if, being still unmarried, she had promised her father to pay the vows, if before she has paid them she marries, and her husband, on learning of it, is not pleased, let her not pay them, and this altogether without sin.* This is the foundation of D. Bonavent. which he indicates in that dub. 3. and on which that quaest. 3. dist. 38 relies.

> *ASSERO itaque, uxoris vota, ante matrimonium facta, sed post implenda, posse a marito irritari, demptis tamen casibus infra dictis. Probatur primo ex D. Augustino lib. 4. quaest. 56. in Numer. et habetur cap. noluit 33. quaest. 5. ibi:* Ita si adhuc innupta concesserat pater vota persolvere, si antequam persolverit, nupserit, et viro eius hoc cognitum non placuerit, non persolvat, et hoc omnino sine peccato. *Hoc est fundamentum D. Bonavent. quod indicat dub. illo 3. eoque nititur quaest. illa 3. dist. 38.*

3 EXCEPT, however, real vows, emitted before marriage, v. g. of alms, which she vowed before marriage; if, however, she was her own mistress.

> *EXCIPE tamen vota realia, edita ante matrimonium, v. g. eleemosynae, quae vovit ante matrimonium; si tamen erat sui iuris.*

4 SECONDLY except the vow of chastity, emitted by the wife before marriage; for that cannot be nullified by the husband, since that vow contains two things, namely not to exercise the venereal act, neither by seeking, nor by rendering, which as to the second needs no nullification. For by the stronger bond of matrimony he is bound to render. As to the first it cannot be nullified by the husband, because the matter of seeking is not subject to the husband, so that he could forbid, or command the seeking of the debt, but the woman is free, and her own mistress in this. Nor is the free act, whereby the woman imposed that obligation upon herself, under the dominion and power of the husband, since it is already consecrated to God, and when it was elicited, he had no power to forbid that it be elicited. Hence it also stands after the death of the spouse, as S. Bonavent. proves in 4. dist. 38. art. 2. quaest. 1. whom all the Doctors alleged for D. Bonavent. quaest. 14. follow, to whom add Sanchez disp. 39. cited, num. 17. Wherefore Ioan. de Friburgo falsely denies it, summa, lib. I. tit. 8. quaest. 35.

> *SECUNDO excipe votum castitatis, ante matrimonium ab uxore emissum; id enim a viro nequit irritari, quoniam illud votum continet duo, nempe non exercere actum venereum, nec petendo, nec reddendo, quod ad secundum non indiget irritatione. Nam fortiori matrimonii vinculo cogitur reddere. Quod ad primum irritari nequit a viro, quia materia petendi non est viro subiecta, ita ut prohibere possit, aut praecipere debiti petitionem, sed mulier est libera, et sui iuris in hoc. Nec actus liber, quo mulier eam sibi obligationem imposuit, est sub viri dominio, et potestate, quoniam est iam Deo consecratus, et quando fuit elicitus, non habebat potestatem prohibendi, ne eliceretur. Itaque etiam post mortem coniugis valet, ut probat S. Bonavent. in 4. dist. 38. art. 2. quaest. 1. quem sequuntur omnes Doctores allegati pro D. Bonavent. quaest. 14. quibus adde Sanchez disp. 39. citata, num. 17. Quare id falso negat Ioan. de Friburgo summa, lib. I. tit. 8. quaest. 35.*

5 *Except* thirdly the vow of Religion emitted by the wife before marriage; for it cannot be nullified by the husband; Because if the marriage is not consummated, she is bound to fulfill that vow, as D. Bonav. proves in 4. dist. 32. quaest. 2. and it is had in cap. *Praeterea de convers. coniugatorum*.

> Excipe *tertio votum Religionis ante matrimonium ab uxore emissum; non enim poterit a viro irritari; Quia si matrimonium non est consummatum, tenetur illud votum adimplere, ut probat D. Bonav. in 4. dist. 32. quaest. 2. et*

habetur cap. Praeterea de convers. coniugatorum.

6 But if it be consummated, it does not then need nullification, because then it cannot be fulfilled, as D. Bonavent. proves *loco cit.* Nor can it be nullified for the time in which she will be her own mistress, when they were already bound to fulfill it. Because that matter was not subject at the time it was promised, nor the free act; nor is the matter subject even at the time when the vow is to be fulfilled.

Si vero sit consummatum, non indiget pro tunc irritatione, quia pro tunc impleri nequit, ut probat D. Bonavent. loco cit. *Nec potest irritari pro tempore, quo erit sui iuris, quando iam tenebantur implere. Quia materia illa non erat subiecta tempore, quo promissa est, nec actus liber; nec subiicitur etiam materia tempore, quo votum implendum est.*

7 Sanchez *notes num. 31.* that if a woman before marriage contracted some obligation, the husband cannot nullify it on account of the right acquired by a man: The reason of the difference is, because the husband, or another superior, does not stand in the place of the man to whom the right was acquired, so that he could remit it, and nullify it, nor does he stand in the place of God, to whom the right is acquired by the vow.

Notat *Sanchez* num. 31. *si mulier ante matrimonium obligationem aliquam contraxit, vir non potest illam irritare propter ius homini acquisitum: Ratio differentiae est, quia vir, vel alius superior non gerit vices hominis, cui ius acquisitum est, ut possit illud remittere, et irritare, aut gerit vices Dei, cui ius per votum acquiritur.*

Question XIX: Whether the vows of a wife, made without her husband's permission, revive when the marriage is dissolved

1 It is certain, that all vows legitimately nullified do not return, and therefore before a legitimate nullification they have to be corruptible, as D. Bonavent. notes in 4. dist. 38. quaest. 3. and after him Valentia 2. 2. disput. 6. quaest. 6. puncto 6. quaest. 4. and Sanchez lib. IX. de matrimonio, disp. 39. num. 35. for nullification extinguishes the obligation; but an obligation once extinguished in no wise revives, leg. cum ex causa, Cod. de remiss. pignor. and consequently if the obligation were to revive, it is a sign that it was imperfectly nullified, and only suspended.

An Vota uxoris, absque licentia viri facta, soluto matrimonio reviviscant.

Certum est, vota omnia legitime irritata, non redire, itaque ante irritationem legitimam habere esse corruptibile, ut notat D. Bonavent. in 4. dist. 38. quaest. 3. et post eum Valentia 2. 2. disput. 6. quaest. 6. puncto 6. quaest. 4. et Sanchez lib. IX. de matrimonio, disp. 39. num. 35. nam irritatio extinguit obligationem; at obligatio semel extincta minime reviviscit leg. cum ex causa, Cod. de remiss. pignor. atque adeo si revivisceret obligatio, signum est, fuisse imperfecte irritata, et solum suspensa.

2 *Note*, however, that a vow is nullified either by reason of dominion over the matter of the vow, or by reason of dominion also over the willing person's will. When the nullification is made by reason of dominion over the matter alone, if the matter would be subject, totally and throughout the whole duration of the matter of the vow, to that superior, it is perfectly nullified, against some. But if the matter does not adequately, totally, lie under the superior, because either it was before in the power of God by force of the vow, then that matter is not subject to perfect nullification, and consequently it is only suspended for the time the dominion lasts. But when the nullification arises from dominion over the matter, and the will, then the nullification is perfect; but dominion is not to be taken over the bare will, but over the will, insofar as it falls upon the matter of the vow, as I said above.

> Nota *autem, votum irritari, vel ratione dominii in voti materiam, vel ratione dominii etiam in voluntatem voventem. Quando irritatio fit ratione solius dominii in materiam, si materia totaliter, et in tota sua duratione materiae voti subiaceret illi superiori, irritatur perfecte, contra aliquos. Si vero materia non adaequate totaliter, subiacet superiori, eo quod vel ante fuerit in potestate Dei ex vi voti, tunc non subiacet illa materia perfectae irritationi, atque adeo suspenditur solum pro tempore dominii durantis. Quando vero irritatio oritur ex dominio in materiam, et voluntatem, tunc perfecta est irritatio; dominium autem non debet sumi in voluntatem nudam, sed in voluntatem, prout cadit super materiam voti, ut dixi supra.*

3 *I assert* first, that all vows, emitted by the wife while the marriage stands, and to be fulfilled then, if they are nullified by the husband, do not revive. So D. Bonavent. in 4. dist. 38. quaest. 3. Abbas cap. scriptura, num. 7. de voto, Caietanus 2. 2. quaest. 88. art. 8. dub. 4. Abul. quaest. 86. ad cap. 30. Numer. Angelus V. votum, 2. num. 12. Sylvester V. votum, 4. quaest. 2. dicto 3. et 4. Armilla V. votum, num. 12. Sotus lib. VII. de Iust. quaest. 3. art. 1. Navar. summa, cap. 12. num. 66. Lopez p. p. Instruct. cap. 48. Philiarc. de offic. sacerd. tract. 1. part. 2. lib. III. cap. 4. Vega Tom. I. cap. 129. casu 95.

> Assero *primo, vota omnia, constante matrimonio emissa ab uxore, et pro tunc implenda, si a viro irritentur, non reviviscere. Ita D. Bonavent. in 4. dist. 38. quaest. 3. Abbas cap. scriptura, num. 7. de voto, Caietanus 2. 2. quaest. 88. art. 8. dub. 4. Abul. quaest. 86. ad cap. 30. Numer. Angelus V. votum, 2. num. 12. Sylvester V. votum, 4. quaest. 2. dicto 3. et 4. Armilla V. votum, num. 12. Sotus lib. VII. de Iust. quaest. 3. art. 1. Navar. summa, cap. 12. num. 66. Lopez p. p. Instruct. cap. 48. Philiarc. de offic. sacerd. tract. 1. part. 2. lib. III. cap. 4. Vega Tom. I. cap. 129. casu 95.*

4 This Sotus, Navar. Philiarc. and Lopez assert even of the vows of servants, who are subject, not as to the will, but as to the matter only: Against Rosellam V. votum 2. num. 7. et 13. Valentiam 2. 2. disp. 6. quaest. 6. puncto 6. quaest. 1. and others.

> *Hoc asserunt Sotus, Navar. Philiarc. et Lopez etiam de votis servorum, qui subduntur, non quo ad voluntatem, sed quo ad materiam tantum: Contra Rosellam V. votum 2. num. 7. et 13. Valentiam 2. 2. disp. 6. quaest. 6. puncto 6. quaest. 1. et alios.*

5 *It is proved* by Sanchez num. 36. with the argument of D. Bonavent. reported quaest. 14. because the wife, not only as to the matter, but also as to the will in all things, except the law of the bed, is so subject to the husband, that all her vows can be nullified by him without hope, or obligation of reviving; but this is conceded by all to be a perfect nullification: Therefore.

> Probatur *a Sanchez num. 36. argumento D. Bonavent. relato quaest. 14. quia uxor non modo quo ad materiam, sed etiam quo ad voluntatem in omnibus, excepta lege thori, ita viro subdita est, ut omnia eius vota ab ipso valeant absque spe, aut obligatione reviviscendi, irritari; sed haec conceditur ab omnibus perfecta irritatio: Ergo.*

6 *I assert* second, that vows emitted by the wife, or another subject, in the time of liberty, revive.

> Assero *secundo, vota edita ab uxore, vel alio subdito, tempore libertatis reviviscere.*

7 *It is proved*, because neither the will, nor the matter, in the time of vowing was subject to the husband, or to another lord: Therefore he has power only over the execution during the time of his dominion. So Sanchez in the place cited. Ioan. Praep. nevertheless holds the opposite, with Diana, citing quaest. sequenti.

> Probatur, *quia neque voluntas, neque materia tempore vovendi subdebatur viro, vel alii domino: Ergo solam habet potestatem super executionem tempore sui dominii. Ita Sanchez loco cit. Oppositum tamen tenet Ioan. Praep. cum Diana*

> *citandis quaest. sequenti.*

8 *These* suppose the woman was free at the time of the vow, for if she was under the power of others, what is to be done, I shall say in quaestione 21.

> Haec *supponunt, mulierem tempore voti fuisse liberam, nam si erat sub aliorum potestate, quid agendum, dicam quaestione 21.*

9 *I assert* third: In the time of divorce the vows emitted by the guilty party, even of chastity, and of religion, can be nullified by the innocent one, nor are they held as made; as with vows made before marriage.

> Assero *tertio: Tempore diuortii vota emissa a reo, etiam castitatis, et religionis, possunt ab innocente irritari, neque censentur facta; sicuti vota ante matrimonium.*

10 *It is proved*, because the innocent one has the Right, which the guilty spouse cannot derogate, because the divorce was made in favor of the innocent one, and dependently upon his will. But if the innocent spouse vow, it is to be judged as with vows emitted before marriage, because the innocent one is altogether his own mistress without any obligation, even should the bond of matrimony persist, as Sanchez notes num. 41. after S. Bonavent. in 4. dist. 35. quaest. 1. especially ad secundum.

> Probatur*, quia innocens habet Ius, cui non potest reus coniux derogare, quia diuortium factum est in favorem innocentis, ac dependenter ab eius voluntate. Si vero innocens coniux voveat, censendum est, sicut de votis emissis ante matrimonium, quia innocens est inepte sui iuris absque aliqua obligatione, esto vinculum perseveret matrimonii, ut notat Sanchez num. 41. post S. Bonavent. in 4. dist. 35. quaest. 1. praecipue ad secundum.*

Question XX: Whether a husband can annul the vows of his wife made with his permission, the vow of chastity excepted

1 The *first* opinion is that of those denying it universally. Sanchez reports them lib. IX. de matrim. disp. 40. and concerning the Prelates of religions Richardus asserts it 4. dist. 38. art. 4. quaest. 3. and with him excepted, Philiatcus asserts it of the other dominators de offic. sacerd. tract. 1. part. 2. lib. IV. cap. 4.

> **An possit vir irritare Vota uxoris ex sua licentia edita: omisso votum Castitatis.**
>
> Prima *opinio est universaliter negantium. Eos refert Sanchez lib. IX. de matrim. disp. 40. et de Praelatis religionum asserit Richardus 4. dist. 38. art. 4. quaest. 3. et eo excepto, de caeteris dominantibus asserit Philiatcus de offic. sacerd. tract. 1. part. 2. lib. IV. cap. 4.*

2 But concerning all vows universally, even of Chastity, Diana asserts it Parte 4. Tract. 4. r. fol. 110. adducing Ioannem Praepositum Modernum in 3. part. D. Thom. quaest. 6. de bonis matrimonii, dub. 20. num. 153. and this even if the wife's vows were to be fulfilled in the time of a dissolved marriage.

> Universaliter *vero de omnibus votis etiam Castitatis id asserit Diana Parte 4. Tract. 4. r. fol. 110. adducens Ioannem Praepositum Modernum in 3. part. D. Thom. quaest. 6. de bonis matrimonii, dub. 20. num. 153. et hoc, etiamsi uxoris vota essent implenda tempore soluti matrimonii.*

3 The *opposite* opinion, however, is that of D. Bonav. in 4. dist. 32. dub. 3. litt. Gloss. ord. Numer. 30. Hugo there, letter K. Richardus in 4. dist. 32. art. 2. quaest. 2. ad 1. Hostiens. summa, tit. de voto, Abbas cap. Clarissima, num. 4. de convers. coniug. et cap. scriptura, num. 8. de voto, Henricus num.

6. Vincent. spec. doctrin. Tom. 2. lib. IX. cap. 86. Turrecrem. cap. sunt quaedam 27. quaest. 1. num. 19. et cap. manifestum, num. 3. D. Antonin. 3. part. tit. 1. cap. 22. Caietanus summa, v. votum, cap. ultimo, Angelus votum 2. num. 10. Armilla V. votum, num. 12. Adrianus 4. quaest. 14. de matrimonio, Navar. summa, cap. 12. num. 61. et 73. Nicolaus de Orbell. 4. dist. 38. quaest. 1. §. 7. Brunellus de sponsal. concl. 30. num. 14. Alexander in Enchir. 2. praecept. tract. de voto. Ioan. Hessels. in expositione, Decal. 2. praecepto, cap. 14. Graff. p. p. decis. lib. 2. cap. 19. et 2. part. lib. 2. cap. 12. num 27. Lopez p. p. Instruct. cap. 48. Innocentius cap. scriptura, de voto, Gratianus dist. cap. manifestum, §. ex praemissis, Maior 4. dist. 38. quaest. 4. dub. 2. Rosella V. votum 3. Sylvester V. votum 4. quaest. 2. dicto 6. Caietanus 2. 2. q. 88. art. 8. dub. 1. Sotus lib. 7. de Iust. quaest. 3. art. 1. Bartholomaeus a Ledesma dub. 10. de matrim. concl. 1. Palac. 4. dib. 38. dub. 3 fol. 571. Stunica de voto, quaest. 3. num 62. Nievo summa, tit. 135. Angles flor. 2. part. quaest. de voto, art. 7. post 9. difficul. dub. 1. Aragon. 2. 2. quaest. 88. art. 8. fol. 1019. Valentia 2. 2. disp. 6. quaest. 6. puncto 6. quaest. 3. Sà verbo votum, Manuel 2. Tomo summae, cap. 90. Vega 1. tomo summae, cap. 119. casu 22. et 91. whom Sanchez adduces and follows lib. 9. de matrim. disp. 40. num. 4. and Bassaeus V. Votum 5. num. 6.

> Opposita *tamen sententia est D. Bonav. in 4. dist. 32. dub. 3. litt. Gloss. ord. Numer. 30. Hugo ibi, littera K. Richardus in 4. dist. 32. art. 2. quaest. 2. ad 1. Hostiens. summa, tit. de voto, Abbas cap. Clarissima, num. 4. de convers. coniug. et cap. scriptura, num. 8. de voto, Henricus num. 6. Vincent. spec. doctrin. Tom. 2. lib. IX. cap. 86. Turrecrem. cap. sunt quaedam 27. quaest. 1. num. 19. et cap. manifestum, num. 3. D. Antonin. 3. part. tit. 1. cap. 22. Caietanus summa, v. votum, cap. ultimo, Angelus votum 2. num. 10. Armilla V. votum, num. 12. Adrianus 4. quaest. 14. de matrimonio, Navar. summa, cap. 12. num. 61. et 73. Nicolaus de Orbell. 4. dist. 38. quaest. 1. §. 7. Brunellus de sponsal. concl. 30. num. 14. Alexander in Enchir. 2. praecept. tract. de voto. Ioan. Hessels. in expositione, Decal. 2. praecepto, cap. 14. Graff. p. p. decis. lib. 2. cap. 19. et 2. part. lib. 2. cap. 12. num 27. Lopez p. p. Instruct. cap. 48. Innocentius cap. scriptura, de voto, Gratianus dist. cap. manifestum, §. ex praemissis, Maior 4. dist. 38. quaest. 4. dub. 2. Rosella V. votum 3. Sylvester V. votum 4. quaest. 2. dicto 6. Caietanus 2. 2. q. 88. art. 8. dub. 1. Sotus lib. 7. de Iust. quaest. 3. art. 1. Bartholomaeus a Ledesma dub. 10. de matrim. concl. 1. Palac. 4. dib. 38. dub. 3 fol. 571. Stunica de voto, quaest. 3. num 62. Nievo summa, tit. 135. Angles flor. 2. part. quaest. de voto, art. 7. post 9. difficul. dub. 1. Aragon. 2. 2. quaest. 88. art. 8. fol. 1019. Valentia 2. 2. disp. 6. quaest. 6. puncto 6. quaest. 3. Sà verbo votum, Manuel 2. Tomo summae, cap. 90. Vega 1. tomo summae, cap. 119. casu 22. et 91. quos adducit, et sequitur Sanchez lib. 9. de matrim. disp. 40. num. 4. et Bassaeus V. Votum 5. num. 6.*

4 I ASSERT with this opinion, that the husband can nullify the vows of his wife emitted with his license.

> *ASSERO cum hac sententia, posse virum irritare vota uxoris de licentia sua edita.*

5 *IT IS PROVED* from D. Bonavent. first, from cap. 30. Numer. where it is said: *If she vow, and afflict her soul by fasting, and abstinence from other things, it shall be at the will of the husband to do it, or not to do it. But if the husband hearing it keep silent, and defer the sentence to another day: whatever she had vowed, she shall render; But if he contradict it after he has learned of it, he himself shall bear her iniquity.* Where the Scripture makes the woman immune from transgression of the vow impetrated from her husband, while it transfers the fault, whatever it be, to the husband, as S. Bonavent. infers, and after him Caietanus there, and Sanchez.

> PROBATUR *a D. Bonavent. primo, ex cap. 30. Numer. ubi dicitur:* Si voverit, et per ieiunium, et caeterarum rerum abstinentiam affligat animam suam, in arbitrio viri erit, ut faciat, sive non faciat. Quod si audiens

vir tacuerit, et in alteram diem distulerit sententiam: quidquid voverat, reddet; Si autem contradixerit postquam rescivit, portabit ipse iniquitatem eius. *Ubi Scriptura immunem constituit mulierem a transgressione voti impetrata a marito, dum culpam, quaecumque ea sit, in maritum transfert, ut infert S. Bonavent. et post eum Caietanus ibi, ac Sanchez.*

6 *IT IS PROVED* second from D. Bonavent. from D. Augustine lib. 4. in Numer. quaest. 59. and it is reported cap. manifestum, 33. quaest. 5. there: *for since the law willed it to pertain to the sin of the same husband, if he first permitted, and afterwards forbade, he nevertheless did not say, that the woman who had vowed should do it.* The same D. Ambrose has in lib. de Paradiso, cap. 10. and it is reported in the final chapter cap. fin. 33. quaest. 5. there: *even if with the permission of her husband it has been promised again, it is not lawful for her to fulfill the vow in deed, when the husband shall have willed to recall the promise.*

PROBATUR *secundo a D. Bonavent. ex D. Augustino lib. 4. in Numer. quaest. 59. et refertur cap. manifestum, 33. quaest. 5. ibi:* nam cum ad peccatum eiusdem viri pertinere voluerit lex, si prius permiserit, et postea prohibuerit, non tamen dixit, ut faciat mulier, quae voverat. *Idem habet D Ambrosius lib. de Paradiso, cap. 10. et refertur cap. fin. 33. quaest. 5. ibi:* etiamsi viro permittente repromissa fuerit, non licet ei votum opere complere, cum vir voluerit revocare promissum.

7 The fundamental REASON, on which the others rely, is; because the husband, even after the license given to the wife, still presides over her will, nor by giving that individual faculty has he renounced his right over the will of his wife; indeed especially because, since she is destined to his governance, some cause may occur, dictating prudently, that the faculty given should be recalled. The same he urges concerning the other dominators.

RATIO fundamentalis, qua caeteri nituntur, est; quia vir etiam post datam uxori licentiam adhuc praeest eius voluntati, neque ob datam illam individuam facultatem renunciavit iuri voluntatis uxoris; maxime vero quia, cum eius regimini sit destinatus, potest aliqua occurrere causa, prudenter dictans, revocandam facultatem datam. Idem de caeteris dominantibus urget.

8 *YOU OBJECT.* That license transfers the dominion of that individual action into the subject.

OBIICIES. *Licentia illa transfert dominium illius actionis individuae in subditum.*

9 *It is ANSWERED* with D. Bonavent. that the dominion is not transferred, but only for the time the faculty of using that will, and that thing, is conceded, the prudent governance being preserved there, for which the reason of recalling the faculty can occur.

RESPONDETUR *cum D. Bonavent. non transferri dominium, sed tantum pro tunc concedi facultatem utendi ea voluntate, et re, servando ibi regimen prudens, cui occurrere potest ratio, revocandi facultatem.*

10 Whether, however, he sins with a lethal fault by nullifying a vow, emitted with his license, with no preceding cause; Sanchez asserts num. 7. adducing many.

AN vero peccet lethali culpa irritans votum, e sua licentia emissum, nulla praecedente causa; Sanchez asserit num. 7. plures afferens.

11 BUT I asserted and proved in quaest. 13. that only a venial fault intervenes in that case, refuting the arguments of Sanchez.

AT solam in eo casu venialem intervenire asserui, et probavi quaest. 13. refellens argumenta Sanchez.

Question XXI: Whether a husband can revoke the vow of chastity of his wife, made with his permission

[1] The FIRST opinion is affirmative. So Abbas cap. Clarissimus, de convers. coniug. cap. 5. Sotus lib. 7. de Iust. quaest. 3. art. 1. and in 4 Sent. dist. 32. quaest. 1. art. 3. where Palac. dist. 2. fol. 717. Stunica de voto, fin. 3. n. 62. Bartholomeus a Ledesma dub. 71. de matrim. Aragon. 2. 2. quaest. 88. art. 8. fol. 1021. Vega 2. Tomo sum. cap. 119. casu 22. And that this can be done when danger of incontinence is present, says Ledesm. 2. part. 4. quaest. 66. art. 4. Sanchez lib. 9. de matrim. disp. 40. num 17. Diana parte 2. Tract. 4. resol. 110. referring to others. The same holds Fagundez in secundum praeceptum, Decal. lib. 2. cap. 37. Bassaeus 5. num. 6. They speak of marriage already consummated.

> ***An possit maritus Votum Castitatis uxoris, ex licentia sua editum, revocare.***
>
> *PRIMA opinio est affirmativa. Ita Abbas cap. Clarissimus, de convers. coniug. cap. 5. Sotus lib. 7. de Iust. quaest. 3. art. 1. et quarto sent. dist. 32. quaest. 1. art. 3. ubi Palac. dist. 2. fol. 717. Stunica de voto, fin. 3. n. 62. Bartholomeus a Ledesma dub. 71. de matrim. Aragon. 2. 2. quaest. 88. art. 8. fol. 1021. Vega 2. Tomo sum. cap. 119. casu 22. et id posse, quando adest periculum incontinentiae, ait Ledesm. 2. part. 4. quaest. 66. art. 4. Sanchez lib. 9. de matrim. disp. 40. num 17. Diana parte 2. Tract. 4. resol. 110. alios referens. Idem sentit Fagundez in secundum praeceptum, Decal. lib. 2. cap. 37. Bassaeus 5. num. 6. Loquuntur post consummatum matrimonium inito.*

[2] The SECOND opinion is negative. So D. Bonav. in 4. dist. 32. dub. 3. litt. D. Thomas ibidem ad litt. Albertus Magnus art. 6. Richardus art. 2. quaest. 2. ad 1. Paludanus quaest. 2. art. 2. Gratianus cap. manifestum, §. ex praemissis, 33. quaest. 5. and there Turrecrem. Ioan. de Friburg. summa, confess. lib. 1. tit. 8. quaest. 45. Adrianus 4. quaest. 14 de matrim. D. Antonin. 3. part. tit. 1. cap. 22. §. 3. Rosella V. votum 3. num. 1. Pisan. verb. votum 3. §. 3. Sylvest. verb. votum 5. quaest. 2. Tabien. V. matrim. 1. §. 4. Nauar. sum. cap. 12. num. 61. Philiarcus part. 2. lib. 3. cap. 4. Manuel 2. Tomo summae, cap. 90. who understands it insofar as the vow prejudices the husband; hence he says it is not lawful to annul it so that the woman may petition.

> *SECUNDA sententia est negativa. Ita D. Bonav. in 4. dist. 32. dub. 3. litt. D. Thom. ibidem ad litt. Albertus Magnus art. 6. Richardus art. 2. quaest. 2. ad 1. Paludanus quaest. 2. art. 2. Gratianus cap. manifestum, §. ex praemissis, 33. quaest. 5. et ibi Turrecrem. Ioan. de Friburg. summa, confess. lib. 1. tit. 8. quaest. 45. Adrianus 4. quaest. 14 de matrim. D. Antonin. 3. part. tit. 1. cap. 22. §. 3. Rosella V. votum 3. num. 1. Pisan. verb. votum 3. §. 3. Sylvest. verb. votum 5. quaest. 2. Tabien. V. matrim. 1. §. 4. Nauar. sum. cap. 12. num. 61. Philiarcus part. 2. lib. 3. cap. 4. Manuel 2. Tomo summae, cap. 90. qui intelligit, in quantum votum praeiudicat viro; unde ait, non licere irritare, ut mulier possit petere.*

[3] I ASSERT, with this opinion, that a vow of chastity made by a wife with her husband's permission cannot again be annulled by him.

> *ASSERO cum hac sententia, votum castitatis, ab uxore cum mariti licentia emissum, non posse denuo ab eo irritari.*

[4] *It is PROVED* by D. Bonaventure. The root and the reason on which the faculty of annulling vows rests is dominative power, as even the adversaries concede; but a husband has no dominative power over his wife in matters pertaining to the right of the marriage bed, since they are equals, as is found in cap. Gaudemus, de divort. cap. si quis uxorem, 32. quaest. 1. and Sanchez admits it, lib. 4. sum. cap. 34. num. 19.

PROBATUR *a D. Bonavent. Radix, et ratio, qua nititur facultas irritandi vota, est potestas dominativa, ut etiam adversarii fatentur; at coniux non habet potestatem dominativam super uxorem in his, quae spectant ad ius thori, cum sint aequales, ut habetur cap. Gaudemus, de divort. cap. si quis uxorem, 32. quaest. 1. et fatetur Sanchez lib. 4. sum. cap. 34. num. 19.*

5 *Sanchez REPLIES* there: although they are equals in the right of demanding and rendering; yet as to that obligation which is accidental, the wife is subject to the husband, whose it is to govern her, lest she act imprudently.

RESPONDET *ibi Sanchez, licet aequales sint in iure petendi, et reddendi; attamen quo ad illam obligationem, quae accidentaria est, uxorem subdi viro, cuius est eam regere, ne imprudenter agat.*

6 BUT this escape route was closed off in quaest. 15.

AT hoc effugium praeclusum est quaest. 15.

7 *It is PROVED* secondly from D. Ambrose lib. de Paradiso, cap. 10. and it is reported in cap. Nec 33. quaest. 5. there: *Vows of continence indeed can be offered by one with the permission of the other in such a way that, after the permission, they cannot be brought to nothing.*

PROBATUR *secundo ex D. Ambrosio lib. de Paradiso, cap. 10. et refertur cap. Nec 33. quaest. 5. ibi:* Vota vero continentiae ita alterius permissu ab altero valent offerri, quod post permissionem non valent in irritum deduci.

8 *Sanchez REPLIES* that D. Ambrose is to be understood when both vow chastity by mutual consent.

RESPONDET *Sanchez, D. Ambrosium intelligi, quando uterque mutuo consensu castitatem vovet.*

9 BUT surely this Gloss is against the text; for there D. Ambrose, and the Canon, compose an antithesis, affirming that the husband, because he is the head of the woman, can annul his wife's vows of abstinence and of religious conversation, even if her vows on these matters were made with the faculty given by himself; but the vows of continence by no means. For this reason he speaks of the vow of chastity as mutual. These are the words: *Most evidently therefore it appears, that the man is the head of the woman in such a way that she may offer to God no vows of abstinence, or of religious conversation, without his permission:* even if she has promised with the husband permitting, it is not lawful *for her to fulfill the vow in deed, when the husband wishes to revoke the permission. But vows of continence can be offered by one with the permission of the other in such a way that, after the permission, they cannot be dragged into nothingness.* Where perhaps Sanchez errs, because he said: *the one the other's;* but these relatives refer to the aforesaid nouns in that order, namely the husband the wife's vows, etc.

AT profecto haec Glossa est contra textum, ibi enim D. Ambrosius, et Canon antithefim componit, afferens, virum, quia caput est mulieris, posse super vota abstinentiae, et religiosae conversationis suae uxoris, cuius vota de his materiis emissa, etiamsi data a se illi facultate, potest irritare; vota vero continentiae nequaquam. Ideo enim de voto castitatis mutuo loquitur. Haec sunt verba: Evidentissime itaque apparet, ita virum esse caput mulieris, ut nulla vota abstinentiae, vel religiosae conversationis liceat sibi sine eius licentia Deo offerre: *etiamsi viro permittente repromissa fuerit, non licet* ei votum opere complere, cum vir voluerit revocare permissum. Vota vero continentiae ita alterius permissu ab altero valent offerri, quod post permissionem non valent in irritum trahi. *Ubi fallitur forsan Sanchez, quia dixit:* alter alterius; *sed haec relativa respiciunt supra dicta nomina eo ordine, nempe vir uxoris vota, etc.*

10 *Sanchez OBJECTS, num. 17. first:* Although the husband is not lord of that promised matter, but in it is equal to his wife; yet as head he is the Lord of that free act by which the wife, at the time of her subjection, bound herself by that vow. And although by the husband's consent she is consecrated to God — he admits that a husband who annuls without cause sins mortally — yet not so that the annulment is null, because by that permission given he did not lose dominion over that free act. So also Bassaeus.

> OBIICIT Sanchez num. 17. primo. *Licet vir non sit dominus materiae illius promissae, sed in illa sit aequalis uxori; at tanquam caput, est Dominus actus illius liberi, quo uxor tempore subiectionis se obligavit voto illo. Et quamvis ex consensu viri sit Deo consecrata, id confessit, ut vir irritans absque causa peccet mortaliter, non tamen ut irritatio sit nulla, quia illa licentia data non amisit dominium illius actus liberi. Sic et Bassaeus.*

11 *It is ANSWERED* that, as to that act, the husband is not the head of the woman, as Sanchez well teaches *disp. 39. num. 10.* praising this saying of Durandus as true; therefore there is no reason why he should labor to hold any domination as to this promise, about which he has not lost his right; because he never had it.

> RESPONDETUR, *virum quo ad actum illum non esse caput mulieris, ut bene docet Sanchez* disp. 39. num. 10. *laudans hoc dictum Durandi, tanquam verum; ideo non est cur laboret in aliqua dominatione tenenda quo ad hanc promissionem, circa quam ius non amisit; quia illud non habuit.*

12 *From these things it follows that, much less, can a husband revoke his wife's vow when they have vowed chastity by mutual consent.* So D. Augustine *epist. 199. ad Ecditiam,* and it is reported *cap. quod Deo, 33. quaest. 5.*

> Ex his sequitur, multo minus posse maritum revocare votum uxoris, quando mutuo consensu vouerunt castitatem. *Ita D. Augustinus* epist. 199. ad Ecditiam, *et refertur* cap. quod Deo, 33. quaest. 5.

13 Yet the *OPPOSITE* is held by Palac. *4. dist. 32. dub. 2. fol. 717.* and certain others, as Aragonius testifies, *loco citato.*

> OPPOSITUM *tamen tenent Palac.* 4. dist. 32. dub. 2. fol. 717. *et quidam alii, teste Aragonio,* loco citato.

14 *The SAME is held by Ioan. Praepositus in 3. part. D. Thom. quaest. 6. de bonis matrimonii, disp. 20. num 113.* whom Diana proposes *Parte 4. Tract. 4. resol. 110.* so that Confessors may, with this probable opinion, calm certain souls troubled by scruples.

> IDEM tenet Ioan. Praepositus in 3. part. D. Thom. quaest. 6. de bonis matrimonii, disp. 20. num 113. *quem proponit Diana* Parte 4. Tract. 4. resol. 110. *ut inde Confessarii possint sedare, hac probabili opinione aliquos scupulis agitatos.*

15 *It is PROVED,* because contracts are dissolved by the same causes by which they are made, *cap. 1. de regul. iuris,* where this is asserted of all things.

> PROBATUR, *quia contractus per easdem causas dissoluuntur, per quas fiunt,* cap. 1. de regul. iuris, *ubi de omnibus rebus id asseritur.*

16 *Sanchez REPLIES, num. 23.* that the vow stands in the way, so that that remission cannot licitly be made, even for a just cause.

> RESPONDET Sanchez num. 23. *obstare votum ne licite ea remissio fiat, etiam ex iusta causa.*

Question XXII: Whether a husband can annul the vows of his wife made while she was under the authority of her father or of a first husband

1 *I ASSERT first,* that a husband can annul his wife's vows, which could have been annulled by the preceding equal dominion.

> ***An Vir possit irritare Vota Uxoris, edita sub praecedenti dominatione patris, vel primi viri.***
>
> ASSERO primo, *posse maritum irritare vota uxoris, quae poterant irritari a praecedenti aequali dominatione.*

2 *It is PROVED,* because the husband succeeds to the place of the Father, and of the Tutor, and is equivalent to the first husband. And so, since that vow was made by the woman while she was still under the power of another, she could not solidly vow a stable vow; it follows that it is perfectly annulled by the successor to the preceding dominion. The same is to be said of the other persons having dominion. See Sanchez *disp. 41.*

> PROBATUR, *quia vir succedit in locum Patris, et Tutoris, et aequivalet primo viro. Itaque cum votum illud factum sit a foemina, dum adhuc erat sub potestate, et solide non poterat vovere stabile votum, sequitur, irritari perfecte a succedente praecedenti dominationi. Idem de aliis dominantibus dic. Vide Sanchez* disp. 41.

3 *I ASSERT secondly.* Vows made with the permission of a prior husband, which could have been annulled by him, can also be annulled by the succeeding one. Say the same of the other superiors, provided the successors are equals. So D. Augustine holds, *lib. 4. in Numer. quaest. 59.* and it is reported *cap. noluit, 33. quaest. 5. and* there Hugo Archid. and Bellamera, and Sanchez *disp. 41. num. 16.* See him.

> ASSERO secundo. *Vota facta de licentia prioris mariti, quae poterant irritari ab illo, possunt etiam a succedente. Idem de aliis superioribus dic, dummodo succedant aequales. Ita habet D. Augustinus* lib. 4. in Numer. quaest. 59. *et refertur* cap. noluit, 33. quaest. 5. et *ibi Hugo Archid. et Bellamera, ac Sanchez* disp. 41. num. 16. *Vide ipsum.*

Question XXIII: Whether a wife can annul certain vows of her husband, and which

1 Some indeed think that no vows of the husband, made by him without the permission of his wife, can be annulled by her. This seems to be Sotus's view *lib. 7. de Iustitia, quaest. 3. art. 1.* But it is the opinion of Ledesma *quaest. 64. art. 4. dub. 2. concl. 2.* and of other recent learned men.

> ***An possit Uxor aliqua viri vota irritare, et quae.***
>
> *ALIQUI sane existimant, nulla vota viri, et ab eo emissa absque licentia uxoris, posse ab ea irritari. Videtur Soti* lib. 7. de Iustitia, quaest. 3. art. 1. *Est autem Ledesmae* quaest. 64. art. 4. dub. 2. concl. 2. *et aliorum Recentiorum eruditorum opinio.*

2 Yet the TRUE opinion is that a woman can annul those vows of her husband which prejudice her, or which pertain to a moderate rendering of the debt, or which pertain to mutual cohabitation. So D. Bonaventure *loco cit.* whom the Gloss imitates, *cap. manifestum, v. nisi author, 33. quaest. 5.* there: Hugo Archidiac. Bellamera, Hostiensis, V. *summa, tit. de voto, §. Quis vovere possit, num. 8. et cap. Scriptura de voto, ad finem.* Where Innocentius, Ioan. Andreas, Antonius, Abbas, Anchar. and Cardinalis *quaest. 14.* But Abulensis *quaest. 85. ad 30. Numer. et quaest. 149. ad cap. 6. matth.* D. Antonin. *3. part. tit. 1. cap. 22. §. 1.* Maior *4. dist. 38. q. 4. dub. 2. suppl.* Gabrielis *4. dist. 32. quaest. unica, art. 1. notab. 3.* Rosella *votum 2. num. 9.* Angel. *ibi, num. 8.* Sylvester *5. quaestio 1. et v. lex 8. tit. 8.* Gregorius Lopez *lib. 3. v. el marido, eodem tit.* Margarita confess. where on the annulment of a vow, folio 135. Manuel *2. Tomo cap. 90.*

Nauar. *summa, cap. 12. num. 64.* Stunica *de voto, quaest. 3. num. 60.* Toletus *lib. 4. summa, cap. 18.* Aragon. *2. 2. quaest. 88. art. 8. fol. 1020.* Graff. *p. p. decis. lib. 2. cap. 29. num. 8.* Philiarc. *Tom. 1. part. 2. lib. 3. cap. 18.* Ludouicus Lopes *p. p. Instruct. cap. 47. §. ult.* Canned. *summa de sacram. tract. de matrimonio, cap. 8. num. 74.* and Valentia supposes it *2. 2. disput. 6. quaest. 6. puncto 6. quaest. ult.* and others whom he cites; and Sanchez follows, *lib. 9. de matrim. disp. 42.* and others whom he reports, *lib. 4. summa, cap. 34. num. 20.* among whom is Paludanus *4. dist. 38. quaest. 4. art. 2. conclus. 5.* Lessius *lib. 7. de iustitia, cap. 40. dub. 10. num. 83.* Sayrus *lib. 6. cap. 5. num. 9. et cap. 10. num. 20.* Suarez *Tom. 2. de religione, Tract. de voto, lib. 6. cap. 4. num. 8.* Corrasdos *in resp. 1. part. quaest. 304.* Fagundez *in 2. praeceptum, lib. 2. cap. 37. n. 20.* referring to others, together with Bassaeus *V. Votum §. num. 6.*

> *VERA tamen sententia est, posse mulierem irritare ea viri vota, quae sibi praeiudicant, vel quae ad moderatam debiti redditionem, vel quae ad mutuam cohabitationem spectant. Ita D. Bonavent.* loco cit. *quem imitantur Glossa* cap. manifestum, v. nisi author, 33. quaest. 5. *ibi: Hugo Archidiac. Bellamera, Hostiensis, V.* summa, tit. de voto, §. Quis vovere possit, num. 8. et cap. Scriptura de voto, ad finem. *Ubi Innocentius, Ioan. Andreas, Antonius, Abbas, Anchar. et Cardinalis* quaest. 14. *Abulensis vero* quaest. 85. ad 30. Numer. et quaest. 149. ad cap. 6. matth. *D. Antonin.* 3. part. tit. 1. cap. 22. §. 1. *Maior* 4. dist. 38. q. 4. dub. 2. suppl. *Gabrielis* 4. dist. 32. quaest. unica, art. 1. notab. 3. *Rosella* votum 2. num. 9. *Angel.* ibi, num. 8. *Sylvester* 5. quaestio 1. et v. lex 8. tit. 8. *Gregorius Lopez* lib. 3. v. el marido, eodem tit. *Margatita confess. ubi de voti irritatione folio 135. Manuel* 2. Tomo cap. 90. *Nauar.* summa, cap. 12. num. 64. *Stunica* de voto, quaest. 3. num. 60. *Toletus* lib. 4. summa, cap. 18. *Aragon.* 2. 2. quaest. 88. art. 8. fol. 1020. *Graff.* p. p. decis. lib. 2. cap. 29. num. 8. *Philiarc.* Tom. 1. part. 2. lib. 3. cap. 18. *Ludouicus Lopes* p. p. Instruct. cap. 47. §. ult. *Canned.* summa de sacram. tract. de matrimonio, cap. 8. num. 74. *et supponit Valentia* 2. 2. disput. 6. quaest. 6. puncto 6. quaest. ult. *et alii, quos citat, et sequitur Sanchez* lib. 9. de matrim. disp. 42. *et alii, quos refert* lib. 4. summa, cap. 34. num. 20. *ex quibus est Paludanus* 4. dist. 38. quaest. 4. art. 2. conclus. 5. *Lessius* lib. 7. de iustitia, cap. 40. dub. 10. num. 83. *Sayrus* lib. 6. cap. 5. num. 9. et cap. 10. num. 20. *Suarez* Tom. 2. de religione, Tract. de voto, lib. 6. cap. 4. num. 8. *Corrasdos* in resp. 1. part. quaest. 304. *Fagundez* in 2. praeceptum, lib. 2. cap. 37. n. 20. *alios referens, cum Bassaeo* V. Votum §. num. 6.

3 But what these vows are, I shall say in the assertions. I ASSERT first, that a wife can annul a vow of chastity made by her husband without her permission.

> *Quae autem sint haec vota, dicam in assertionibus. ASSERO primo, posse uxorem irritare votum castitatis, editum a viro absque sui licentia.*

4 *It is PROVED by D. Bonaventure's first argument,* on which the rest rely: A wife can annul those vows which prejudice the dominion she has over her husband's body; but she has power over her husband's body as to demanding the debt, which a vow of chastity prejudices: Therefore. The major is clear; the minor is from the Apostle, *1 Corinth. 7.*

> PROBATUR a D. Bonau. argumento primo, *quo caeteri nituntur: Ea vota potest irritare uxor, quae praeiudicant dominio, quod habet in corpus viri; sed habet potestatem in corpus viri, quo ad debitum petendum, cui praeiudicat votum castitatis: Ergo. Maior est clara; Minor est Apostoli* prima Corinth. 7.

5 *It is PROVED secondly by D. Bonaventure from D. Augustine lib. de bono coniugii, cap. 6. Tom. 6. et 7. and super Psalm. 46.* and it is found, *33. quaest. 5. cap. si dicat, et epistola 45. ad Arment. tomo 2.* and in other places, as is noted in the Master, dist. cit.

> PROBATUR secundo a D. Bonauent. ex D. Augustino lib. de bono coniugii, cap. 6. Tom. 6. et 7. et super Psalm. 46. et habetur, 33. quaest. 5. cap. si dicat, et epistola 45. ad Arment. tomo 2. et aliis locis, ut

> notatur in magistri dist. cit.

6 *It is PROVED thirdly by D. Bonaventure, because it would follow that a wife could be compelled to continence, which is prohibited, 33. quaest. 5.*

> PROBATUR tertio a D. Bonavent. quia sequeretur, posse cogi uxorem ad continentiam, quod prohibetur, 33. quaest. 5.

7 I ASSERT secondly, that a husband cannot without his wife's permission vow religion; and therefore this vow can be annulled by the wife.

> *ASSERO secundo, non posse virum absque uxoris licentia vovere religionem; et ideo votum hoc ab uxore posse irritari.*

8 *It is proved* by D. Bonaventure from what has been said, because thus the wife's right of demanding the debt and of cohabitation is taken away.

> Probatur *a D. Bonavent. ex dictis, quia sic tollitur ius uxoris petendi debitum, et cohabitatio.*

9 *It is proved* especially by the Saintly Doctor *dist. 32. dub. 3.* from the universal prohibition of the Church, even if, with permission obtained, only one party vows; for this is illicit. But if it is done without permission, it is annulled. So Alexander III defines, writing to Landulphus Corficae *cap. 2. quaest. 1. citata 33. causa.* The reason is, because he cannot compel his wife to continence; which is of Counsel, as S. Bonaventure notes, *ad ultimum.*

> Probatur *praecipue a S. Doctore* dist. 32. dub. 3. *ex prohibitione Ecclesiae universaliter, etiam si obtenta licentia, alter tantum voveat; hoc enim illicitum est. Quod si absque licentia fiat, irritatur. Ita definit Alexander III. Landulpho Corficae scribens* cap. 2. quaest. 1. citata 33. causa. *Ratio est, quia non potest cogere uxorem ad continentiam; quae est Consilii, ut notat S. Bonavent.* ad ultimum.

10 *It is proved* thirdly on the last foundation here, because as a slave who is subject, in matters that are debts — so that if he has bound himself out of Justice, and is bound, he cannot enter religion, prejudicing the debts owed to his Lord — so neither a woman, nor a husband.

> Probatur *tertio fundamento ultimo, hic, quia sicut servus subditus in his, quae sunt debita, ita ut si ex Iustitia se obligaverit, et sit ligatus, non possit religionem intrare, praeiudicans debitis suo Domino; ita nec mulier, aut vir.*

11 *I assert* thirdly, that a wife cannot annul her husband's vow of chastity as to demanding the debt. It is clear from what was said *quaest. 15. et 19.* Because in this each has his own inviolable right. So D. Bonav. *in corpore*, whom Bellar. follows, *in 4. disp. 38. dub. 2. fol. 717.* Angles *flor. 2. part. quaest. de voto, art. 7. post 9. diff. dub. 2.* Stunica *quaest. 3 de voto*, Go. Gomez *in Bulla Cruc. clausula 10. num. 67.* and all who were reported *quaest. 15. et 19.* saying that neither can the husband annul this vow of the wife.

> Assero *tertio, non posse uxorem irritare votum castitatis viri, quo ad debitum petendum. Patet ex dictis* quaest. 15. et 19. *Quia ad hoc uterque habet suum ius inviolabile. Ita D. Bonav.* in corpore*, quem sequuntur Bellar.* in 4. disp. 38. dub. 2. fol. 717. *Angles* flor. 2. part. quaest. de voto, art. 7. post 9. diff. dub. 2. *Stunica* quaest. 3 de voto*, Go. Gomez* in Bulla Cruc. clausula 10. num. 67. *et omnes, qui relati sunt* quaest. 15. et 19. *dicentes neque virum posse hoc votum uxoris irritare.*

12 From these things some assign a certain disparity, because the woman, out of modesty, if the husband does not ask, is held back from copula, because she does not dare to ask. So Henriquez *lib. 21. de matrimonio, cap. 15. num. 8.* Manuel 2. *Tomo summae, cap. 90.* Philiar. *tract. 1. part. 2. lib. 3. cap. 4.* Vega 2. *Tomo summae, cap. 129. casu 93.* and he says it is most probable. Aragon. *loco cit. fol. 1021.* Navar

seems to hold it, *cap. 11. summae, num. 60.* with this restriction: unless there be a vow of not asking in favor of oneself, but only when the custom is to be observed toward the other spouse; and others seem to hold the same, saying indistinctly that either spouse can annul that vow. These are Gutier. *quaest. can. lib. 2. cap. 22. num. 49.* Manuel 1. *Tomo summae, cap. 243. num. 8.* Ludovicus Lopez *p. p. Instruct. cap. 40.*

> *Ex his aliqui aliquam disparitatem assignant, quia mulier ob pudorem, viro non petente, retrahitur a copula, quia non audet petere. Ita Henriquez* lib. 21. de matrimonio, cap. 15. num. 8. *Manuel* 2. Tomo summae, cap. 90. *Philiar.* tract. 1. part. 2. lib. 3. cap. 4. *Vega* 2. Tomo summae, cap. 129. casu 93. *et dicit esse probabilissimum. Aragon.* loco cit. fol. 1021. *Videtur Navar.* cap. 11. summae, num. 60. *cum hac restrictione, nisi sit votum non petendi in favorem sui, sed tantum, quando mos est gerendus alteri coniugi; et videntur idem tenere alii indistincte dicentes, posse alterum coniugem illud votum cassare. Hi sunt Gutier.* quaest. can. lib. 2. cap. 22. num. 49. *Manuel 1.* Tomo summae, cap. 243. num. 8. *Ludovicus Lopez* p. p. Instruct. cap. 40.

13 *I assert* fourthly, that a wife can annul her husband's vows concerning abstinences and the like, which gravely prejudice a moderate rendering of the debt: it follows from what has been said, and the Canonists hold it, *cap. Scriptura*, where Innocentius, Ioan. Andreas, Anton. Anchar. Abbas, Henriquez, and Cardinalis *quaest. 14.* Gloss. *cap. manifestum, 33. quaest. 4.* where Archidiac. and Turrecremata, Hostienf. *summa, tit. de voto, §. Qui vovere possit*, and many other Theologians, reported by Sanchez *lib. 9. de matrimonio, disp. 3. numero septimo.*

> Assero *quarto, posse uxorem irritare vota viri circa abstinentias, et similia, quae moderatae redditioni debiti graviter praeiudicant: sequitur ex dictis, et tenent Canonistae* cap. Scriptura*, ubi Innocentius Ioan. Andreas, Anton. Anchar. Abbas, Henriquez, et Cardinalis* quaest. 14. *Gloss.* cap. manifestum, 33. quaest. 4. *ubi Archidiac. et Turrecremata, Hostienf.* summa, tit. de voto, §. Qui vovere possit*, et alii multi Theologi, relati a Sanchez* lib. 9. de matrimonio, disp. 3. numero septimo.

14 *I assert* fifthly: a man cannot make vows of long pilgrimages without his wife's consent. So D. Bonaventure.

> Assero *quinto: non potest vir edere vota de longis peregrinationibus absque uxoris consensu. Ita D. Bonaventura.*

15 ¶ *It is proved* by the Saintly Doctor *ad 1. quia cap. ex multa, §. in tanta de voto*: it is granted to the man that he may, without his wife's consent, vow a pilgrimage in aid of the Holy Land, where the Gloss, V. *viri*, and Abbas *n. 8.* say this is a most special case in favor of the Holy Land, and has no place when the pilgrimage would be for the sake of devotion alone. So teach Antonius *cap. Scriptura, num. 3. de voto*, where Abbas *num. 8.* D. Antonin. *3. part. tit. 1. cap. 22.* Rosella *votum 2. num. 8.* Sylvester *votum 5. quaest. 1.* Abul. *cap. 30. Numer. quaest. 83.* Manuel *summa 2. Tomo, cap. 90. num. 7.* Angles *flor. 2. part. quaest. unica de voto, art. 7. post 9. diff. dub. 3. concl. 1.* Aragon. *2. 2. quaest. 88. art. 8. fol. 1020.* All of which S. Bonaventure observes, *loco citato.*

> ¶ Probatur *a S. Doctore* ad 1. quia cap. ex multa, §. in tanta de voto*, conceditur viro, ut possit absque uxoris consensu vovere peregrinationem in subsidium terrae sanctae, ubi Gloss. V.* viri*, et Abbas* n. 8. *dicunt, esse specialissimum casum in favorem terrae sanctae, et non habere locum, quando peregrinatio esset solius gratia devotionis. Ita docent Antonius* cap. Scriptura, num. 3. de voto*, ubi Abbas* num. 8. *D. Antonin.* 3. part. tit. 1. cap. 22. *Rosella* votum 2. num. 8. *Sylvester* votum 5. quaest. 1. *Abul.* cap. 30. Numer. quaest. 83. *Manuel* summa 2. Tomo, cap. 90. num. 7. *Angles* flor. 2. part. quaest. unica de voto, art. 7. post 9. diff. dub. 3. concl. 1. *Aragon.* 2. 2. quaest. 88. art. 8. fol. 1020. *Quae omnia observat S. Bonavent.* loco citato.

16 *It is proved* secondly by D. Bonaventure, because wife and husband ought to cohabit, nor, without permission granted out of great necessity, be separated for long, *cap. 1. de coniug. lepros. there: Since husband and wife are one flesh, neither ought to be without the other for long.*

> Probatur *secundo a D. Bonav. quia uxor, et vir debent cohabitare, nec absque licentia concessa ex magna necessitate separari diutius* cap. 1. de coniug. lepros. ibi: Cum vir, et uxor una caro sint, non debet alter sine altero diutius esse.

17 If, however, there is great necessity, he may be absent — as on account of a grave war to be sustained by the Prince, or, as I said, for the cause of a pilgrimage in aid of the Holy Land; for he may, as a mutual matter, vow it even with his wife unwilling. They are had expressly in *cap. ex multa, §. in tanta de voto.* Nor is any prejudice at all done to the wife, because she can follow her husband; and if she cannot, it is just that she contain herself for a time in favor of so great a good of the Church, as Sanchez notes, *disp. 4. num. 16. lib. 9 de matrimonio*, after D. Bonaventure, *loco citato.*

> *Si tamen magna necessitas sit, potest abesse, ut ob bellum grave Principis sustinendum, vel, ut dixi, causa peregrinationis ad subsidium terrae sanctae, potest enim, ut mutui, vir uxore invita vovere. Habentur expresse* cap. ex multa, §. in tanta de voto. *Nec factum est omnino praeiudicium uxori, quia potest sequi virum, quod si nequeat, iustum est, ut ad tempus contineat favore tanti boni Ecclesiae, ut notat Sanchez* disp. 4. num. 16. lib. 9 de matrimonio, *post D. Bonavent.* loco citato.

18 But whether indeed the wife, with her husband unwilling, can validly make a similar vow. Some assert, if there be no danger of incontinence, especially on account of age, and if she is rich, so that she can bring aid. So think most of those reported by Sanchez, *loco cit. num. 17.*

> *An vero etiam uxor invito viro simile votum emittere valeat. Quidam asserunt, si non adsit periculum incontinentiae ob aetatem maxime, et si sit dives, ut auxilia possit afferre. Ita sentiunt plurimi relati a Sanchez* loco cit. num. 17.

19 But D. Bonaventure says nothing of this, as if the reason were not parallel; and deservedly, because the peril to continence is unequal, most unequal the burden on the Church, and the necessity of assistance. So D. Thomas, *ibi, dist. 32. quaest. unica, art. 3. ad 1.* and others whom Sanchez follows, *loco citato.*

> *At D. Bonavent. nil de hoc, quasi non sit par ratio; et merito, quia impar est discrimen castitatis, impar immodum Ecclesiae, et necessitas assistentiae. Ita D. Thomas* ibi, dist. 32. quaest. unica, art. 3. ad 1. *et alii, quos sequitur Sanchez* loco citato.

20 *You will ask:* whether abstinences and other things gravely harmful to the rendering of the debt are void by the very law itself, or rather valid, until they are annulled.

> Quaeres: *An abstinentiae, et alia, reddendo debito graviter nocua, sint ipso iure irrita; an potius valida, donec irritentur.*

21 The FIRST opinion is affirmative, that they are void by the very law. So Sotus *lib. 7. de Iustitia, quaest. 5. art. 1.* Manuel *secundo Tom. summae, cap. 90. num. 7.*

> Prima *opinio est affirmativa, esse ipso iure irrita. Ita Sotus* lib. 7. de Iustitia, quaest. 5. art. 1. *Manuel* secundo Tom. summae, cap. 90. num. 7.

22 *They prove it,* because they vow about a thing over which they have no dominion. And so, just as if one were to vow not to render the debt, it is void, because he vows about what belongs to his spouse,

so etc.

> Probant, *quia vovent de re, de qua non habent dominium. Itaque sicuti, si voveret non reddere debitum, irritum est, quia vovet de eo, quod est coniugis, ita etc.*

23 But the more probable opinion is that they must be annulled. So Sanchez *disp. 3. num. 8. lib. 9. de matrim.* citing Tabiena *matrim. 1. quaest. 3. §. 4.* Vincentius *in speculo, Tom. 2. lib. 9. cap. 86.* Rainerius, whom Turrecrem. follows, *cap. sunt quaedam 17. quaest. 1. num. 6.* Angles *flor. 2. part. quaest. unica de voto, art. 7. post 9. diffic. dub. 3. concl. 1.* Navar. *summa, cap. 12. num. 61.* Ludovicus Lopez *1. part. Instruct. c. 46.* For (say some of these) it is not the same as a vow not to render the debt, which is directly against marriage, and therefore invalid by the very law, because a thing belonging to another is vowed, namely the body, insofar as it belongs to the spouse who has the power of demanding the debt.

> *At probabilior est, requiri, ut irritentur. Ita Sanchez* disp. 3. num. 8. lib. 9. de matrim. *allegans Tabienam* matrim. 1. quaest. 3. §. 4. *Vincentium* in speculo, Tom. 2. lib. 9. cap. 86. *Rainerium, quem sequitur Turrecrem.* cap. sunt quaedam 17. quaest. 1. num. 6. *Angles* flor. 2. part. quaest. unica de voto, art. 7. post 9. diffic. dub. 3. concl. 1. *Navar.* summa, cap. 12. num. 61. *Ludovicum Lopez* 1. part. Instruct. c. 46. *Neque enim (aiunt aliqui ex his) est simile de voto non reddendi debitum, quod est contra matrimonium directe, et ideo ipso iure invalidum, quia vovetur res aliena, nempe corpus, pro ut est coniugis habentis potestatem ad debitum petendum.*

24 *Note* that the Seraphic Doctor *in 4. dist. 32. dub. 3.* proposes this doubt, and solves it thus: if he vowed with the intention of defrauding his spouse, it is thus iniquitous, an usurpation of another's, and therefore invalid by the very law; but if he vowed out of love of continence, the vow has something of rashness and something of honesty, for as to demanding the debt it is of his own right, and so the vow is honest and valid: but as to the other part, which the vow of not rendering the debt to his wife includes, it is rash, and is to be revoked, unless the wife consent. But when he says the vow is to be revoked, he seems to say it is not void by the very law: and it must be noted that it is to be annulled insofar as the vower, impelled by zeal for liberty, and not adverting that what is promised is another's, vowed it. Or say: to be revoked, that is, the intention of not rendering is to be withdrawn, and therefore the vow, as to its material element, is to be withdrawn, since in the formal ratio of the vow it is void by the very law at once. Or say: it is to be revoked for this reason, that since the vow is mixed, part licit and part illicit, that part stands; but this part, because illicit, must be removed and separated from the other part of the vow, and it is extinguished.

> Adverte *Seraphicum* in 4. dist. 32. dub. 3. *hoc dubium proponere, quod ita solvit: si vovit intentione fraudandi coniugem, sic est iniquum, usurpatio alienum, et ideo ipso iure invalidum; si autem vovit amore continentiae, votum habet aliquid temeritatis, et aliquid honestatis, nam quo ad debitum petendum est sui iuris, atque adeo votum est honestum, ac validum: At quo ad alteram partem, quam includit votum non reddendi debitum uxori, temerarium est, et est revocandum, nisi uxor consentiat. Dum autem ait, votum esse revocandum, videtur dicere, non esse ipso iure irritum: et oportet advertere, eatenus esse irritandum, quatenus vovens, Zelo libertatis impulsus, nec advertens, alienum esse, quod promittitur, vovit: Vel dic, revocandum, idest, intentionem non reddendi retractandam, et ideo votum, quo ad materiale retractandum, cum in ratione formali voti sit iure ipso statim irritum. Vel dic, revocandum ea ratione, quia cum votum sit mixtum ex parte licita, et parte illicita, illa stat; haec vero, quia illicita, removenda, ac separanda ab altera parte voti, atque haec extinguitur.*

Question XXIV: Whether parents or guardians can annul all the vows of their children under the age of puberty

1 It is TO BE NOTED first, that there is a threefold vow. One is Personal, which regards the person alone, as vows of chastity, of religion, and of fasting. Another is purely Real, which is fulfilled by things alone, or expenses, as a vow of almsgiving. The third is Mixed, which is fulfilled jointly by the labor of the person and by expense, as a Vow of pilgrimage.

> *NOTANDUM primo, Triplex esse votum. Aliud Personale, quod solam personam respicit, ut vota castitatis, religionis, et ieiunii. Aliud Reale purum, quod solis rebus, seu sumptibus completur, ut votum eleemosynae. Tertium mixtum, quod operae personae, et sumptu coniunctim completur, ut Votum peregrinationis.*

2 It is TO BE NOTED secondly, that there is a threefold limit of age. The first is infancy, in which there is no use of reason, which commonly lasts until the seventh completed year, as all concede with D. Bonav. *in 4. dist. 36. ex 2. quaest. 2.* and it is proved *leg. si infanti, §. vet. iuncta leg. potuit, Cod. de inre deliber. et leg. in sponsal. contrahendis fine, ff. de sponsal.* an age is imposed on betrothals, so that it not be before the completed seventh year, because before that the completed use of reason is not presumed, as D. Bonaventure notes, *quaest. 2. fundamento secundo.*

> *NOTANDUM secundo, triplicem esse aetatis limitem. Primus est infantiae, in quo non est rationis usus, qui communiter usque ad septimum annum completum durat, ut fatentur omnes cum D. Bonav.* in 4. dist. 36. ex 2. quaest. 2. *et probatur* leg. si infanti, §. vet. iuncta leg. potuit, Cod. de inre deliber. et leg. in sponsal. contrahendis fine, ff. de sponsal. *imponitur sponsalibus aetas, ut non sit ante annum septimum completum, quia ante non praesumitur completus usus rationis, ut notat D. Bonavent.* quaest. 2. fundamento secundo.

3 Although however the use of reason comes to some sooner, and to others later; yet the law prescribes from what happens for the most part, as S. Bonaventure notes, *loco cit. in corpore*, and therefore in doubt one must stand by the legal presumption. Thus Sanchez also notes, *lib. 1. de matrim. disp. 16. num. 10.* citing Ioan. Andr. *cap. iuvenis de sponsal. num. 9.* where Anchar. *num. 4.* Naevo *num. 19.* Henricus *cap. accessit. de despons. impuber.* among the Theologians however he cites only Lopez *2. part. Instruct. de matrim. cap. 37. fol. 1019.*

> *QUAMVIS autem usus rationis quibusdam citius, et quibusdam tardius eveniat; attamen ius ab eo, quod ut plurimum evenit, praescribit, ut notat S. Bonavent.* loco cit. in corpore*, et ideo in dubio standum est iuris praesumptioni. Sic advertit et Sanchez* lib. 1. de matrim. disp. 16. num. 10. *adducens Ioan. Andr.* cap. iuvenis de sponsal. num. 9. *ubi Anchar.* num. 4. *Naevo* num. 19. *Henricus* cap. accessit. de despons. impuber. *ex Theologis vero solum citat Lopez* 2. part. Instruct. de matrim. cap. 37. fol. 1019.

4 The SECOND limit of the question is impuberty: it begins from the use of reason up to the term which is called puberty, which in females is in the twelfth completed year; in males truly in the fourteenth completed year.

> *SECUNDUS quaestionis limes est impubertas, incipit ab usu rationis usque ad terminum, qui dicitur pubertas, quae in foeminis est duodecimo anno completo; in masculis anno vero quarto decimo completo.*

5 But why the female matures sooner, Sanchez says *lib. 4. summa, cap. 35. num. 3.* she is learnedly taught by Tiraquel. *lib. 6. connubiali, num. 38.* Guttier. *authent. sacramenta puberum, num. 1. et 2. Cod. si adversus venditionem*, Sfortia Oddone *Tract. de restit. in integr. part. 1. quaest. 2. art. 4.* S. Bonaventure indeed learnedly hands this down, *dist. citata 36. quaest. 1. ad ultimum.*

CUR autem foemina citius pubescat, ait Sanchez lib. 4. summa, cap. 35. num. 3. *erudite doceri a Tiraquel.* lib. 6. connubiali, num. 38. *Guttier.* authent. sacramenta puberum, num. 1. et 2. Cod. si adversus venditionem, *Sfortia Oddone* Tract. de restit. in integr. part. 1. quaest. 2. art. 4. *erudite id sane tradit S. Bonau.* dist. citata 36. quaest. 1. ad ultimum.

6 The FIRST reason is, because the resolution of the physical quality occurs sooner owing to the wider passages of the female.

PRIMA ratio est, quia citius fit solutio virtuo-sitatis ob meatus foeminae largiores.

7 The SECOND, because it is harder to act than to undergo.

SECUNDA, quia difficilius est agere, quam pati.

8 The THIRD, because nature, imperfect in the woman, desires the man, as matter desires form; whence, on account of the greater desire arising from the indigence of nature, there is a greater acceleration.

TERTIA, quia natura imperfecta in muliere appetit virum, sicut materia appetit formam, unde propter maiorem appetitum ex indigentia naturae fit maior acceleratio.

9 BEFORE this age, however, man and woman are called wards, and are called impuberes. It is established from the *lege final. Cod. quando tutor.* and *cap. Puella, 20. quaest. 2.*

ANTE hanc autem aetatem vir, et foemina dicuntur pupilli, et dicuntur impubetes. Constat ex lege final. Cod. quando tutor. *et* cap. Puella, 20. quaest. 2.

10 The THIRD limit is from puberty up to the twenty-fifth completed year, by which they are called minors *leg. 1. Cod. si minor se maiorem dixerit.* These years, both of puberty and of minority, must all be completed from moment to moment; so is minority of age regulated, *leg. 3. §. minorem, ff. de minoribus.* It is computed moreover from the day of birth, as Couar. notes, *4. decret. 2. part. cap. 8. §. 2.* and Mandosius *de aetate minori cap. 1. num. 25.*

TERTIUS limes est a pubertate usque ad vigesimum quintum annum completum, quo dicuntur minores leg. 1. Cod. si minor se maiorem dixerit. *Hi autem anni tam pubertatis, quam minoritatis debent esse omnes completi de momento ad momentum, sic de aetate minori disponitur* leg. 3. §. minorem, ff. de minoribus. *Computatur autem a die nativitatis, ut notat Couar.* 4. decret. 2. part. cap. 8. §. 2. *et Mandosius* de aetate minori cap. 1. num. 25.

11 The FIRST opinion therefore is that of Vivaldi *in candelabro 3. part. cap. 14. num. 99.*: that a Father can annul all the real vows of his sons and daughters while impuberate, yet not all the personal ones, but only those prejudicial to himself.

PRIMA igitur opinio est Vivaldi in candelabro 3. part. cap. 14. num. 99. *Patrem posse irritare omnia vota realia filii, et filiae impuberum, non tamen omnia personalia, sed sola sibi praeiudicantia.*

12 BUT D. Bonaventure holds the opposite universally, *loco cit.* whom Palac. follows, *4. dist. 38. disput. 23. col. 23.* Azor. *Tom. 1. lib. 11. cap. 17. quaestio 7.* Philiarc. *Tom. 1. part. 2. lib. 3. cap. 18.* Sayrus *lib. 6. cap. 10. num. 24.* Suarez *Tom. 2. de relig. tract. de voto, lib. 6. cap. 6. num. 4.* Sanchez *lib. 4. summae, capite 35. numero 8.* Bassaeus *V. Votum 5. num. 13.* and the rest among them.

AT oppositum universaliter tenet D. Bonavent. loco cit. *quem sequuntur Palac.* 4. dist. 38. disput. 23. col. 23. *Azor.* Tom. 1. lib. 11. cap. 17. quaestio 7. *Philiarc.* Tom. 1. part. 2. lib. 3. cap. 18. *Sayrus* lib. 6. cap. 10.

num. 24. *Suarez* Tom. 2. de relig. tract. de voto, lib. 6. cap. 6. num. 4. *Sanchez* lib. 4. summae, capite 35. numero 8. *Bassaeus* V. Votum 5. num. 13. *et caeteri apud istos.*

13 I ASSERT with this opinion, which is common to all, except Vivaldo.

ASSERO cum hac sententia, quae est communis omnium, excepto Vivaldo.

14 It is PROVED first *from cap. 30. Numer. cap. mulier 32. quaest. 2.* and the *Council of Toledo 10. cap. 6.* and it is reported in *cap. 1. 20. quaest. 2.* and the *Council of Tribur cap. 24.* and it is reported in *2. 20. quaest. 2.*

PROBATUR primo ex cap. 30. Numer. cap. mulier 32. quaest. 2. *et* Con. Toletano 10. cap. 6. *et refertur* cap. 1. 20. quaest. 2. *et* Triburiensi cap. 24. *et refertur* 2. 20. quaest. 2.

15 It is PROVED by reason by D. Bonaventure, because the impuberes, from the weakness of their state, are subject to the governance of their life by their parents and tutors, lest they imprudently govern themselves in the grave business of vows. So it is proved also by others after him.

PROBATUR ratione a D. Bonauent. quia impuberes subiacent, ex sui status imbecillia cognitione in regimine vitae, patentibus, et tutoribus, ne imprudenter se regant in gravi votorum negotio. Ita probatur etiam ab aliis post eum.

16 It is CONFIRMED by D. Bonaventure *in 3. dist. 20. quaest. 3. ad ultimum*, because a tutor can better the condition of his ward, where the power of the ward is lacking.

CONFIRMATUR a D. Bonauent. in 3. dist. 20. quaest. 3. ad ultimum*, quia tutor potest Pupilli conditionem meliorare, ubi deesset potentia pupilli.*

Question XXV: Whether a father and a curator can annul the personal vows of children who have reached puberty

1 Now let us consider the children in the second limit of age, namely from puberty to 25 years.

IAM consideremus filios in secundo limite aetatis, nempe a pubertate ad 25. annos.

2 The FIRST opinion is, that all vows can be annulled, except a vow of religion. So Innocentius *cap. scriptura, num. 3.* and there Hostiens. *num. 7.* Ioan. Andr. *num. 4.* Cardinalis *num. 6. quaest. 12.* Anchar. *num. 8.*

PRIMA opinio est, omnia posse irritari, excepto voto religionis. Ita Innocentius cap. scriptura, num. 3. *et ibi Hostiens.* num. 7. *Ioan. Andr.* num. 4. *Cardinalis* num. 6. quaest. 12. *Anchar.* num. 8.

3 The SECOND opinion is, that only the vows of pubescent females, not of males, can be annulled. So Angles *flor. 2. part. quaest. unica de voto, art. 7. diff. 12. dub. 5.* and he asserts this even of a vow of religion.

SECUNDA opinio est, vota sola foeminarum puberum, non masculorum, posse irritari. Ita Angles flor. 2. part. quaest. unica de voto, art. 7. diff. 12. dub. 5. *et hoc etiam de voto religionis asserit.*

4 The THIRD opinion is, that no personal vows of the pubescent can be annulled by a Father. So D. Thom. *in 4. dist. 38. quaest. 1. art. 1. quaestiuncula ultima, ad 2.* D. Antonin. *2. part. tit. 11. cap. 2. §. 6.* Sotus *lib. 7. de iustitia, quaest. 3. art. 2.* Aragon. *2. 2. quaest. 88. art. 8. in difficultate circa quartam conclusionem*, Angles *flor. 2. part. quaest. unica de voto, art. 7. post 12. diffic. dub. 6.* Philiarc. *Tom. 1. part. 2. lib. 3. cap. 18.* Beia *in responsis, p. p. casu 49.* Toletus *lib. 4. summa, cap. 18.* Sayrus *Clau. reg. lib. 6. cap. 5.* Petrus Ledesm. *2. sum. Tract. 10. cap. 7. dub. ult.* Graff. *4. part. decis. lib. 2. cap. 26.* Valentia *2. 2. disp. 6.*

quaest. 6. puncto 6. quaest. ult. Suarez *Tom. 2. de relig. tract. de voto, lib. 6. cap. 5. num. 4.* Llamas *in methodo curat. 3. part. cap. 4.* Corradus *in responsis p. p. q. 308.* Sanchez *lib. 4. summae, c. 35. n. 15.*

> *TERTIA opinio est, nulla vota personalia puberum posse a Patre irritari. Ita D. Thom.* in 4. dist. 38. quaest. 1. art. 1. quaestiuncula ultima, ad 2. *D. Antonin.* 2. part. tit. 11. cap. 2. §. 6. *Sotus* lib. 7. de iustitia, quaest. 3. art. 2. *Aragon.* 2. 2. quaest. 88. art. 8. in difficultate circa quartam conclusionem, *Angles* flor. 2. part. quaest. unica de voto, art. 7. post 12. diffic. dub. 6. *Philiarc.* Tom. 1. part. 2. lib. 3. cap. 18. *Beia* in responsis, p. p. casu 49. *Toletus* lib. 4. summa, cap. 18. *Sayrus* Clau. reg. lib. 6. cap. 5. *Petrus Ledesm.* 2. sum. Tract. 10. cap. 7. dub. ult. *Graff.* 4. part. decis. lib. 2. cap. 26. *Valentia* 2. 2. disp. 6. quaest. 6. puncto 6. quaest. ult. *Suarez* Tom. 2. de relig. tract. de voto, lib. 6. cap. 5. num. 4. *Llamas* in methodo curat. 3. part. cap. 4. *Corradus* in responsis p. p. q. 308. *Sanchez* lib. 4. summae, c. 35. n. 15.

5 The same is asserted by those cited below, who except only the personal vow prejudicing the father's right concerning the governance of the family; these are referred to by Sanchez *loco cit. num. 16.* Vows of long pilgrimage, of excessive abstinence, of excessive prayers are considered of this kind; more such vows, however, are annullable in the case of a family that needs wider assistance. Bassaeus subscribes with the others, *V. Votum 5. num. 13.*

> *IDEM asserunt infra citandi, qui excipiunt tantum votum personale praeiudicans iuri Patris circa gubernationem familiae, hi referuntur a Sanchez* loco cit. num. 16. *Talia censentur vota longae peregrinationis, nimiae abstinentiae, nimiarum precum; plura vero talia familiae sunt irritabilia, quae ampliori eget assistentia. Subscribit cum aliis Bassaeus* V. Votum 5. num. 13.

6 I ASSERT with this opinion, that the personal vows of the pubescent cannot be annulled by a father in matters not prejudicing the governance of the family.

> *ASSERO cum hac sententia, puberum personalia vota non posse a patre irritari in rebus gubernationi familiae non praeiudicantibus.*

7 *It is PROVED* by Sanchez, because although the laws speak only of the vow of religion, they use it as an example for the others. For if that which requires the greatest deliberation cannot be annulled, much less the others.

> PROBATUR *a Sanchez, quia licet iura de solo voto religionis loquantur; tamen eo utuntur, tanquam in aliorum exemplum. Si enim id quod maximam requirit deliberationem non potest irritari, multo minus alia.*

Question XXVI: Which real or mixed vows of children who have reached puberty can be annulled by the father

1 I ASSERT first that the real vows of minors before 25 years of age can be annulled by the father. So all the Doctors, for before that age they lack the administration of goods, as is clear from the whole title, *ff. de minoribus 25. annis*. That this is a perfect annulment is clear from what has been said. See Sanchez *lib. 4. cap. 26. num. 4.*

> ***Quae Vota realia, aut mixta puberum valeant a patre irritari.***
>
> *ASSERO primo vota realia puberum ante 25. annos, posse a patre irritari. Ita omnes DD. nam ante eam aetatem carent bonorum administratione, ut constat ex toto titulo,* ff. de minoribus 25. annis. *Hanc autem esse perfectam irritationem patet ex dictis. Vide Sanchez* lib. 4. cap. 26. num. 4.

2 I ASSERT second that the same must be said of mixed vows, for instance of pilgrimages, in which expenses are required. The reason is that the father is the master of the expenses. So very many, with Sanchez *cap. 35. num. 22. et* Bassaeo *V. Votum 5. num. 13*.

> *ASSERO secundo idem dicendum de mixtis, puta peregrinationum, in quibus exiguntur expensae. Ratio est, quia expensarum Dominus est pater. Ita plurimi cum Sanchez* cap. 35. num. 22. et *Bassaeo* V. Votum 5. num. 13.

3 BUT FOUR vows are exceptions. First, if the son vows from his peculium castrense, or quasi-castrense, because in this the son is his own master *leg. 2. ff. ad senat. Consultum macedonianum*.

> *EXCIPIUNT autem quatuor vota. Primum, si filius voveat de peculio suo castrensi, vel quasi castrensi, quia in hoc filius est sui iuris* leg. 2. ff. ad senat. Consultum macedonianum.

4 SECOND is when a real vow is added to a personal vow only on account of a mere consequence, as if a son should vow religion, and the monastery ought to succeed to the goods of the one entering. The reason is that this manner of alienating is granted to a minor by the law.

> *SECUNDUM est, quando reale accedit voto personali solum ob quandam solam consequentiam, ut si filius voveat religionem, et monasterium succedere debeat ad bona ingredientis. Ratio est, quia hic modus alienandi est concessus minori a iure.*

5 THIRD is the vow of going to the aid of the Holy Land *cap. ex multa de voto*, where, if license is given to one who is married, much more to one subject to a father.

> *TERTIUM votum est, eundi in subsidium terrae sanctae* cap. ex multa de voto*, ubi, si datur licentia coniugato; ergo multo magis subdito Patri.*

6 FOURTH is if the minor falls into an excommunication reserved to the Apostolic See, and makes a vow of going there for absolution *cap. relatum de sent. excommunicat*.

> *QUARTUM est, si minor incidat in excommunicationem, sedi Apostolicae reservatam, et votum emittat illuc eundi ad absolutionem* cap. relatum de sent. excommunicat.

7 TAKE NOTE, however, that even after the son's twenty-fifth year the father can annul his real vows.

> *ADVERTE autem, etiam post vigesimum quintum annum filii, posse patrem vota eius realia irritare.*

8 SO Sanchez *lib. 6. de matrim. disp. 39 circa finem*. The reason is that the Father always retains power over the goods, and the son himself is under the Father's power, as the Gloss has it *leg. finali §. pupillus, V. pupillus, ff. de verb. obligat.* and there all who discuss this question. See Sanchez *loc. cit*.

> *ITA Sanchez* lib. 6. de matrim. disp. 39 circa finem. *Ratio est, quia semper Pater retinet potestatem rerum, et ipse filius est sub Patris potestate, ut habet Gloss.* leg. finali §. pupillus, V. pupillus, ff. de verb. obligat. *et ibi omnes de hoc differentes. Vide Sanchez* loc. cit.

9 YOU WILL ASK whether the Father can annul the real vows of a married or emancipated son.

> *QUAERES, an possit Pater irritare vota realia filii coniugati, vel emancipati.*

10 IT IS ANSWERED that by the common law he can with regard to one who is married; it is clear from *Leg. 1. et 2. C. de bonis, quae liberis, et Leg. si uxor C. de condit. insertis*.

> *RESPONDETUR, ex iure communi posse quo ad coniugatum; patet ex* Leg. 1. et 2. C. de bonis, quae liberis, et Leg. si uxor C. de condit. insertis.

11 BUT the EMANCIPATED son can no longer be subject to the father's power, and acquires the administration of his goods, and therefore that the Father can no longer annul is perfectly clear from common practice and the disposition of the law.

> *EMANCIPATUM vero non subdi amplius potestati patris, et nancisci administrationem bonorum, atque adeo non posse amplius Patrem irritare liquido e communi praxi, et iuris dispositione patet.*

Question XXVII: To whom belongs the faculty of annulling the vows of those who have, and those who have not, reached puberty

1 FIRST, as to the Father, it has been shown above that this invalidation of vows pertains to him.

> ***Quibus competat facultas irritandi Vota puberum et impuberum.***
>
> *PRIMO de Patre supra ostensum est, ad eum hanc votorum irritationem pertinere.*

2 The QUESTION is about the Tutor and the Curator. They differ, however, because a Tutor is given principally to the person, as is clear *ex §. Ad certum tempus in fine, Instit. qui testamento tutores*, there: *Personae, non causae, vel rei, tutor datur*. Secondarily, however, he is given for goods, as is established *ex §. Datus. Instit. de excus. tutor.*, there: *Datus autem tutor, ad universum patrimonium datus esse creditur*. But on the contrary, a Curator is given principally for goods, and secondarily to the person, *l. in copulandis 9. C. de Nuptiis*.

> *QUAESTIO est de Tutore, et Curatore. Differunt autem, quia Tutor datur principaliter personae, patet* ex §. Ad certum tempus in fine, Instit. qui testamento tutores, *ibi:* Personae, non causae, vel rei, tutor datur. *Secundario autem datur rebus, ut constat* ex §. Datus. Instit. de excus. tutor. *ibi:* Datus autem tutor, ad universum patrimonium datus esse creditur. *At contra, Curator datur principaliter rebus, et secundario personae,* l. in copulandis 9. C. de Nuptiis.

3 THEREFORE a Tutor is given in the age of childhood, that is, up to puberty, which when completed ceases at once, *Instit. Quibus modis tutela finitur*, there: *Pupilli, Pupillaeque, cum puberes esse coeperunt, a tutela liberantur*.

> *IDEO Tutor datur in aetate puellari, idest, usque ad pubertatem, qua completa cessat statim* Instit. Quibus modis tutela finitur, *ibi:* Pupilli, Pupillaeque, cum puberes esse coeperunt, a tutela liberantur.

4 BUT a Curator is given to those past puberty, and lasts through the whole time of minority, that is, up to the twenty-fifth year completed. It is clear *ex Instit. de curatoribus in principio*, there: *Masculi quidem puberes, et foeminae viripotentes, usque ad 25. annum completum, curatores accipiunt*.

> *AT Curator datur puberibus, et durat toto minoritatis tempore, idest, usque ad vigesimumquintum annum completum. Patet* ex Instit. de curatoribus in principio *ibi:* Masculi quidem puberes, et foeminae viripotentes, usque ad 25. annum completum, curatores accipiunt.

5 EXCEPT, unless they are freed by the Prince and transferred to majority, *leg. 1. et 2. C. de his qui veniam aetatis*.

> *EXCIPE, nisi a Principe liberentur, et transferantur ad maioritatem* leg. 1. et 2. C. de his qui veniam aetatis.

6 AND indeed there is a question: whether the office of Curator ends through marriage.

> *ET quidem est quaestio: an per matrimonium finiatur officium Curatoris.*

7 WITH REGARD to common law it does not end, which the text *l. 2. ff. de minoribus* proves. The same is proved by *leg. Non eo minus 14. C. de Procuratore*.

> *QUOAD ius commune non finitur, quod probat textus* l. 2. ff. de minoribus. *Idem probatur* leg. Non eo minus 14. C. de Procuratore.

8 AND indeed that the Tutor can invalidate is certain, as commonly taught with D. Bonaven. *4. dist. 38. quaest. 3. fundamento 2.*, all authors at Sanchez *lib. 4. summae, cap. 35. num. 60*.

> *ET quidem Tutotem irritare posse, certum est, ut docent communiter cum D. Bonaven.* 4. dist. 38. quaest. 3. fundamento 2. *omnes apud Sanchez* lib. 4. summae, cap. 35. num. 60.

9 The REASON is, because the tutor exercises the father's right, as D. Bonaventure indicates there, and after him others.

> *RATIO est quia tutor fungitur iure patris, ut indicat ibi D. Bonavent. et post eum alii.*

10 WITH REGARD to the Curator, he is not equivalent to the Father. They concede to the Curator the invalidating of real and mixed vows, and just as the father cannot invalidate those four exceptions brought forward above, so neither can the Curator.

> *QUOAD Curatotem, non aequivalet Patri. Concedunt Curatori irritare vota realia, et mixta, et sicut pater non potest ea quatuor super allata irritare; ita nec Curator.*

11 They DIFFER; because the Father can beyond the son's twenty-fifth year, not so the Curator.

> *DIFFERUNT; quia Pater potest ultra vigesimum quintum annum filii; non sic Curator.*

12 He CAN also invalidate personal vows that prejudice the domestic governance, which we have said above can also be invalidated by the father.

> *POTEST etiam irritare vota personalia praeiudicantia gubernationi domesticae, quae et a patre irritari posse diximus supra.*

13 WITH REGARD to the mother, some affirm, others deny.

> *QUOAD matrem, alii affirmant, alii negant.*

14 The FIRST opinion denies. So Paludanus *4. dist. 38. quaest. 4. art. 2. num. 26.*, D. Antonius *p. p. tit. 10. cap. 2. §. 6.*, Sylvest. *V. religio 2. quaest. 13.*, Vivald. *3. part. cap. 14. num. 97.*, Tapia anthemica Ingressi *V. reg. ssi. cap. 7. num. 49.*, C. *de sacrosancta Ecclesia et eodem cap. 6. num. 51.*, Azorius *tom. 1. lib. 11. cap. 17. quaesit. 7.*, and others at Sanchez *lib. 4. cap. 35*.

> *PRIMA opinio negat. Ita Paludanus* 4. dist. 38. quaest. 4. art. 2. num. 26. *D. Antonius* p. p. tit. 10. cap. 2. §. 6. *Sylvest.* V. religio 2. quaest. 13. *Vivald.* 3. part. cap. 14. num. 97. *Tapia authentica Ingressi* V. reg. ssi. cap. 7. num. 49. *C.* de sacrosancta Ecclesia et eodem cap. 6. num. 51. *Azorius* tom. 1. lib. 11. cap. 17. quaesit. 7. et *alii apud Sanchez* lib. 4. cap. 35.

15 The SECOND opinion concedes this faculty to the mother. So it seems to D. Bonavent. *in 4. dist. 38. quaest. 3. fundamento 2.*, where he places the son under the power of the parents: therefore also of the mother.

> *SECUNDA opinio concedit matri hanc facultatem. Ita videtur D. Bonavent.* in 4. dist. 38. quaest. 3. fundamento 2. *ubi filium constituit sub potestate parentum: ergo etiam matris.*

16 I KNOW that there he speaks of Tutores in the plural, but on that account by the name of parents he understands also fathers alone, because parents means Father and Mother. But Tutores are named in the plural, because several are often appointed, and to each is conceded the faculty of invalidating the vows of those subject to them, as Sylvester says, *verbo Religio 2. quaest. 13*. Suatez *tract. de voto lib. 6. cap. 6. num. ultimo*. Sanchez *cap. 35. num. 70*.

> *SCIO, ibi pluraliter etiam Tutores nominare, sed ob id nomine parentum intelligit etiam solos patres, quia parentes dicuntur Pater, et Mater. Nominantur vero pluraliter Tutores, quia plures saepe constituuntur, et singulis conceditur facultas vota irritandi subditorum, ut ait Sylvester* verbo Religio 2. quaest. 13. *Suatez* tract. de voto lib. 6. cap. 6. num. ultimo. *Sanchez* cap. 35. num. 70.

17 ON account of a similar way of speaking, D. Thom. *opusc. 17. cap. 13. ad 10.* is brought forward for this opinion by Sanchez *num. 71.*, and Sotus *lib. 7. de iustitia, quaest. 3. art. 1. col. 3*. Nor does it stand in the way that S. Bonavent. *in corpore* names only the father; for since the S. Doctor wants the son to be naturally under the power of the mother, as we saw *quaest. 11.*, it follows that the mother is also included. For this reason Sanchez also cites D. Thom. *2. 2. quaest. 189. art. 3.* with this second opinion, because he said the son is naturally subject to the Father; for natural power is common also to the mother. So Sanchez. The same is in *leg. regia 3. tit. 8. part. 1.*, Philiarc. *de off. sacerd. tomo 1. part. 2. lib. 3. cap. 4.*, Margarit. *Confess. fol. 134*.

> *OB similem modum loquendi pro hac sententia a Sanchez* num. 71. *adducitur D. Thom.* opusc. 17. cap. 13. ad 10. et *Sotus* lib. 7. de iustitia, quaest. 3. art. 1. col. 3. *Nec obstat, quod S. Bonavent.* in corpore *solum patrem nominat; nam cum S. Doctor velit, esse sub potestate matris naturaliter, ut vidimus* quaest. 11. *sequitur includi etiam matrem. Ob id Sanchez recenset etiam D. Thom.* 2. 2. quaest. 189. art. 3. *cum hac secunda sententia, quia dixit filium naturaliter subdi Patri; potestas enim naturalis communis est etiam matri, Ita Sanchez. Idem habet* leg. regia 3. tit. 8. part. 1. *Philiarc.* de off. sacerd. tomo 1. part. 2. lib. 3. cap. 4. *Margarit.* Confess. fol. 134.

18 Others, however, concede this power to the mother as restricted, either after death, or the unrecoverable absence of the husband. So Carthus. *cap. 30. Numer.*, and in the father's absence in the Indies Vivald. concedes it, *3. part. cap. 14. num. 97*. Sà agrees, *V. votum*, if the mother be tutrix; or if she be not tutrix, he concedes it with the father dead. The same has Manuel 2. *tomo summae, cap. 91. num. 10. concl. 9*. The same teach Stunica *de voto, quaest. 2. num. 95.*, Vega 2. *tomo summae, cap. 129. casu 96.*, Sayrus *clavi regia lib. 6. cap. 10.*, Bassaeus *V. Votum 5. num. 13*.

> *Alii tamen hanc potestatem restrictam matri concedunt, vel post mortem, aut irrecuperabilem viri absentiam. Ita Carthus.* cap. 30. Numer. *et in absentia patris ad Indos, concedit Vivald.* 3. part. cap. 14. num. 97. *Sà consentit* V. votum*, si mater sit tutrix; vel si non sit tutrix, mortuo patre concedit. Idem habet Manuel* 2. tomo summae, cap. 91. num. 10. concl. 9. *Idem docent Stunica* de voto, quaest. 2. num. 95. *Vega* 2. tomo summae, cap. 129. casu 96. *Sayrus* clavi regia lib. 6. cap. 10. *Bassaeus* V. Votum 5. num. 13.

19 I ASSERT that simply the care of the sons falls to the mother, and that she can invalidate their vows, at least when the Father is wanting.

> *Assero, simpliciter matri incumbere curam filiorum, et posse eorum vota irritare, deficiente saltem Patre.*

20 It is PROVED by the reason drawn from D. Bonavent. *serm. 5. de praeceptis Decalogi*, for as Innocentius teaches, *cap. 2. num. 1. de regul.*, where Hostiens. Ioan. Andreas, Antonius, Cardinalis, Abbas, Anchar. and others; in these spiritual matters the natural rather than the civil reason is to be regarded; for although by civil law the care of the sons is entrusted to the father, *§. foeminae, Instit. de*

adopt., nevertheless by natural law the son is bound to obey both parents, as is had in Exodus 20, *Honora patrem, et matrem*, and he is under the care of both, and we must obey both in the exercise of studious acts, whether of leisure or of labor, and live according to their counsel, and according to their command. Add that civil law also provided that Father and Mother together have the right of offering underage sons to religion, or of recalling them, *cap. 2. de regul. et cap. puella 20. quaest. 2.*, where it is said: *Si unus, aut ambo parentes offerunt*; and as to the offering of them to religion this the cited Canonists assert, and others at Sanchez *lib. 4. cap. 18. num. 19.*, and he himself follows.

> *Probatur ratione deducta ex D. Bonavent.* serm. 5. de praeceptis Decalogi, *nam ut Innocentius docet* cap. 2. num. 1. de regul. *ubi Hostiens. Ioan. Andreas, Antonius, Cardinalis, Abbas, Anchar. et alii; in his spiritualibus rebus spectanda est ratio naturalis potius, quam civilis; licet enim patri sit demandata iure civili cura filiorum,* §. foeminae, Instit. de adopt. *tamen iure naturali tenetur filius utrique parenti obedire, ut habetur Exodi 20.* Honora patrem, et matrem, *et sub utriusque cura est, et debemus utrique obtemperare in exercitatione actuum studiosorum, sive lubrium, et vivere secundum eorum consilium, et secundum eorum imperium. Adde, etiam ius civile providisse, ut Pater simul, et mater habeant ius offerendi filios impuberes religioni, vel eos revocandi* cap. 2. de regul. et cap. puella 20. quaest. 2. *dicitur:* Si unus, aut ambo parentes offerunt, *et quod ad offerendos religioni id asserunt Canonistae allegati, et alii apud Sanchez* lib. 4. cap. 18. num. 19. *et ipse sequitur.*

21 I ADD another natural reason; for, although civil law, from a presumption, established the care for the father alone, yet it is not to the prejudice of the son, but in his favor, nor does it detract from the law of nature, which demands the care and guardianship of the son; but often fathers, either from negligence, do not labor for the spiritual education of their sons, or from distraction in affairs, laboring only to leave their sons rich, not good; or because fathers are often bad, or for the most part not so good as the mothers, who have more taste for spiritual things, and are often women of great prudence; and since their husbands are of lesser prudence and judgment, the sons would be left without spiritual care.

> *Addo rationem aliam naturalem; nam, licet ius civile ex eo, quod praesumitur, statuisset curam soli patri, non ob id est in praeiudicium filii, sed in favorem, nec detrahit iuri naturae, quod petit filii curam, et tutelam; saepe autem, vel ex incuria patres non insudant educationi spirituali filiorum, vel ex distractione in negotiis, laborantes solum, ut divites relinquant filios, non ut bonos; vel quia saepe patres mali sunt, aut, ut plurimum, non ita boni, sicut matres, quae spiritualia magis sapiunt, et saepe viragines sunt magnae prudentiae; cumque mariti eorum sint minoris prudentiae, ac iudicii, relinquerentur filii absque cura spirituali.*

22 ADD the experience that the mother's education often counts for more than the father's, which not seldom hinders, as D. August. complains of in himself *in lib. Confess.*; the more so because underage and simple sons, like Jacob, dwell with their mother in tents.

> *Adde experimentum, plus valere educationem matris saepe, quam patris, quae non raro obest, ut de suo conqueritur D. August.* in lib. Confess. *eo vel magis quod filii impuberes simplices cum Iacob apud matrem habitent in tabernaculis.*

23 And indeed I confess I have seen very many fathers who were worldly and of lesser prudence; but mothers pious and most prudent, better fitted for the spiritual governance of their sons, and who rightly instructed them in the way of the Lord, which the fathers, who had a taste for earthly things, would not have done. So the Seraphic Bonaventure himself testifies that by the care of his most pious mother he was snatched from death and devoted to religion, in the life of B. P. Francisci. But it is lawful for underage sons to be offered and placed in a monastery for education by parents or tutors,

as is had in Conc. Vuormat. *cap. 22.*, as also *cap. Addidistis 28. quaest. 1.*, and in C. Toletano X. *cap. 6. uti*, and it is had also *cap. 1. 20. quaest. 2*.

> *Et quidem fateor, me plurimos vidisse patres habuisse mundanos, et minoris prudentiae; matres vero pias, et prudentissimas, aptiores spirituali regimini filiorum, eosque in via Domini recte instituisse, quod patres non fecissent, qui terrena sapiebant. Sic ipse Seraphicus Bonaventura piissimae matris cura se e morte ereptum, et religioni devotum fuisse testatur in vita B. P. Francisci. Licitum est autem filios in monasterio impuberes offerre, et apponere ad educationem a parentibus, vel tutoribus, ut habetur in Conc. Vuormat.* cap. 22. sicut et cap. Addidistis 28. quaest. 1. *et in C. Toletano X.* cap. 6. uti *et habetur etiam* cap. 1. 20. quaest. 2.

24 But this offering makes it so that the boy cannot draw back until he has come to puberty, and then it is in his choice freely to persevere, or to return to the world; so it is had in *cap. significatum, et cap. cum simus de regula*.

> *Haec autem oblatio efficit, ut puer non possit resilire, donec ad pubertatem venerit, et tunc in arbitrio est libere perseverare, vel redire ad saeculum, sic habetur* cap. significatum, et cap. cum simus de regula.

25 But if those under puberty enter religion without the consent of parents or tutors, they can by right make the act invalid, and recall the underage one, unless within a year and a day they have consented by dissimulating, which time having passed, they will not be able to recall. It is had expressly *cap. 2. de regul.*, and the law in that text says: *si infra annum non reclamaverint*; but in that text a day must be supplied. For so it is decided in *cap. puella, 20. quaest. 2.*; but this year begins from the day of knowledge of the underage one's entry had by the parents, or tutors, as the Gloss hands down *eo cap. puella*, and many Doctors.

> *Quod si impuberes religionem absque parentum, vel tutorum consensu ingrediantur, possunt iure factum, irritum facere, et impuberem revocare, nisi anno, et die id dissimulando consenserint, quo tempore transacto, revocare nequibunt. Habetur expresse* cap. 2. de regul. et leg. eo textu dicatur: si infra annum non reclamaverint; *at in eo textu supplenda est dies. Sic enim deciditur* cap. puella, 20. quaest. 2. *hic autem annus incipit a die scientiae ingressus impuberis habitae per parentes, vel tutores, ut tradunt Glossa* eo cap. puella, *et multi Doctores.*

26 Nor has C. Tolet. *sess. 25. de regular. cap. 17.* changed anything about these matters, except only that a girl younger than twelve years be admitted to the regular habit. Secondly, that no one make profession before her will has been examined by the Bishop; whether she has been forced, or seduced; and whether she knows what she is doing; and this examination is to be made twice, first before the habit, second before profession; but this is understood if the girl entering is more than twelve years old.

> *Neque aliquid circa haec immutavit C. Tolet.* sess. 25. de regular. cap. 17. *sed solum, quod puella duodecim annis minor ad habitum regularem admittatur. Secundo, ne aliqua profiteatur, antequam ab Episcopo exploretur eius voluntas; an coacta sit, vel seducta; et an sciat quid agat, et hoc examen bis faciendum est, primo ante habitum, secundo ante professionem; hoc autem intelligitur, si puella ingrediens sit maior duodecim annis.*

27 But if one under twelve years enters the monastery, she undergoes a single examination, namely at the time of profession, because before the age of twelve the Council judged it vain to precede it with that examination, on account of the tender judgment of the girl.

> *Quod si minor duodecim annis ingrediatur monasterium, unicum examen subeat, nempe professionis tempore, quia ante aetatem duodenariam vanum existimavit id examen praemitti ob tenerum puellae iudicium.*

28 NOTE that Pius V. and Gregory XIII. by their own motions forbade this entry of girls under puberty, not for the cause of undertaking religion, but when it is for the cause of education alone. See Sanchez *lib. 4. cap. 18*.

> *Nota quod Pius V. et Gregorius XIII. motibus propriis interdixerunt hunc impuberum puellarum ingressum, non causa religionis suscipiendae, sed quando solius educationis causa. Vide Sanchez* lib. 4. cap. 18.

29 The arguments by which the adversaries prove that invalidating the son's vows does not pertain to the mother lie shattered by what has been said; for even if civil law had entrusted it to the father alone, nevertheless the natural law precedes, entrusting it also to the mother.

> *Argumenta, quibus adversarii probant, ad matrem non pertinere irritare vota filii, ex dictis elisa iacent, nam esto ius civile id soli patri demandasset; attamen ius naturale praecedit, demandans id etiam matri.*

30 The other foundations, however, prove only that the goods of the children are entrusted to the mother alone, but not the persons; nor can civil law prejudice the older obligation of the son, which is clear, if a tutor ratifies the vow for that time in which the mother, by necessity of the household, wants the services from the son, he is bound to obey the mother invalidating, as Sanchez admits, *num. 78. lib. 6. num. 21*; although he says the same that this is only a suspension.

> *Altera vero fundamenta solum probant, res puerorum soli matri demandatas, non autem personas; neque ius civile potest antiquiori filii obligationi praeiudicare, quod patet, si tutor ratificet votum pro eo tempore, quo mater obsequia vult a filio ex domi necessitate, is tenetur matri irritanti obedire, ut fatetur Sanchez* num. 78. lib. 6. num. 21. *Licet idem hanc dicat esse solam suspensionem.*

31 So when parents and tutors are wanting, grandfathers and grandmothers also can invalidate; but when all these are wanting, I judge that any who have those sons in their power can succeed, as the master, the teacher, etc. So Less. *lib. 2. cap. 40. dub. 10. num. 78.*, Suarez *loc. cit. num. 23.*, and Sayrus *lib. 6. cap. 10. num. 18*; although Sanchez does not dare to assert it, *num. 84.*, referring others who think with him, together with Bassaeo above.

> *Sic deficientibus parentibus, et tutoribus, etiam avi, et aviae possunt irritare; omnibus vero his deficientibus arbitror posse succedere quoscumque, qui in sua potestate habent filios illos, ut herus, magister, etc. Ita Less.* lib. 2. cap. 40. dub. 10. num. 78. *Suarez* loc. cit. num. 23. et *Sayrus* lib. 6. cap. 10. num. 18. *Licet id non audeat sentire Sanchez* num. 84. *alios secum sentientes referens, cum Bassaeo supra.*

Question XXVIII: Which vows of servants their masters can annul

1 Some judge it to be within the rights of Masters to invalidate all the vows of servants, except the vow of chastity. To this opinion D. Thom. seems to belong, *in 4. d. 38. quaest. 1. art. 1. quaestiuncula ultima ad 3.*, and Abul. *cap. 30. Numer.*, Tabiena *V. votum 5.*, Petrus de Ledesma 2. *tomo tract. 10. cap. 7. dub. ultimo, dicto 4.*, Aragon. 2. 2. *quaest. 88. art. 8. fol. 1020*.

> *Aliqui existimant, integrum esse Dominis irritare omnia servorum vota, excepto voto castitatis. Huius sententiae videtur D. Thom.* in 4. d. 38. quaest. 1. art. 1. quaestiuncula ultima ad 3. *et Abul.* cap. 30. Numer. *Tabiena* V. votum 5. *Petrus de Ledesma 2.* tomo tract. 10. cap. 7. dub. ultimo, dicto 4. *Aragon. 2. 2.* quaest. 88. art. 8. fol. 1020.

2 The second opinion is, that those vows of servants can be invalidated by Masters which in some part hinder and stand against their right and power, as the vow of pilgrimage, of religion, and the

like. So D. Bonaventin 4. d. 38. quaest. 3. in corpore, and d. 32. quaest. 1. fundamento ultimo, whom D. Thom. 2. 2. quaest. 88. art. 8. ad 2. and quaest. 104. art. 5. in corpore follow. Innocentius cap. scripturae, num. 3. de voto. There Hostiens. num. 7. Ioan. Andr. num. 4. Abbas num. 6. Antoninus num. 4. Anchar. num. 7. Cardin. num. 5. quaest. 10. Annanias num. 5. Henricus num. 9. Archid. cap. si quis incognitus, 17. quaest. 2. num. 3. there Bellamera num. 3. Turrecremata cap. sunt quaedam 17. quaest. 1. num. 8. Richar. 4. d. 38. art. 4. quaest. 2. there. Dar. quaest. 1. num. 7. Palud. quaest. 3. art. 1. num 7. there suppl. Gabr. quaest. 1. art. 5. Abul. cap. 30. Numer. quaest. 87. Gregorius Lopez lib. 3. V. seruo, tit. 8. quaest. 1. Rosella in summa V. votum, 2. num. 15. Angel. V. votum, 2. num. 7. D. Anton. 2. part. tit. 11. cap. 2. Sylvest. V. votum 4. quaest. 2. dicto 5. Sotus lib. 7. de iustitia, quaest. 3. art. 1. ad 2. Nauarr. summ. cap. 12. num. 64. Alcozer summa, cap. 16. concl. 6. fol. 56. Margarita Confess. fol. 135. Ludovicus Lopez p. p. Instruct. cap. 48. Manuel 2. Tomo cap. 91. Sayrus lib. 6. cap. 5. num. 7. et cap. 10. num. 18. Azor. Tom. 1. lib. 11. cap. 17. quaestio 9. et cap. 16. quaestio 8. Less. lib. 2. de iustitia cap. 40. dub. 10. num. 82. Philiar. tom. 1. part. 2. lib. 3. cap. 18. Valentia 2. 2. disp. 6. quaest. 6. puncto 6. quaest. ultim. Gomez in Bulla Cruc. clausula 10. n. 74. Suarez Tract. de voto, lib. 3. cap. 7. num. 29. et lib. 6. cap. 3. Vega 2. Tomo summa, cap. 129. casu 100. Sanchez, adducing these, lib. 4. summa cap. 35. num. 2. Fagundez in secundum Praeceptum lib. 2. cap. 39. num. 3., adducing others together with Bassaeo V. votum 5. num. 4.

> *Secunda sententia est, ea vota servorum posse irritari a Dominis, quae iuri, ac potestati ipsorum aliqua ex parte officiunt, et obstant, ut votum peregrinationis, religionis, et similia. Ita D. Bonavent. 4. d. 38. quaest. 3. in corpore, et d. 32. quaest. 1. fundamento ultimo, quem sequuntur D. Thom. 2. 2. quaest. 88. art. 8. ad 2. et quaest. 104. art. 5. in corpore. Innocentius cap. scripturae, num. 3. de voto. Ibi Hostiens. num. 7. Ioan. Andr. num. 4. Abbas num. 6. Antoninus num. 4. Anchar. num. 7. Cardin. num. 5. quaest. 10. Annanias num. 5. Henricus num. 9. Archid. cap. si quis incognitus, 17. quaest. 2. num. 3. ibi Bellamera num. 3. Turrecremata cap. sunt quaedam 17. quaest. 1. num. 8. Richar. 4. d. 38. art. 4. quaest. 2. ibi. Dar. quaest. 1. num. 7. Palud. quaest. 3. art. 1. num 7. ibi suppl. Gabr. quaest. 1. art. 5. Abul. cap. 30. Numer. quaest. 87. Gregorius Lopez lib. 3. V. seruo, tit. 8. quaest. 1. Rosella in summa V. votum, 2. num. 15. Angel. V. votum, 2. num. 7. D. Anton. 2. part. tit. 11. cap. 2. Sylvest. V. votum 4. quaest. 2. dicto 5. Sotus lib. 7. de iustitia, quaest. 3. art. 1. ad 2. Nauarr. summ. cap. 12. num. 64. Alcozer summa, cap. 16. concl. 6. fol. 56. Margarita Confess. fol. 135. Ludovicus Lopez p. p. Instruct. cap. 48. Manuel 2. Tomo cap. 91. Sayrus lib. 6. cap. 5. num. 7. et cap. 10. num. 18. Azor. Tom. 1. lib. 11. cap. 17. quaestio 9. et cap. 16. quaestio 8. Less. lib. 2. de iustitia cap. 40. dub. 10. num. 82. Philiar. tom. 1. part. 2. lib. 3. cap. 18. Valentia 2. 2. disp. 6. quaest. 6. puncto 6. quaest. ultim. Gomez in Bulla Cruc. clausula 10. n. 74. Suarez Tract. de voto, lib. 3. cap. 7. num. 29. et lib. 6. cap. 3. Vega 2. Tomo summa, cap. 129. casu 100. Sanchez hos adducens lib. 4. summa cap. 35. num. 2. Fagundez in secundum Praeceptum lib. 2. cap. 39. num. 3. alios adducens cum Bassaeo V. votum 5. num. 4.*

3 I ASSERT, with this opinion, that whatever vows of servants, made to the prejudice of the power and right to which they are subject, can be invalidated by Masters.

> *ASSERO cum hac sententia, a Dominis irritari posse quaecumque servorum vota, in praeiudicium potestatis, et iuris, cui subiiciuntur, emissa.*

4 The REASON of D. Bonavent. loc. cit., on which the rest rely, is, because the servant is subject to the Master, not as to the internal offices of the will, but in bodily service alone. Therefore all those vows impede which impede bodily service; but since others besides the vow of chastity impede service, they will be invalidatable, cap. si quis servum, 17. quaest. 4. Not so the vows of prayer, of moderate fasting, etc.

RATIO D. Bonavent. loc. cit. quia caeteri nituntur, est, quia servus subditus Domino, non quo ad interna voluntatis officia, sed in solo servitio corporali. Ergo ea omnia vota impediunt, quae servitium corporale impediunt; cum autem alia praeter votum castitatis servitium impediant, ea erunt irritabilia cap. si quis servum, 17. quaest. 4. Non sic vota orationis, ieiunii moderati, etc.

5 HENCE also the Master can invalidate real vows, because what the servant has is the Master's, except if he should agree with the Master, Gloss. in leg. quod attinet 3. ff. de iis iuris. Bassaeus adds that he can invalidate all that the servant made with his license, because he still retains right over the servant. Yet a cause ought to be present, otherwise he would sin.

HINC et vota realia potest Dominus irritare, quia quod habet servus, Domini est, excepto si cum Domino conveniat, Gloss. in leg. quod attinet 3. ff. de iis iuris. Addit Bassaeus posse omnia irritare, quae servus ex licentia sua emisit, quia adhuc ius retinet in servum. Debet tamen adesse causa, alioqui peccaret.

6 BUT the master who has no Dominion over his hired servant cannot invalidate his vows, but only suspend those that stand in the way of his services. D. Thom. 4. d. 38. quaest. 5. art. 1. Sylv. quaesit. 88. art. 8. Sayr. lib. 6. cap. 10. num. 18. Sanchez lib. 4. cap. 36. et 24. num. 24. Filliuc. tract. 26. num. 226. et seq., and with these Bassaeus num. 4.

AT herus in famulum non habens Dominium, nequit irritare vota eius, sed suspendere, quae obsequiis obstant. D. Thom. 4. d. 38. quaest. 5. art. 1. Sylv. quaesit. 88. art. 8. Sayr. lib. 6. cap. 10. num. 18. Sanchez lib. 4. cap. 36. et 24. num. 24. Filliuc. tract. 26. num. 226. et seq. et cum his Bassaeus num. 4.

Question XXIX: Whether in the Church there is power to dispense from vows

1 HITHERTO we have treated of the first way in which vows are removed, which is irritatio [annulment]. Now the second must be treated, which is dispensation. And indeed that this power exists in the Church is clear from that saying of Matth. 16, *Whatsoever you shall bind*, which words are universal, as D. Bonaventure notes in 4. d. 20. quaest. 5, and after him Sanchez lib. 4. summa, cap. 37. num. 3, where he proves the same from Ioan. 22, *Feed*, etc., where also D. Bonaventure.

An sit in Ecclesia potestas Vota dispensandi.

HUCUSQUE egimus de primo modo, quo vota auferuntur, qui est irritatio. Iam de secundo agendum, qui est dispensatio. Et quidem hanc potestatem esse in Ecclesia patet ex illo Matth. 16. Quodcumque ligaveris, *quae verba universalia sunt, ut notat D. Bonavent. in 4. d. 20. quaest. 5. et post eum Sanchez lib. 4. summa, cap. 37. num. 3. ubi idem probat ex Ioan. 22.* Pasce *etc. ubi etiam D. Bonaventura.*

2 IT MUST BE NOTED FIRST, from what was said in the tract. de legibus, d. 5. quaest. 14, with D. Bonaventure in the body, and Sanch. cap. 37, what the difference is between the dispensation of a vow and a declaration; for a declaration takes away no obligation of a vow; it only declares that the vow of itself does not bind in that event; as if someone vowed to fast on such a day, or to perform certain prayers, and the prelate declares that he is not bound because he is infirm; this does not take away the obligation but only explains that it ceases by reason of impotence. But a true dispensation is when, a just cause existing, the prelate takes away an obligation of the vow still existing; as if one should free someone beset by the burning goads of concupiscence from a vow of chastity which still endures: or if one having a law for the public good, having subjects under him for its execution, judges that for the time being it should not be commanded to be carried out.

PRAENOTANDA est ex dictis tract. de legibus, d. 5. quaest. 14. cum D. Bonavent. in corpore, et Sanch. cap. 37. differentia inter dispensationem voti, et declarationem; declaratio enim nullam voti aufert obligationem; sed tantum declarat, votum ex se eo eventu non obligare; ut si quis vovit tali die ieiunare, vel orationes aliquas facere, et praelatus declaret, hunc non teneri, quia est infirmus; is non tollit obligationem, sed solum explicat, eam ratione impotentiae cessare. Dispensatio autem vera est, quando existente causa iusta, tollat praelatus obligationem voti adhuc existentem; ut si quis obnoxium stimulis ardentibus concupiscentiae liberet a voto castitatis, quod adhuc durat: Vel si legem pro bono publico habens sub se ad executionem, iudicet pro tunc eam exequi non mandandam.

3 THE FIRST opinion, which D. Bonaventure reports, is that the Church can properly dispense. This opinion is exceedingly celebrated, and is upheld by D. Thom. 4. d. 38. quaest. 1. art. 4. quaestiuncula prima, ibi, Richard. art. 9. quaest. 1, and d. 17. art. 2. quaest. 2. supplem. Gabr. 4. d. 38. quaest. 1. art. 1. Hostiensis in summa, tit. de voto, num. 16, and cap. Non est, num. 1, same title, ibi. Abbas num. 5. D. Antoninus 2. part. tit. 11. cap. 2. §. 9. Canus relect. de poenit. part. 5. Medina de Poenitentia Tract. de confess. quaestione de dispensatione super confessione revel. ad 2. Sotus lib. 1. de iustitia quaest. 7. art. 3, and lib. 7. quaest. 4. art. 1. Palac. 4. d. 38. d. 3. fol. 884. Suarez Tract. de voto, lib. 6. cap. 9. Toletus lib. 4. summae from cap. 18. Angles flor. 2. part. quaest. unic. de voto, art. 8. diff. 1. Aragon. 2. 2. quaest. 88. art. 10. Sayrus lib. 6. cap. 11. num. 9. Azorius Tom. 1. lib. 6. cap. 1. quaest. 4, and lib. 11. cap. 18. quaest. 5. Graffis s. p. p. decis. lib. 2. cap. 31. num. 18 and 20, and cap. 32. num. 2. Valentia 2. 2. d. 6. quaest. 6. p. 7. Lessius lib. 2. de iustitia, cap. 40. d. 12. num. 98. Petrus Ledesma 2. Tomo, Tract. 10. cap. 8. dub. 2. Henriquez lib. 8. de Eucharistia, cap. 13, and lib. 7. de Indulg. cap. 23. Vasquez prima 2. quaest. 97. art. 4. d. 178. num. 10. Caietanus 2. 2. quaest. 88. art. 12. Sanch. 2 lib. 4. summae, cap. 37. num. 5. Fagundez in secundum Praeceptum Decal. lib. 2. cap. 40. Tanner. d. 5. quaest. 6. dub. 6, citing many. Bassaeus, V. Votum 7, proclaims this to be of faith.

PRIMA opinio, quam refert D. Bonavent. est, posse Ecclesiam proprie dispensare. Haec sententia admodum est celebris, quam sustinent D. Thom. 4. d. 38. quaest. 1. art. 4. quaestiuncula prima, ibi, Richard. art. 9. quaest. 1. et d. 17. art. 2. quaest. 2. supplem. Gabr. 4. d. 38. quaest. 1. art. 1. Hostiens. in summa, tit. de voto, num. 16. et cap. Non est, num. 1. eodem titulo, ibi. Abbas num. 5. D. Antonin. 2. part. tit. 11. cap. 2. §. 9. Canus relect. de poenit. part. 5. Medina de Poenitentia Tract. de confess. quaestione de dispensatione super confessione revel. ad 2. Sotus lib. 1. de iustitia quaest. 7. art. 3. et lib. 7. quaest. 4. art. 1. Palac. 4. d. 38. d. 3. fol. 884. Suarez Tract. de voto, lib. 6. cap. 9. Toletus lib. 4. summae a cap. 18. Angles flor. 2. part. quaest. unic. de voto, art. 8. diff. 1. Aragon. 2. 2. quaest. 88. art. 10. Sayrus lib. 6. cap. 11. num. 9. Azorius Tom. 1. lib. 6. cap. 1. quaest. 4. et lib. 11. cap. 18. quaest. 5. Graffis s. p. p. decis. lib. 2. cap. 31. num. 18. et 20. et cap. 32. num. 2. Valentia 2. 2. d. 6. quaest. 6. p. 7. Lessius lib. 2. de iustitia, cap. 40. d. 12. num. 98. Petrus Ledefma 2. Tomo, Tract. 10. cap. 8. dub. 2. Henriquez lib. 8. de Eucharistia, cap. 13. et lib. 7. de Indulg. cap. 23. Vasquez prima 2. quaest. 97. art. 4. d. 178. num. 10. Caietanus 2. 2. quaest. 88. art. 12. Sanch. 2 lib. 4. summae, cap. 37. num. 5. Fagundez in secundum Praeceptum Decal. lib. 2. cap. 40. Tanner. d. 5. quaest. 6. dub. 6. multos afferens. Hanc esse de fide clamat Bassaeus, V. Votum 7.

4 THE SECOND opinion denies that there is in the Church a power to dispense, but only to declare. So D. Thom. 2. 2. quaest. 88. art. 10 in the body. Abul. cap. 30. Numer. quaest. 102 and 103. Caietanus in summa, verb. votum, cap. de dispens. Armilla verb. votum, num. 13. Gloss. cap. Non est, under the word Authoritate, de voto. Ibi Anton. num. 3. Cardin. cap. cum ad monast. num. unico de statu monach. Covarr. ac pactis 1. quaest. §. 3. num. 3. Ferrar. lib. 3. contra G. cap. 124, and Paludanus 4. d. 38. quaest. 4 art. 4. concl. 1. num. 38 sufficiently indicate it. D. Antoninus 2. part. tit. 11. cap. 2. §. 9. notab. 1. Sylvester verb. votum 4. quaest. 3. d. 3.

SECUNDA sententia negat, esse in Ecclesia potestatem ad dispensandum, sed solum ad declarandum. Ita D. Thom. 2. 2. quaest. 88. art. 10. in corpore. Abul. cap. 30. Numer. quaest. 102. et 103. Caietanus in summa, verb. votum, cap. de dispens. Armilla verb. votum, num. 13. Gloss. cap. Non est, verbo Authoritate, de voto. Ibi Anton. num. 3. Cardin. cap. cum ad monast. num. unico de statu monach. Covarr. ac pactis 1. quaest. §. 3. num. 3. Ferrar. lib. 3. contra G. cap. 124. et satis indicant Paludanus 4. d. 38. quaest. 4 art. 4. concl. 1. num. 38. D. Antonin. 2. part. tit. 11. cap. 2. §. 9. notab. 1. Sylvester verb. votum 4. quaest. 3. d. 3.

5 AS TO D. Bonaventure, he is adduced for this opinion loc. cit., but one must explain in what sense he upholds it: he himself, after stating the opposing opinion, puts forward this one, which he calls more reasonable and more secure, and because by it the conscience is more fully satisfied. And it is such that it is not a mere interpretation of the law, such as any learned man can make, but is a declaration of law. For since a vow is a good directed to the glory of God and the salvation of the one vowing, and looks to the good of the whole Church, therefore the Pontiff, who is the supreme judge, has the power of choosing from those goods the one which he has known to be better and more expedient for the Divine glory and the good of the Church; and consequently, even if the obligation, for example, of continence in a King, be in force; if the Pontiff judges it to be for the utility of the public Church that he marry and endeavor to obtain children for the preservation of peace, and this good be more certain than the evil that presses, namely that the King lack a successor, he can dispense; which in rigor is not to relax the law, but to declare, the true obligation remaining: But if the good arising from the dispensation is uncertain, he ought not take away a certain obligation, as S. Bonaventure notes. *ad 2.* Thus, then, the law, which is ordered to the greater good of the Church, is not relaxed, and this is also the opinion of D. Thomas, as I shall show.

QUOAD D. Bonavent. adducitur pro hac sententia loc. cit. sed oportet exponere quo sensu eam tueatur : Ipse igitur relata opposita sententia, hanc ponit, quam dicit rationabiliorem, et securiorem, et quia per eam magis conscientiae satisfit. Ea autem talis sit, ut non sit mera interpretatio legis, qualis a quocumque viro docto potest fieri, sed esse declarationem iuris talem. Quia enim votum est de bono ad Dei gloriam, et voventis salutem, ac totius Ecclesiae bonum spectans, ideo Pontifex, qui supremus est iudex, habet potestatem eligendi ex illis bonis illud quod satius esse, ac magis expedire cognoverit Divinae gloriae, et Ecclesiae bono, atque adeo, etiamsi vigeat obligatio, verbi gratia, continentiae in Rege; si iudicat Pontifex publicae Ecclesiae utilitati esse, ut nubat, et filios obtinere conetur ad pacem conservandam, et hoc bonum certius sit malo, quod urget ex eo, quod Rex careat successore, potest dispensare; quod in rigore non est relaxare legem, sed est declarare, detinendo veram obligationem: Quod si bonum ex dispensatione incertum sit, non debet certam obligationem adimere, ut notat S. Bonavent. ad 2. *Sic igitur non relaxatur lex, quae ad maius bonum est ordinata Ecclesiae, et haec est sententia etiam D. Thomae, ut ostendam.*

6 This is the genuine opinion of S. Bonaventure, who defines it better than all others and avoids the difficulties, as we shall see.

Haec est germana S. Bonaventurae sententia, qui omnibus melius id definit, et evitat difficultates, ut videbimus.

7 I ASSERT with this opinion, first, that vows cannot be dispensed in the Church by relaxing the law.

ASSERO cum hac sententia primo, non posse in Ecclesia dispensari vota, legem relaxando.

8 THE FOUNDATION of D. Bonaventure is: Those things which are of natural Divine law cannot be dispensed by man: But a vow is of this kind: Therefore. The major is the axiom of all Theologians and Canonists, as Azorius notes, *lib. 6. quaestio cited above*, and Sanchez confesses it, *num. 4.* The minor is proved by S. Bonaventure, *foundation first, from Psal. 75, Vow, and pay to the Lord your God.* And since this

law has always existed, as all confess, it follows that it is a natural law, not a positive one, as is gathered in the *second foundation*.

> *FUNDAMENTUM D. Bonavent. est: Ea, quae sunt iuris Divini naturalis, non possunt ab homine dispensari: Sed votum est huiusmodi: Ergo. Maior est omnium Theologorum, et Canonistarum axioma, ut notat Azorius* lib. 6. quaestio citato*, et fatetur Sanchez* num. 4. *Minor probatur a S. Bonavent.* fundamento primo ex Psal. 75. Vovete, et reddite Domino Deo vestro. *Et cum haec lex semper fuerit, ut omnes fatentur; sequitur, esse legem naturalem, non positivam, ut colligit* fundamento secundo.

9 IT was led by this reasoning that S. Bonaventure, devoutly devoted to the authority of the Church, adapted his opinion. By this argument the adversaries are badly twisted about, and they sweat marvelously in rendering an account of this power.

> *HAc ratione adductus est S. Bonavent. Ecclesiae authoritati pie addictus, ut suam sententiam adaptaret. Hoc argumento male torquentur adversarii, et in ratione reddenda huius potestatis mirifice insudant.*

10 RICHARDUS answers, *4. d. 38. art. 9. quaest. 1.* Graffius *p. p. decis. lib. 2. cap. 31. num. 8.* and others cited with D. Bonaventure; whenever someone binds himself by vow or oath, he does so not absolutely, but saving what must be saved; and because the Pope is the supreme Pastor, upon whom rests the salvation of all the faithful, this condition is always understood in the one vowing: if the Pontiff wish it ratified.

> *RESPONDENT Richardus* 4. d. 38. art. 9. quaest. 1. *Graffius* p. p. decis. lib. 2. cap. 31. num. 8. *et alii apud D. Bonaventuram; quoties aliquis voto se, vel iuramento obstringit, id non absolute praestat, sed servatis servandis; et quia Papa est summus Pastor, cui incumbit omnium fidelium salus, ideo semper intelligitur haec conditio in vovente; si Pontifex ratum voluerit.*

11 YET this response is refuted by Azorius, *loc. cit.*, and Sanchez, *num. 7*, because on this account the Pope could dissolve a vow and an oath without cause by a mere nod, which cannot be said, since a cause adequate to this is required. In this attack Azorius and Sanchez fall into the opinion of D. Bonaventure, while they confess that dispensation is not a proper relaxation of law, since a just cause is required, which is the end of every law, and while it remains, in a dispensation the law is not relaxed.

> *HAEc tamen responsio confutatur ab Azorio* loco cit. *et Sanchez* num. 7. *quia hac ratione posset Papa solo nutu votum, et iusiurandum sine causa dirimere, quod dici nequit, cum causam ad id idoneam requirat. Hic impugnatione Azorius, et Sanchez incidunt in sententiam D. Bonavent. dum fatentur, dispensationem non esse iuris relaxationem propriam, quia requiritur causa iusta, quae est finis legis cuiusque, et qua manente, in dispensatione non relaxatur lex.*

12 IT is indeed attacked by D. Bonaventure because this condition, thought up gratuitously, finds a foundation nowhere; for vows, which are offered, are offered most freely, as all proclaim, and one can offer what pleases God more. And this being the absolute counsel of the Lord,[3], some condition is added to its execution without foundation, as Bassaeus also warns, *verb. Votum 5. num. 2.*

[3] Editor's note: the print reads 'Et hoc sit Domini consilium absolutum', grammatically odd — perhaps 'Et hoc si sit' ('and if this be') ; rendered from context

> *IMPUGNATUR vero a D. Bonavent. quia haec conditio gratis excogitata nusquam reperit fundamentum; cum enim ea, quae offeruntur, vota, liberrime offerantur, ut omnes clamant, et valeant offerre quod Deo magis placet. Et hoc sit*

Domini consilium absolutum, absque fundamento apponitur aliqua conditio in sui executione, ut monet etiam Bassaeus verb. Votum 5. num. 2.

13 THE SECOND response is that of Conar. *cap. 2. in fine de testam.* Graff. *eodem num. 18.* — a vow indeed as to its genus asserts an obligation of natural Divine law; yet the peculiar obligation of the vow is not of so strict a law, just as to obey human laws is of natural Divine law, yet no particular law binds by that law.

SECUNDA responsio est Conar. cap. 2. in fine de testam. *Graff.* eodem num. 18. *votum quidem in genere asserte obligationem de iure Divino naturali; non tamen peculiarem voti obligationem esse tam stricti iuris, sicut obedire legibus humanis est de iure Divino naturali, non tamen peculiaris lex obligat eo iure.*

14 Against this Sanchez argues, *first*, because if the singular obligation were of human law, it could not be established by any private man, who has not the power of enacting a law. Indeed not even if he were a prince, who cannot bind himself by coercive force.

Contra arguit Sanchez primo, *quia si obligatio singularis esset iuris humani, non posset statui a quocunque homine privato, qui non habet potestatem legem condendi. Imo nec, si esset princeps, qui non potest vi coactiva obligare seipsum.*

15 SECOND, because if the obligation were only human, a dispensation without cause would be valid. This is according to the mind of D. Bonaventure.

SECUNDO, quia si sola esset obligatio humana, valeret dispensatio absque causa. Haec est ad mentem D. Bonaventurae.

16 THE THIRD response is, that Divine law is not dispensed, because it does not happen that, the obligation toward God remaining, it is not observed; rather the obligation resulting from human will is taken away, which is a kind of human law; Just as when a superior dispenses in his own laws, he is not considered to dispense in the Divine law, which dictates that the laws of superiors be obeyed, so long as they retain their force, but by the dispensation he takes away from that law its binding force, which being removed, the Divine law is taken away indirectly by a certain consequence, and therefore he truly dispenses in the human law alone. So D. Thom. answers, *2. 2. quaest. 88. art. 10. ad 1, and quaest. 89. art. 9. ad 1.* Caietanus, *same quaest. 88. art. 12.* Abul., *quaest. 102. in 30. Numer.* Victoria, *de potestate Papae, et Concilii, proposit. 1. ad 3.* D. Anton., *2. part. tit. 11. cap. 2. §. 9.* Sotus, *lib. 10. de Iustitia, quaest. 4. art. 1. ad 2.* Arag., *2. 2. quaest. 88. art. 10. in fine.* Valentia, *puncto 2. d. 7. quaest. 4. p. 6, and l. 1. d. 6. quaest. 6. p. 7.* Sayrus, *lib. 6. cap. 11.* Henriquez, *lib. 7. de indulg. cap. 23. num. 5.*

TERTIA responsio est, non dispensari ius Divinum, quia non fit, ut manente ad Deum obligatione, ea non servetur, sed tolli obligationem, ex voluntate humana resultantem, quae est lex quaedam humana; Sicuti cum superior dispensat in suis legibus, non censetur dispensare in iure Divino, quod superiorum legibus dictat obediendum, dum suam vim retinent, sed dispensatione aufert illi legi vim obligandi, qua oblata, tollitur indirecte quadam consequentia ius Divinum, et ideo vere in sola lege humana dispensat. Ita respondet D. Thom. 2. 2. quaest. 88. art. 10. ad 1. et quaest. 89. art. 9. ad 1. *Caietanus* eadem quaest. 88. art. 12. *Abul.* quaest. 102. in 30. Numer. *Victoria* de potestate Papae, et Concilii, proposit. 1. ad 3. *D. Anton.* 2. part. tit. 11. cap. 2. §. 9. *Sotus* lib. 10. de Iustitia, quaest. 4. art. 1. ad 2. *Arag.* 2. 2. quaest. 88. art. 10. in fine. *Valentia* puncto 2. d. 7. quaest. 4. p. 6. et l. 1. d. 6. quaest. 6. p. 7. *Sayrus* lib. 6. cap. 11. *Henriquez* lib. 7. de indulg. cap. 23. num. 5.

17 YET this response is refuted by Sanchez, *num. 17*, and Azorius, *loc. cit.*, because the law of the vow is not human but Divine, as I showed above; otherwise it could be dispensed from by the one vowing,

and a dispensation without cause would be valid, as in the example given of the Prelate dispensing in his own law.

> *HAEc tamen responsio confutatur a Sanchez* num. 17. *et Azorio* loco cit. *quia lex voti non est humana, sed Divina, ut supra ostendi; alioqui posset a vovente dispensari, et valeret dispensatio sine causa, sicut in exemplo allato Praelati dispensantis in sua lege.*

18 BUT the adversaries are mistaken, because they consider the obligation of the vow as merely resulting from the act of vowing, as if the bond came from nowhere else; yet the bond comes from the natural precept of fidelity, and from the Divine, inasmuch as God is owed, by the natural and Divine precept, the rendering of what has been promised to him. Therefore it is only the application of the bond, which remains in its natural law, just as in ancient times the law of circumcision bound to the whole Judaic law, as the Apostle says, yet it did not bind any Gentile absolutely. And if he had freely accepted it, he was not for that reason bound to the Mosaic law merely by human law, because he had bound himself to it by human will, but he was bound by Divine law. So it is in the matter at hand.

> *FALLUNTUR autem adversarii, quia considerant voti obligationem mere resultantem ex vovente, quasi aliunde non veniat ligamen; at vinculum venit ex praecepto naturali fidelitatis, et Divino, prout Deo debetur ex naturali Divino praecepto reddendi id, quod fuerit ei promissum. Est igitur sola applicatio vinculi, quod remanet in suo iure naturali, sicuti antiquitus lex circumcisionis obligabat ad totam legem Iudaicam, ut ait Apostolus, non tamen quemquam gentilem ligabat absolute. Quod si eam libere accepisset, non ob id iure humano tantum tenebatur legi Mosaicae, eo quod voluntate humana se illi obligasset, sed iure Divino tenebatur. Ita in proposito.*

19 IT IS CONFIRMED, because the obligation of a vow arises principally and completely from the acceptance of God, who has testified that he wills whatever we duly vow.

> *CONFIRMATUR, quia obligatio voti oritur praecipue, et complete ex acceptatione Dei, qui testatus est, se velle quidquid rite voverimus.*

20 THE FOURTH response is that of Vasquez, *num. 13*, Lessius, *num. 99*, Suarez, *num. 15, in the places cited* — that in a vow the relaxation takes place through the remission of the promise, made by the Prelate in the name of God, by the faculty of remitting received from God himself; and therefore the Prelate, in the name of God, cedes the Divine right acquired by God through the vow. For the natural Divine law exacts the promise, so long as God himself does not cede his right by himself or through his Vicar; but here he cedes it, and therefore the Pope does not dispense in the natural Divine law, because God has already ceded to him his right in that matter: Just as if Peter were to cede a field promised to him by oath by Titius, he would not relax the natural Divine law prescribing that an oath be kept.

> *QUARTA responsio est Vasquez* num. 13. *Lessii* num. 99. *Suarez* num. 15. locis adductis, *relaxationem in voto fieri per remissionem promissionis, factam a Praelato nomine Dei ex facultate remittendi ab ipso accepta, et ideo Praelatus nomine Dei cedit iuri Divino acquisito a Deo per votum. Lex enim Divina naturalis exigit promissum, quamdiu ipse Deus non cedit iuri suo per se, vel per Vicarium; at hic cedit, et ideo non dispensat Papa in iure Divino naturali, quia iam Deus cessit suo illi iuri: Sicuti si Petrus cederet praedio sibi promisso, iurato a Titio, non relaxaret ius Divinum naturale, praescribens servari iuramentum.*

21 YET this response is refuted by Azorius, *loc. cit.*, for whence is it established from Divine authority that this was granted to the Pontiff?

Haec tamen responsio confutatur ab Azorio loc. cit. *quia undenam constat ex Divina authoritate id Pontifici esse concessum?*

22 THEY ARE REFUTED by Sanchez, because this mode of dispensing by taking away the obligation, namely by ceding his own right, is not to dispense but to forgive or to cede the promise: Just as one who absolves from sins and remits them is not said to dispense in the debts owed to God, but to remit them.

CONFUTANTUR a Sanchez, quia hic modus dispensandi tollendo obligationem, nempe, cedendo suo iuri, non est dispensare, sed condonare, aut cedere promissioni: Sicuti absolvens a peccatis, eaque remittens, non dicitur dispensare in debitis Deo, sed ea remittere.

23 SANCHEZ himself answers, *num. 14*, that natural Divine right is twofold: one arising from human will, as a vow: the other absolute: And indeed the Pontiff can dispense not only in the former, and thus in a vow, oath, etc., but even in some things of absolute natural Divine law, truly taking away the obligation by a true dispensation, as in Communion under both species in the most remote regions, where there is no wine, and in other cases which he pursues at length, *lib. 8. de matrim. disp. 6.* The same is answered by Cano, *relec. 5. de Poenitentia p. 5.* Medina, *loc. cit. ad 2.* Azorius, *lib. 6. cited above.* Petrus Ledesma, *loc. cit.* and others.

RESPONDET ipse Sanchez num. 14. *duplex esse ius Divinum naturale: Alterum ortum ex voluntate humana, ut votum: Alterum absolutum: Et quidem non modo in priori posse Pontificem dispensare, et ita in voto, ioramento, etc. Sed etiam in aliquibus iuris Divini naturalis absoluti, vere tollendo obligationem per veram dispensationem, ut in oblatione sub utraque specie in regionibus remotissimis, ubi non est vinum, et aliis casibus, quos late prosequitur* lib. 8. de matrim. disp. 6. *Idem respondent Cano* relec. 5. de Poenitentia p. 5. *Medina* loc. cit. ad 2. *Azorius* lib. 6. citato. *Petrus Ledesma* loc. cit. *et alii.*

24 AGAINST this mode Suarez rises up, *cap. 9. num. 9, from D. Bonavent. foundation 4.* What is intrinsically evil is indispensable by God; but what is against a vow is intrinsically evil: Therefore. The major is certain. The minor is proved, because what is against natural law is intrinsically evil, and therefore indispensable, as to lie.

CONTRA hunc modum insurgit Suarez cap. 9. num. 9. ex D. Bonavent. fundamento 4. *Quod est intrinsece malum, est a Deo indispensabile; sed quod est contra votum, est intrinsece malum: Ergo. Maior est certa. Minor probatur, quia quod est contra ius naturale, est intrinsece malum, ideo indispensabile, ut mentiri.*

25 SANCHEZ answers that not all things which are against the law of nature are intrinsically evil to such a degree that they are never lawful, as to steal and to detain what belongs to another, which are lawful in necessity.

RESPONDET Sanchez, non omnia, quae sunt contra legem naturae, esse intrinsece mala adeo, ut nunquam liceant, sicut furari, et detinere alienum, quae licent in necessitate.

26 BUT in those cases the circumstances required for natural law to bind do not concur; yet when a dispensation is granted in a vow, those do concur — otherwise they would not have bound before the dispensation, and thus there would be no relaxation of law. But it is certain that all of them intervene there, namely the obligation of truth to be exhibited to God: And therefore, as it is intrinsically evil to lie, so it is intrinsically evil not to keep a promise made to God; for it is to lie to God, as S. Bonaventure rightly argues, *loc. citato.*

AT in illis casibus non concurrunt circumstantiae requisitae, ut ius naturale obliget; at cum dispensatur in voto, illae concurrunt, alias ante dispensationem non obligarent, et ita nulla essent iuris relaxatio. Certum est autem omnes ibi intervenire, nempe obligationem veritatis, Deo exhibendae: Itaque sicut intrinsece malum est mentiri, ita intrinsece est malum promissa Deo non servare; est enim Deo mentiri, ut rite arguit S. Bonavent. loco citato.

27 SANCHEZ answers that it is not as with lying, and in this his comparison stands, that just as to steal is not intrinsically so evil that it may never be lawful, so also not to observe a vow when some just cause intervenes; which, he says, although it does not suffice of itself to take away the obligation, yet suffices, he says, for Prelates to dispense by authority received from God.

RESPONDET Sanchez, non ita se habere, sicut mendacium, et in hoc stare comparationem suam, quod sicuti furari non est intrinsece ita malum, ut non liceat aliquando; ita et votum non observare ex iusta aliqua causa interveniente, quae licet non sufficiat solitarie auferre obligationem, tamen sufficere ait, ut Praelati ex authoritate a Deo accepta dispensent.

28 BUT again he begs the question; for he is bound also to assign the parity in this, that as it is sometimes lawful to steal by reason of circumstances, so also by a just cause it should be lawful not to keep vows made to God, and thus the malice would cease on both sides; for if this is taken away by dispensation, it follows that it is still of itself evil against nature, and the burden of proof falls on him; by which reasoning, those things which are still intrinsically evil could be dispensed — and whence this power would be had, as Azorius argued.

AT rursus petit principium; tenetur enim, etiam assignare paritatem in eo, quod sicut aliquando ex circumstantiis licet furari; ita et ex causa iusta liceat non servare Deo vota, et ita utrinque cesset malitia; haec enim, si tollitur ex dispensatione, sequitur, adhuc ex se esse malum contra naturam, eique incumbit onus probandi; qua ratione, ea, quae intrinsece mala adhuc sunt, posse dispensari, et unde haec potestas habeatur, ut arguebat Azorius.

29 THEREFORE S. Bonaventure explains it thus most excellently: all laws look to the common good, and particular laws to a particular good; and consequently, and often even directly and primarily, to the public good, over whose judgment the Pontiff presides, as Pastor of the whole Church, whose good it falls to him, by Divine power, to labor for; and therefore it belongs to him to judge what is more expedient for it. Therefore, when he wishes to dispense, there must be present such a cause as renders the dispensation just, as even the adversaries confess — which is a sign that what is just belongs intrinsically to the dispensation, and consequently enters into making what is dispensed validly done on this account, namely because provision must always be made for the greater good of the Church. And so when a dispensation is granted, the law of the vow is not relaxed, which must always look to the good of both the one vowing and the Church. But if for the one vowing, or for the Church, it were better in the Lord not to carry out the vow, for a grave cause bringing greater spiritual utility; then the law will not be relaxed, but it will be judged for the time being, according to the mind of God, that God does not will it to be done, or at least does not compel it. Which definition is not a simple declaration, such as a learned man would make, as Sanchez thinks, *num. 5*, but a judgment and definition, not of the measure of knowledge and prudence, but of jurisdiction, which is not granted to any learned man whatever. But even if we were to concede that it is an act of prudence, as Sanchez says we assert, still it would be ampler than the declaration of a learned man; for this looks to the providence of the Church, and consequently, while it is being made, indicates the power of jurisdiction for execution; for this belongs to God authoritatively, that he may render wholly secure the one with whom he dispenses.

IGITUR S. Bonavent. sic optime explicat, quod leges omnes bonum commune respiciunt, et particulares particulare, ac consequenter, et saepe etiam directe, ac primario bonum publicum, cui iudicio praeest Pontifex, quippe totius Ecclesiae Pastor, cuius bono ex Divina potestate ipsi incumbit insudare, et ideo eius est iudicare, quid magis ei expediat. Cum igitur dispensare vult, debet adesse causa talis, quae reddat iustam dispensationem, ut etiam fatentur adversarii, quod signum est, iustum esse de intrinseco dispensationis, atque adeo ingredi ad efficiendum, ut id, quod dispensatur, ex hoc capite sit valide factum, nempe, quia semper maiori bono providendum Ecclesiae. Itaque cum fit dispensatio, non relaxatur lex voti, quae semper debet respicere bonum, et voventis, et Ecclesiae. Quod si voventi, vel Ecclesiae satius in Domino fuerit non exequi votum ex causa gravi, adducente maiorem utilitatem spiritualem; iam non relaxabitur lex, sed iudicabitur pro tunc ex mente Dei ita se habere, ut Deus nolit id fieri, vel saltem non cogat. Quae definitio non est simplex declaratio, qualis fieret a viro docto, ut putat Sanchez num. 5. *sed iudicium, et definitio, non metae scientiae, atque prudentiae, sed iurisdictionis, quae viro docto cuicumque non conceditur. At si concederemus, esse actum prudentiae, ut ait Sanchez, nos asserere, adhuc amplior esset, quam declaratio viri docti; haec enim ad providentiam Ecclesiae spectat, et consequenter, dum fit, indicat potestatem iurisdictionis ad exequutionem; hoc enim competit Deo authoritative, ut reddat omnino tutum eum, quocum dispensat.*

30 SANCHEZ INSISTS, *lib. 18. de matrimonio d. 6. num. 5. Thus to interpret laws belongs to the Legislator alone, or to his Superior, cap. inter de sent. excom. cap. ideo, 25. quaest. 1. cap. sicut enim 11. quaest. 3. leg. fin. ff. de legibus.*

INSTAT Sanchez lib. 18. de matrimonio d. 6. num. 5. Sic interpretari legum, est solius Conditoris, vel eius Superioris cap. inter de sent. excom. cap. ideo, 25. quaest. 1. cap. sicut enim 11. quaest. 3. leg. fin. ff. de legibus.

31 IT IS ANSWERED that this belongs to the Pontiff by Divine commission; for God entrusted to the Pontiff, in Peter, the sheep to be fed, *Ioan. 22. Feed my sheep, etc.*

RESPONDETUR, id competere Pontifici ex commissione Divina; Deus enim Pontifici tradidit in Petro oves pascendas, Ioan. 22. Pasce oves, etc.

32 BUT he himself argues against this, that even the power of dispensing belongs by Divine commission, since God does not fail the Church in necessary things; just as to Bishops, in a case of necessity, it has been given to dispense in Pontifical laws in some case of necessity, *e. g.* when the Pontiff cannot conveniently be approached; and just as the dispensation of inferiors in the law of a superior does not derogate from the authority of the superior, because it is done by his tacit commission; so this Pontifical dispensation does not derogate from the authority of God, since it is done not by the proper authority of the Pontiff, but by the tacit and most lawful, presumed commission of God.

CONTRA ipse arguit, etiam potestatem dispensandi competere ex comissione Divina, cum Ecclesiae Deus non deficiat in necessariis; sicut Episcopis in casu necessitatis datum est dispensare in legibus Pontificiis in aliquo casu necessitatis, v. g. *quando non potest commode adiri Pontifex, et sicut dispensatio inferiorum in lege superioris non derogat authoritati superioris, eo quod ex eius tacita commissione fiat; ita haec Pontificia dispensatio non derogat authoritati Dei, ut pote, quae non propria Pontificis authoritate fit, sed ex tacita, et iure optimo, praesumpta Dei commissione.*

33 IT IS CONFIRMED THUS: *if the Pontiff, declaring that it is lawful in extreme necessity to steal or to kill an aggressor, were to use the word "I dispense," he would speak ineptly; so therefore in our case.*

CONFIRMATUR, si Pontifex declarans, licere in extrema necessitate furari, vel aggressorem occidere, uteretur verbo dispenso, inepte loqueretur; ita ergo in casu nostro.

34 FOR INDEED Sanchez is bound to show where this faculty of relaxing a vow was given, nor is it sufficiently presumed, as Azorius well notes. For why do you presume that what was promised to God is not to be rendered to God? Nor is it similar with human laws, which do not bind with so much rigor as natural or Divine ones, as Sanchez himself often urges. Nor is the necessity the same, since provision is sufficiently made by that authoritative judgment by which it is decreed that it is thus fitting at that time not to fulfill so particular a law, by another will of God, which is not presumed but declared often and again, that the perfection of individuals may be intended and the progress of the Church. And as to the dispensations of Bishops, it is not ineptly held valid, because the mind of the Church and of the Pontiff is sufficiently expounded in their laws, lest it be wanting in necessities. Therefore in the article of death anyone can absolve from all reserved cases, which would be lawful even if it were not explicit in the laws or censures; but in our case this is not necessary; for that authoritative judgment suffices, from a cause which even the adversaries do not deny to be necessary for the dispensation to be valid. And so what Sanchez last says, that it is inept, is denied; for it is not a mere declaration, as in the case of theft or of blameless self-defense, but a juridical judgment.

> *VERUM enim vero tenetur ostendere Sanchez, ubinam data sit haec facultas votum relaxandi, neque satis praesumitur, ut bene notat Azorius. Quorsum enim Deo promissum, praesumes, non esse Deo reddendum? Neque est simile de legibus humanis, quae non obligant tanto rigore, quanto naturales, aut Divinae, ut saepe iniungit ipsemet Sanchez. Neque eadem est necessitas, cum satis provideatur iudicio illo authoritativo, quo decernitur, sic convenire tunc, tam particularem legem non implere ex alia voluntate Dei, quae non est praesumpta, sed declarata saepe, ac saepius, ut perfectio intendatur singulorum, et profectus Ecclesiae. Et quo ad dispensationes Episcoporum, non inepte ratum habetur, quia mens Ecclesiae, ac Pontificis est satis in suis legibus explicata, ne desit in necessitatibus. Ideo in articulo mortis quilibet absolvere valet ab omnibus reservatis, quod licet etiam, si in legibus, seu censuris non esset explicitum; at in casu nostro non est hoc necesse; sit enim satis iudicio illo ex causa, quam etiam adversarii non negant necessariam, ut valida sit dispensatio. Itaque quod ultimo ait Sanchez, ineptum esse; negatur, non enim est mera declaratio, ut in casu furti, vel inculpatae tutelae, sed iudicium iuridicum.*

35 THE SAME with D. Bonaventure D. Thomas thinks, and defines in the same way. Nor does Azorius himself rightly insist that by this means the vow is taken away, not by the benefit of Pontifical indulgence, but by the very interpretation of the law.

> *IDEM cum D. Bonavent. sentit, et eodem modo definit D. Thomas. Neque bene ipse Azorius instat, hoc pacto tolli votum, non Pontificiae indulgentiae beneficio, sed ipsa iuris interpretatione.*

36 FOR IT IS ANSWERED that the obligation is not sufficiently taken away by a mere declaration, but by the authoritative providence of the Church, which resides in the Pontiff, as I said.

> *RESPONDETUR enim, non satis tolli obligationem ex mera declaratione, sed ex authoritativa Ecclesiae providentia, quae penes Pontificem residet, ut dixi.*

37 BUT STILL Sanchez objects, *loc. cit. summa, num. 5, from cap. 4. de iureiurando: But it is chapter 18, where it is said: On which point a diligent inquirer could easily have seen that not so much the absolution of the oath was necessary as an interpretation to be required.* Sanchez leans deeply on this text, because the Pontiff openly distinguishes that both could be granted, and says that absolution was ineptly sought, since in that case the oath did not bind; and therefore there was no need of absolution, but of a declaration.

OBIICIT vero adhuc Sanchez loc. cit. summa, num. 5. ex cap. 4. de iureiurando: At est caput 18. ubi dicitur: Super quo diligens indagator potuisset facile intueri, quod non tam erat absolutio iuramenti necessaria, quam interpretatio requirenda. *Hoc textu alte nititur Sanchez, quia Pontifex aperte distinguit utrumque concedi posse, dicitque inepte peti absolutionem, cum in eo casu iuramentum non obligaret; et ideo non erat opus absolutione, sed declaratione.*

38 YET this text profits the adversaries nothing; for there the Pontiff Innocent III had been asked by the King of the Aragonese to be absolved from the oath he had made to keep the coin that fell short of its due weight; for on that account the people had risen in revolt.

Hic tamen textus nil prodest adversariis, ibi enim Pontifex Innocentius III. requisitus erat a Rege Aragonum, ut absolveretur a iuramento, quod ediderat, conservandi monetam deficientem a debito pondere; inde enim populus insurrexerat.

39 *He replied: If you had been diligently investigated, you would indeed have seen that you ought rather to have inquired: whether it was valid, namely because, when you swore, you either knew or did not know the coin to be false; if you knew, the oath was illegitimate and invalid, because an oath is not a bond of iniquity. But if you believed it legitimate, the oath is to be kept, and that it be observed, you shall reduce the coin to its lawful weight. Nevertheless, if in making the oath you believed it diminished from the lawful weight, and your conscience pricks you, humbly confess your sin.*

Respondit: Si diligenter indagatus fuisses, sane vidisses, te potius inquirere debuisse: an esset validum, nempe quia, cum iurasti; vel sciebas, monetam esse falsam, vel non; si sciebas; iuramentum fuit illegitimum, et invalidum, quia iuramentum non est vinculum iniquitatis. Si vero legitimum credebas, iuramentum est servandum, et ut observetur, monetam ad legitimum pondus reducas. Veruntamen si in praestatione iuramenti credebas, diminutam a pondere legitimo, et te conscientia remordet, tuum humiliter confitere peccatum.

40 The Pontiff does not will that the definitive judicial declaration, according to the mind of D. Bonaventure, be distinct from absolution, but from that interpretation which was a mere declaration of whether it was valid or not, which depended on a multiple knowledge of circumstances, namely in what way, with what knowledge, with what mind the oath was made, which he had carried, wrapped up without due exposition, to the Pope. He therefore wishes to say: You ought to have proposed the fact, clothed with its circumstances, so that you might first know what kind this oath of yours was: whether it was valid or not; whether you were bound to confess it and be sacramentally absolved from it; for you swore wickedly and sinned, if you swore knowingly. But after you had learned that it was valid, you could have asked to be absolved, which I would have done — not indeed by merely interpreting whether the oath was valid or not; for that would be presupposed; but by exempting you from the authoritative judgment, if I had seen that it so suited the Church.

Non vult Pontifex, declarationem iudicialem definitivam iuxta mentem D. Bonavent. esse distinctam ab absolutione, sed ab ea interpretatione, quae erat mera declaratio, an esset validum, nec ne, quod ex multiplici cognitione circumstantiatum dependebat, quo modo scilicet, qua cognitione, qua mente editum iuramentum, quod involutum absque debita expositione detulerat Papae. Vult igitur dicere: Debuisti proponere factum tale, suis vestitum circumstantiis, ut scires prius, quale esset hoc tuum iuramentum: an esset validum, necne; an illud tenereris confiteri, et de eo absolvi Sacramentaliter; nam pravum facere iurasti, ac peccasti, si scienter iurasti. Postquam vero cognovisses, esse validum, poteras petere absolvi, quod fecissem, non quidem mere interpretando iuramentum esse validum, necne; hoc enim supponeretur; sed eximendo te ex iudicio authoritativo, si vidissem ita Ecclesiae convenire.

41 Therefore Sanchez confuses, first, the interpretation of fact with the interpretation of law. Then he infers that we confuse the interpretation which is a mere declaration of whether the oath is valid or not with absolution; and moreover he also says badly that the Pontiff answered absolutely that absolution was not necessary, for he always speaks conditionally, as is clear to the reader. And so I concede that the interpretation, insofar as it is a decision of fact — whether it is a sin, or whether the oath is valid — differs from absolution or dispensation; yet that is not a dispensation as understood in the sense of the Seraphic Doctor; for that is rather a theological definition of fact: but the declaration in the opinion of S. Bonaventure is a definition of law, by which, the oath having been recognized as valid by the supreme Provider and Pastor, his observance having been compared with the evils arising from it and the scandals that had already arisen among the people, he determined by supreme authority that it pleases God more that the now-binding right, from Divine and natural law, no longer require observance, but that, according to the mind of God, it can be dispensed.

> *Confundit igitur Sanchez primo interpretationem facti, cum interpretatione iuris. Deinde infert, nos confundere interpretationem, quae est mera declaratio, an sit, necne, iuramentum validum, cum absolutione; et praeterea male etiam dicit, Pontificem respondere absolute, non fuisse necessariam absolutionem, semper enim loquitur conditionaliter, sicut patet legenti. Itaque concedo, interpretationem, pro ut est decisio facti, an sit peccatum, seu an sit iuramentum validum, differre ab absolutione, seu dispensatione; ea tamen non est dispensatio, more Seraphici intellecta; illa enim est potius definitio Theologica facti: at declaratio in S. Bonaventurae sententia, est iuris definitio, qua, cognito, iuramentum esse validum a summo Provisore, atque Pastore, comparata eius observatione cum malis inde emergentibus, et scandalis, quae iam in populo insurrexerant, statuit suprema authoritate magis Deo placere, ut nunc ius obligans ex iure Divino, et naturali, non requirat observationem, sed ex Dei mente possit dispensari.*

42 From this doctrine the remaining little arguments of Sanchez collapse, as is clear to the reader. For all of them suppose that dispensation in our opinion is a mere doctrinal interpretation, which is false; for S. Bonaventure, with loosened sinews, as they say, confesses that this power inheres in the dignity of the Lord Pope, and consequently is one of jurisdiction, which Sanchez, *Tract. de voto, lib. VI. cap. 10*, asserts to be of faith.

> *Ex hac doctrina reliquae Sanchez ratiunculae corruunt, ut patet legenti. Omnes enim supponunt, dispensationem in nostra sententia esse meram interpretationem doctrinalem, quod est falsum; nam S. Bonavent. laxis, ut aiunt, fibris, fatetur, hanc potestatem dignitati Domini Papae inesse, atque adeo esse iurisdictionis, quod Sanchez* Tract. de voto, lib. VI. cap. 10. *asserit esse de fide.*

43 Still Sanchez objects: All Doctors deny the Church the power of dispensing in natural law which does not emanate from human will, while they nevertheless concede it concerning natural law that takes its origin from human will, as concerning a vow and an oath, and this is of faith; but this distinction would be made in vain if dispensation were a mere declaration.

> *Obiicit adhuc Sanchez. Universi Doctores negant Ecclesiae potestatem dispensandi in iure naturali, quod non emanat a voluntate humana, cum tamen id concedant circa ius naturale, originem trahens a voluntate humana, ut circa votum, et iuramentum, et est de fide; hoc autem frustra distingueretur, si dispensatio esset mera declaratio.*

44 It is answered, from D. Bonaventure, that this happens because those things which are natural in that way are goods so necessary that they do not admit the exchange of an equal good, nor would it ever be more useful for the Church not to carry them out. They are only declared in themselves, as they lie of their own nature; but vows and oaths, since they have something that is not a necessary good but freely exhibited, which since it depends on our will, can be compensated by another greater

or equivalent good; therefore, besides exposition, they have it that they can be taken away by the authority of the Church; but this is not a simple declaration, as the argument supposes, but a potestative definition.

> *Respondetur ex D. Bonavent. id evenire, quia ea, quae sunt eo pacto naturalia, adeo necessaria bona sunt, ut non admittant commutationem aequalis boni, neque unquam Ecclesiae utilius sit ea non exequi. Solum declarantur in se, ut suapte natura iacent; at vota, et iuramenta, cum aliquid habeant, non necessarium bonum, sed sponte exhibitum, quod ex nostra voluntate cum pendeat, potest alio maiori bono, vel aequivalente compensari; ideo praeter expositionem, habent, ut possint tolli authoritate Ecclesiae; haec autem non est simplex declaratio, ut supponit argumentum, sed potestativa definitio.*

45 From these things it is gathered that this jurisdiction belongs first to the Pope universally for the whole Church, as S. Bonaventure notes. And so he can dispense in all simple vows. But of solemn vows I shall treat in the *following Disputation*, although as to the vow of Chastity S. Bonaventure speaks timidly, *in corpore*, and says he does not know whether it is better to say that one can dispense in the vows of Religion, and especially of chastity, even a private person. But the holy Doctor speaks according to his own phrase of dispensation, which others call relaxation, while he himself calls it a juridical declaration, or Epikeia; of which I treated *at length, quaest. I; and as I shall treat of the vows of Religion, disp. 2. quaest. 4.*

> *Ex his colligitur hanc iurisdictionem primo convenire Papae universaliter pro tota Ecclesia, ut notat S. Bonavent. Itaque in omnibus votis simplicibus potest dispensare. De solemnibus autem agam* Disputatione sequenti*, licet quo ad votum Castitatis timide loquatur S. Bonavent.* in corpore*, et dicat, se ignorare: an melius sit dicere, posse dispensare in votis Religionis, maxime vero castitatis, etiam privato. At S. Doctor loquitur secundum suam phrasim dispensationis, quam alii relaxationem vocant, ipse vero declarationem appellat iuridicam Epikeiae; de qua egi* late quaest. I. sicuti de votis Religionis agam disp. 2. quaest. 4.

46 Hence you have that only those can dispense who have Ecclesiastical jurisdiction, such as Legates in their province, whose power is ordinary, as annexed to the office, not to the person.

> *Hinc habes, eos solum posse dispensare, qui habent iurisdictionem Ecclesiasticam, ut sunt Legati in sua provincia, quorum est potestas ordinaria, ut pote officio adnexa, non personae.*

47 So also Bishops in their Diocese; and the See being vacant, the Chapter obtains this power. Similarly Abbots and other Prelates having quasi-episcopal power. See Sanchez, *lib. IV. cap. 38.* Suarez, *cap. 10.* As to Archdeacons, S. Bonav. seems to think that some have this power, as also that of excommunicating, because they have jurisdiction. So *in IV. dist. 18. parte II. quaest. III.* See also Sanchez, *lib. IV. cap. 38. num. 20.* To some Archdeacons only, not to all, he denies it, with many Doctors whom he cites. Of this I shall treat more fully in the *Tract. de matrim. d. VIII. quaest. VI.*

> *Sic et Episcopi in sua Dioecesi; et sede vacante, Capitulum hanc potestatem obtinet. Similiter Abbates, et alii Praelati, habentes potestatem quasi Episcopalem. Vide Sanchez* lib. IV. cap. 38. *Suarez* cap. 10. *Quod ad Archidiaconos videtur censere S. Bonav. aliquos habere hanc potestatem, sicut et excommunicandi, quia habent iurisdictionem. Ita* in IV. dist. 18. parte II. quaest. III. *Vide etiam Sanchez* lib. IV. cap. 38. num. 20. *Quibusdam tantum Archidiaconis, non omnibus id negat cum multis DD. quos refert. De hoc fusius agam* Tract. de matrim. d. VIII. quaest. VI.

48 It follows also that this dispensation, since it is of jurisdiction, extends to subjects alone. See Sanchez. And indeed that Prelates of religious, not only Generals, but Provincial and local ones, can dispense in the vows of their subjects, the Doctors commonly teach, as cited with Sanchez, *lib. IV. cap.*

39. Indeed even with Novices. Similarly, in the vows of religious, that even the Pope can; it is clearly evident; add the Apostolic Legate, or Nuncio a Latere. So Henriquez, *lib. VI. de Sacramento Poenitentiae, cap. 16. num. 8.* Sanchez, *loc. cit. num. 25.*

> *Sequitur etiam, hanc dispensationem, cum sit iurisdictionis, extendi ad solos subditos. Vide Sanchez. Et sane Praelatos religiosorum, non modo Generales, sed Provinciales, et locales posse dispensare in votis suorum subditorum docent communiter D. D. apud Sanchez* lib. IV. cap. 39. *Imo et cum Novitiis. Similiter in votis religiosorum posse etiam Pontificem; clare patet; add. Legatum Apostolicum, vel Nuncium a Latere. Ita Henriquez* lib. VI. de Sacramento Poenitentiae, cap. 16. num. 8. *Sanchez* loc. cit. num. 25.

49 Observe, however, that certain vows are reserved to the Pope; and they are five: of Religion, of Chastity, of Pilgrimage to Rome to the thresholds of the Apostles, to Jerusalem for the aid of that place, and the Compostellan to St. James. Thus it is gathered from the *extravag. §. Si Dominici, tit. I. de poenit. et remiss.* where those who commute these five vows without the license of the Pope are excommunicated.

> *Observa tamen, aliqua vota Papae reservari; sunt autem quinque: Religionis, Castitatis, Peregrinationis Romae ad limina Apostolorum, Hierosolymae in eius loci subsidium, et Compostellanae ad D. Iacobum. Sic colligitur ex* extravag. §. *Si Dominici,* tit. I. de poenit. et remiss. *ubi excommunicantur commutantes haec quinque vota absque licentia Papae.*

50 Note, however, that this excommunication is thundered against those who dispense by privileges granted by Sixtus IV himself, who issued that extravage. Therefore one who dispensed by privileges received from elsewhere would not incur it. See Suarez, *Tom. V. in III. part. disp. 22 sect. V. num. 28.* Sanchez, *lib. IV. cap. 40. num. 23.*

> *Nota vero, hanc excommunicationem fulminari contra dispensantes ex privilegiis, concessis ab ipso Sixto IV. qui eam extravagantem edidit. Itaque non incurreret, qui privilegiis aliunde acceptis dispensaret. Vide Suarez* Tom. V. in III. part. disp. 22 sect. V. num. 28. *Sanchez* lib. IV. cap. 40. num. 23.

51 Yet those vows are supposed by that Bull to be reserved, as Sanchez notes, *numero 6*, who says they are not reserved by law, even common law, but by custom only. But these five are so reserved to the Pope that not even a Legate a Latere can dispense in them. Others add other vows, but truly only these are reserved to the Pope, as Sanchez teaches, *loc. citato.*

> *Ea tamen vota ex illa Bulla supponuntur reservata, ut notat Sanchez* numero 6. *qui dicit, non esse a iure etiam communi reservata, sed a consuetudine tantum. Haec autem quinque ita sunt reservata Papae, ut nec Legatus a Latere in his valeat dispensare. Alii alia vota addunt, sed vere haec sola Papae reservantur, ut docet Sanchez* loco citato.

52 ¶ INDEED Bishops, the reservation set aside, could dispense in those vows, since in relaxing they succeed the Pope; because as the Pope in the whole world is the Prince of the Church, so the Bishop in his diocese — excepting those things which touch the universal government of the Church, as to define matters of faith, etc. And so he can do in his diocese everything that the Pope can in the city, unless it is specially reserved to him. For he is ordinary in his diocese, as the Pope in the world, as D. Bonaventure notes, *in 4. dist. 20. part. 2. quaest. 3. in corpore.*

> *¶ ENIM vero Episcopi, seclusa reservatione, possent ea vota dispensare, sicut in relaxando succedunt Papae; quia sicut Papa in toto orbe est Princeps Ecclesiae; ita Episcopus in sua dioecesi, exceptis his, quae tangunt universale Ecclesiae regimen, ut definire de fide, etc. Itaque totum id potest in sua dioecesi, quod Papa in urbe, nisi ei specialiter reservetur.*

> *Est enim ordinarius in sua dioecesi, sicut Papa in orbe, ut notat D. Bonavent.* in 4. dist. 20. part. 2. quaest. 3. in corpore.

53 *You will say:* the Parish Priest also is ordinary in his parish: Therefore he can dispense in vows, and whatever the Pope can in the world.

> Dices; *etiam Parochus est in sua parochia ordinarius: Ergo potest in votis dispensare, et quidquid potest Papa in orbe.*

54 D. Bonaventure *answers* that the reason is different; for the full power over the Church was granted by Christ in a certain spiritual marriage, through consecration; now the bridegroom ought to have the power of begetting sons imperfect and perfect — such are Bishops, who can both regenerate neophytes by Baptism, and not only make the imperfect perfect by penance, but recreate sons perfect by Orders, etc., and strengthen them by Confirmation — not so Parish Priests. Therefore the Bishop in consecration receives the ring, as a bridegroom. On this reason the Doctors commonly rely, as cited with Sanchez, *lib. 1. de matrimonio, disp. 61, and disp. 9 of the eighth book, and lib. 4. summae, chapter 40.*

> Respondet *D. Bonavent. diversam esse rationem; nam potestas super Ecclesiam plena concessa est a Christo quodam spirituali matrimonio, per consecrationem, sponsus autem debet habere potestatem generandi filios imperfectos, et perfectos, tales sunt Episcopi, qui possunt et regenerare neophytos Baptismo, et non solum imperfectos poenitentia; sed ordinibus filios recreare perfectos, etc. et Confirmatione roborare, non sic Parochi. Ideo Episcopus in consecratione recipit annulum, tanquam sponsus. Hac ratione nituntur communiter DD. apud Sanchez* lib. 1. de matrimonio, disp. 61. et disp. 9. Libri octavi, et lib. 4. summae, capite 40.

55 From these things very many Corollaries follow. For since dispensations of chastity and religion are reserved to the Pope only absolutely, and that law is odious to Bishops, it follows that it must be restricted.

> *Ex his sequuntur plurima Corollaria. Quia enim reservantur Papae dispensationes castitatis, et religionis tantum absolute; et lex ista odiosa est Episcopis; sequitur eam esse restringendam.*

56 ¶ FIRST, therefore, it follows that a Bishop can dispense in a vow of chastity made for a time. So D. Thom., *2. 2. quaest. 88. art. 11. ad 2*, and it is gathered from D. Bonavent., *loc. cit.*, whom others follow, as cited with Sanchez, *lib. 8. disp. 9. num. 6.*

> ¶ *PRIMO igitur sequitur, posse Episcopum dispensare in voto castitatis ad tempus editum. Ita D. Thom.* 2. 2. quaest. 88. art. 11. ad 2. *et colligitur ex D. Bonavent.* loco cit. *quos sequuntur alii apud Sanchez* lib. 8. disp. 9. num. 6.

57 SECOND it follows that he can dispense in the conjugal vow of chastity, since it falls short of absolute chastity, and likewise from the vow of not entering marriage; for the vow of chastity is greater, obliging to more. So the Doctors commonly, as related by Sanchez, *num. 11.*

> *SECUNDO sequitur, posse dispensare in voto castitatis coniugalis, quippe deficiat ab absoluto castitatis sicut, et a voto non ineundi matrimonium; nam votum castitatis est maius obligans ad plura. Ita communiter DD. relati a Sanchez* num. 11.

58 THIRD it follows that he can dispense in the vow of taking sacred orders, for it is not simply of chastity, but of the thing to which the vow of chastity is annexed. So very many Doctors, as cited with Sanchez, *numero 13*, and Bassaeus, *numero 14.*

TERTIO sequitur, posse dispensare in voto ordines sacros sumendi, non enim est simpliciter castitatis, sed rei, cui est adnexum votum castitatis. Ita DD. plurimi apud Sanchez numero 13. *Bassaeum* numero 14.

59 FOURTH it follows that he can dispense in a disjunctive vow, which promises the alternative of a thing reserved or not reserved, as of religion or of sacred orders, since in alternatives the choice belongs to the one bound, and it suffices that one be fulfilled: *Rule on alternatives, de regul. iuris, in 6.* So Azorius, Tom. 1, *lib. 11. cap. 19. quaestio 10.* Sanchez, *loc. cit. num. 14.*

QUARTO sequitur, posse dispensare in voto disiunctivo, quod promittit alternativam rei reservatae, vel non reservatae, ut religionis, vel ordinis sacri, quippe in alternativis electio est debentis, et sufficit, alterum impleri: Regula de alternativis, de regul. iuris, in 6. *Ita Azotius Tom. 1.* lib. 11. cap. 19. quaestio 10. *Sanchez* loco cit. num. 14.

60 ¶ FIFTH it is inferred that he can dispense with a religious in a vow concerning a stricter religion, since he does not vow the substance of religion but an excess; or if a secular vows a stricter religion, he will be able to enter a looser one. So many Doctors, as cited with Sanchez, *num. 17.*

¶ *QUINTO infertur, posse dispensare cum religioso in voto de strictiori religione, quippe non vovet substantiam religionis, sed excessum, vel si saecularis vovet religionem arctiorem, poterit laxiorem subire. Ita multi DD. apud Sanchez* num. 17.

61 SIXTH, that one who has a vow of entering religion can be dispensed from perseverance in it, if the entrance, for just causes, leads to not persevering. So Sanchez, *num. 18.*

SEXTO eum, qui habet votum ingrediendi religionem, posse dispensari a perseverantia in ea, si ingressus iustis causis ducatur ad non perseverandum. Ita Sanchez num. 18.

62 SEVENTH, he will be able to dispense in deferring the execution of his entrance into religion. So Sanchez, *num. 19.*

SEPTIMO poterit dispensare in differenda executione sui ingressus in religionem. Ita Sanchez num. 19.

63 EIGHTH, he will be able to dispense in the matter into which a reserved vow, for instance of religion, has been changed by the Pope. So many, with Sanchez, *num. 20.* And this separately, even if one has vowed in simple vows the individual parts of chastity, *e. g.* by one to abstain from fornication, by another not to enter marriage, which comprise the whole matter of chastity.

OCTAVO poterit dispensare in materia, in quam mutatum est a Papa votum reservatum, puta religionis. Ita multi eum Sanchez num. 20. *seorsum et hoc, etiamsi simplicibus votis voverit singulas partes castitatis* v. g. *uno abstinere a fornicatione, altero non inire matrimonium, quae totam materiam castitatis complectantur.*

64 NINTH, in all those in which only a part of the matter of chastity is vowed, as in the vow of a spouse.

NONO, in omnibus, in quibus vovetur sola pars materiae castitatis, ut in voto coniugis.

65 They ASSERT besides that Bishops can, in a case of necessity — for instance the gravest danger of incontinence, and difficult access to the Pope — dispense in a vow of integral chastity. So Sanchez, *lib. 2. matrim. disp. 40, and lib. 8. dub. 6,* relating very many. The reason is, because the Pontiff is not to be presumed to will to reserve these cases to himself, casting nooses around himself. The same concerning other Pontifical laws very many teach, as cited with Sanchez, *lib. 2. cited above.* Indeed even to absolve from a case reserved to the Pope, besides the article of death, when access to the Pontiff is

an impediment. The common reason is, because Pontifical laws proceed for the good of the Christian commonwealth, for the salvation of souls, according to the rules of charity; but it would be against charity so to bind the impotent. But the Church uses censures for salvation, not for destruction. So also S. Bonaventure runs, *in 4. dist. 17. part. 1. quaest. 1.* Say the same of the other reserved vows, if it be necessary. See Bassaeus, *num. 15.*

> *ASSERUNT praeterea, posse Episcopos in casu necessitatis, puta maximo periculi incontinentiae, et ardui accessus ad Papam in voto integro castitatis dispensare. Ita Sanchez* lib. 2. matrim. disp. 40. et lib. 8. dub. 6. *referens plurimos. Ratio est, quia non est praesumendum velle Pontificem in his casibus reservare, sibi laqueos iniiciendo. Idem de aliis legibus Pontificiis docent plurimi apud Sanchez* lib. 2. citato. *Imo etiam absolvere a casu reservato Papae, praeter mortis articulum, quando est impedimentum adeundi Pontificem. Ratio communis est, quia leges Pontificiae ad bonum Reipublicae Christianae, ad salutem animarum, iuxta regulas charitatis prodeunt; esset autem contra charitatem sic alligare impotentes. At Ecclesia ad salutem, non ad perditionem utitur censuris. Ita etiam discurrit S. Bonavent.* in 4. dist. 17. part. 1. quaest. 1. *Idem dic de aliis votis reservatis, si necesse sit. Vide Bassaeum* num. 15.

66 By the same reason very many say that even the Parish Priest can dispense in vows, when access to the Bishop is not easy. These are related by Sanchez, *num. 27.* They rely on this, that dispensation in a vow is like dispensation in a law, as D. Thom. teaches, *2. 2. quaest. 88. art. 10,* and D. Bonavent., *in 4. dist. 38. quaest. 3, argument 4, first place, and argument 2, sed contra:* where he mixes and compares the obligation of the natural law of lying, and of the species to be kept, with the vow. But all follow them, as Sanchez notes, *num. 27 of the disputation cited.* Now indeed, since the matter stands thus, and the Parish Priest can dispense in the law of fasting when access to his Bishop is not easy, as very many teach, cited there, indeed with no necessity pressing, as many there affirm; it follows that he can also in the other things said above.

> *Ob eandem rationem plurimi dicunt, posse etiam Parochum dispensare in votis, quando ad Episcopum non est facilis aditus. Hi referuntur a Sanchez* num. 27. *Nituntur, quia dispensatio in voto est instar dispensationis in lege, ut docet D. Thom.* 2. 2. quaest. 88. art. 10. et *D. Bonavent.* in 4. dist. 38. quaest. 3. argumento 4. primo loco, et argumento 2. sed contra: ubi immiscet, et comparat obligationem naturalis legis mendacii, et speciei conservandae cum voto. *Eos vero sequuntur omnes, ut notat Sanchez* num. 27. disputationis adductae. *Iam vero, cum res ita se habeat, possitque Parochus in lege ieiunii dispensare, quando non est facilis aditus ad Episcopum suum, ut docent plurimi, ibi citati, imo nulla urgente necessitate, ut multi ibi afferunt; sequitur, etiam posse in aliis supra dictis.*

67 Indeed Manuel goes further, Tomo 2, *quaestionum regularium, quaest. 46. art. 9.* — that the Parish Priest can dispense even in vows which belong to the Bishop; not by ordinary law, but by the sole presumed will of the supreme Pontiff, of which above, when access to the Bishop is not easy. He proves it by the reason given above, because the Parish Priest, although by the law of parishes he has not the power of dispensing in the law of fasting, yet dispenses by custom, even if the Bishop could be approached, and this by custom, because custom gives jurisdiction, *cap. cum contingat, de foro competenti,* with many texts which the Gloss heaps up there; this is not to be denied of the vow, which is put on a level with law. Some say that a Bishop can dispense in a vow of chastity emitted from perturbation, when the one vowing is young or suspect; they rely on *cap. veniens, qui cleric. vel vovent:* but the dispenser there is the Pontiff himself, not a simple Bishop, as is clear in the title, Idem, namely Alexander III, as above.

> *Imo progreditur Manuel Tomo 2.* quaestionum regularium, quaest. 46. art. 9. *Parochum posse dispensare etiam in votis, quae spectant ad Episcopum; non ex iure ordinario, sed ex sola praesumpta Pontificis summi voluntate, de quibus*

supra, quando non est facilis aditus ad Episcopum. Probat ratione supra allata, quia Parochus, licet ex iure Parochi non habeat potestatem dispensandi in lege ieiunii, tamen ex consuetudine dispensat, etiam si possit Episcopus adiri, et hoc ex consuetudine, quia consuetudo dat iurisdictionem cap. cum contingat, de foro competenti, *cum multis textibus, quos ibi congerit Glossa; id non est negandum de voto, quod cum lege aequiparatur. Aliqui aiunt, posse Episcopum dispensare in voto castitatis ex perturbatione emisso, quando vovens est iuvenis, vel suspectus, nituntur* cap. veniens, qui cleric. vel vovent: at dispensator ibi est ipse Pontifex, non simplex Episcopus, ut patet in titulo, Idem, nempe Alexander III. qui supra.

68 SOME ADD that a Bishop can dispense for asking the debt in a vow of chastity, marriage having been entered before. And Sanchez adds, *lib. 4. summae, cap. 40. num. 63*, that custom is equivalent to law.]

ADDUNT aliqui, posse Episcopum dispensare ad petendum debitum in voto castitatis, inito ante matrimonium. Addunt autem Sanchez lib. 4. summae, cap. 40. num. 63. *consuetudinem, legi aequivalere.]*

69 ¶ There is a certain difficulty: whether he can dispense concerning penitential vows. Now a vow is penitential: I vow to undergo such a punishment, as fasting, if I game; I promise religion, if I have been drunk.

¶ Est aliqua difficultas : an possit dispensare circa vota poenalia. Est autem votum poenale: voveo talem poenam subire, ut ieiunium, si lusero; promitto religionem, si ebriatus fuero.

70 MANY say he cannot, when the will falls even upon a reserved thing, e. g. religion.

MULTI dicunt, non posse, quando cadit voluntas etiam super reservatum, v. g. religionem.

71 OTHERS bring forward, because odious things are to be restricted: but this vow is only conditional: Therefore it is not reserved to the Pope, because only absolute vows are reserved. So Sanchez, *lib. 8. de matrimonio, disput. 10. num. 8, and lib. 4. summae, cap. 40. num. 91.* Suarez, *Tract. de voto, lib. 6. cap. 13* — who nevertheless adds that it cannot be done when the punishment is imposed as medicinal, but only when it is imposed as vindicative. Similarly if a punishment is imposed in thanksgiving for a future benefit: as, I vow religion, if I shall have been preserved from such a sin; but this Sanchez does not admit, with very many cited by him. But of this below.

ALII afferunt, quia odia sunt restringenda: sed votum hoc est conditionale tantum: Ergo non est reservatum Papae, quia vota tantum absoluta reservantur. Ita Sanchez lib. 8. de matrimonio, disput. 10. num. 8. et lib. 4. summae, cap. 40. num. 91. *Suarez* Tract. de voto, lib. 6. cap. 13. *qui tamen addit, non posse quando poena apponitur, ut medicinalis, sed solum quando apponitur, ut vindicativa. Similiter si apponatur poena in gratiarum actionem beneficii futuri: ut, voveo religionem, si praeservatus fuero a tali peccato, sed haec non admittit Sanchez cum plurimis ab eo adductis. Sed de hoc infra.*

72 Hence you have what must be said of a conditional vow concerning the future (for if the condition be of the past, it is not valid). Suarez says it cannot be done after the condition is fulfilled, *loc. cit. cap. 12*; the reason is, because the condition fulfilled, the obligation arises as of an absolute vow, *leg. Potior 11. in fine principii, ff. qui in pignore potiores habentur*, and it is confirmed from other contracts also.

Hinc habes, quid dicendum de voto conditionali de futuro (nam si praeterita iam sit conditio, non valet) Suarez ait, non posse post impletam conditionem loco cit. cap. 12. *ratio est, quia impleta conditione, obligatio insurgit, tanquam voti absoluti* leg. Potior 11. in fine principii, ff. qui in pignore potiores habentur, *et confirmatur ex aliis etiam contractibus.*

73 But many others assert that one can dispense even after the condition is fulfilled. So Sanchez, *lib. 8. de matrim. disp. 10. num. 15*, citing Toletus, *lib. 4. summae, cap. 18. num. 11.* Gomez, *in Bulla Cruc. clausa 10. num. 99.* Ledesma, *2. part. summae, tract. 10. cap. 8.* and others. Add also those whom I shall cite below with Diana and Bassaeus.

> *At multi alii asserunt, etiam post impletam conditionem, posse dispensare, Ita Sanchez* lib. 8. de matrim. disp. 10. num. 15. *adducens Toletum* lib. 4. summae, cap. 18. num. 11. *Gomez* in Bulla Cruc. clausa 10. num. 99. *Ledaesma* 2. part. summae, tract. 10. cap. 8. *et alios. Adde etiam quos infra addam apud Dianam, et Bassaeum.*

74 *It is proved*, because such a vow is at root imperfect, and conditional, not absolute. *It is confirmed.* For if in penitential vows it holds even after the condition is fulfilled, as Suarez confesses: *Therefore* also in these. For just as in penitential vows this is conceded because the will toward that object is imperfect, nor does it proceed first from affection for the thing, toward which it stimulates itself through fear of punishment; so in the conditional, the will is imperfect, nor does it go forth from love of the thing promised, but of the condition: thus that man vows religion, if he wins the lawsuit; or if his brother has had a male son.

> Probatur, *quia tale votum in radice est imperfectum, et conditionale, non absolutum.* Confirmatur. *Si enim in votis poenalibus valet etiam post impletam conditionem, ut fatetur Suarez:* Ergo *et in his. Sicut enim in poenalibus id conceditur, quia voluntas in illud obiectum est imperfecta, nec primo procedit ex affectu ad rem, ad quam stimulat se timore poenae; ita in conditionali, voluntas est imperfecta, nec exit amore rei promissae, sed conditionis: sic vovet ille religionem, si litem vicerit; vel si frater filium habuerit masculum.*

75 Hence the principal argument of Suarez is solved, for it tends also against the conditional penitential vow, that it be absolute. It is answered, therefore, that the obligation indeed becomes absolute, the condition being fulfilled; yet there still remains an imperfect obligation.

> *Hinc solvitur praecipuum argumentum Suarez, nam vergit etiam contra votum conditionale poenale, quod sit absolutum. Respondetur ergo, absolutam quidem fieri obligationem, conditione impleta: at tamen adhuc manere obligationis imperfectam.*

76 From these things you have that in the same vows even regular Prelates can dispense with their religious, in which also Bishops with theirs (let this be said, however, without prejudice to the vow of religion). And so they can dispense in the vow of passing over to a stricter religion, although they cannot annul it: the reason of the disparity is, that as to this vow, it is not subjected to the dominative power of Prelates, and therefore they cannot annul it. For by a coercing power they retain him from that passing over: but dispensation is by their consent. So very many Doctors, as cited with Sanchez, *lib. 4. summae, cap. 42.*

> *Ex his habes, in eisdem votis posse etiam Praelatos regulares dispensare cum suis religiosis, in quibus etiam Episcopi cum suis (sine praeiudicio tamen votorum religionis hoc dicatur.) Itaque possunt dispensare in voto transeundi ad strictiorem religionem, licet non possint illud irritare: ratio disparitatis est, quia quo ad hoc votum, non subditur dominativae potestati Praelatorum, et ideo non possunt irritare. Sic enim potestate coercente, eum retineat a transitu illo: at dispensatio est ex eorum consensu. Ita DD. plurimi apud Sanchez* lib. 4. summae, cap. 42.

77 Therefore that they can dispense in all the vows in which even Bishops can dispense is clear from the privilege of Martin V, which is found in the *Compend. Privil. societatis Iesu, verbo Dispensatio, §. 10* — which is understood of those reserved vows which fall short by reason of some condition; not of those which are perfect, but which are dispensed by reason of necessity. So Sanchez, *lib. 4. cap. 43.*

Suarez, *loc. cit. cap. 26. num. 17, 18, and 19*. Yet Bassaeus doubts this in vain, *V. Votum 7. num. 10*. Whether it was granted by the Bull.

> *Posse igitur dispensare in omnibus votis, quibus possent etiam Episcopi, patet ex privilegio Martini V. quod habetur in* Compend. Privil. societatis Iesu, verbo Dispensatio, §. 10. *quod intelligitur de his votis reservatis, quae deficiunt ob aliquam conditionem; non de his, quae sunt perfecta, sed dispensantur ratione necessitatis. Ita Sanchez* lib. 4. cap. 43. *Suarez* loco cit. cap. 26. num. 17. 18. et 19. *De hoc tamen frustra dubitat Bassaeus* V. Votum 7. num. 10. *An per Bullam sit latum.*

78 Likewise the Confessors of Mendicants can dispense in all the cases in which even Bishops. This Iulius II granted to the Congregations of St. Benedict and of St. Bernard; and Eugenius IV to Monks, as is seen with the *Confess. fol. 31.* Bordon., *resol. 15*; and it is an absolute concession. Whatever limits C Caesarub and Lezana impose, Bassaeus refutes them, *num. 10*.

> *Itidem Confessores Mendicantium possunt dispensare in omnibus casibus, in quibus et Episcopi. Id concessere Iul. II. Congreg. D. Benedicti, et D. Bernardi; et Eug IV. Monachis, ut videre est apud* Confess. fol. 31. *Bordon.* resol. 15. *estque concessio absoluta. Quidquid limitent Casatub, et Lezana, quos refellit Bassaeus* num. 10.

79 By the concession of Julius II it is possible to dispense by the confessors of mendicants with the incestuous for asking the debt, as Rodriguez relates, *Bulla 23, and Sorb. V. Dispensatio* — provided they be specially deputed to him by the superior; and this he has in the Sacrament of Penance, and in the houses of Regulars, not outside. See Bassaeus, *V. Incestus, in fine*. These faculties are universal.

> *Ex concess. Iulii II. potest dispensari a confessariis mendicantium, cum incestuosis ad petendum debitum, ut refert Rodriquez* Bulla 23. et Sorb. V. Dispensatio. *Dummodo a superiore ad eum specialiter deputentur, atque hoc hat in Sacramento Confess. et in domibus Regularium, non extra. Vide Bassaeum* V. Incestus in fine. *Hae facultates universales sunt.*

80 But that Provincial Prelates can do with their subjects what Bishops do with theirs is clear and consonant to reason; otherwise Regulars could not be rightly governed, since they do not have recourse to Bishops.

> *Posse vero cum suis subditis, id quod Episcopi cum suis, Praelatos Provinciales, perspicuum est, et rationi consonum; alioqui non possent Regulares rite gubernari, cum ad Episcopos non accedant.*

81 Other Privileges of Innocent VIII and Pius V exist concerning these things by the oracle of the living voice; but they have already been abrogated by Urban VIII, who abrogated all oracles of the living voice in the Bull *Alias feliciss. 20. Decembr. 1631*.

> *Alia extant de his Privilegia Innocentii VIII. et Pii V. vivae vocis oraculo; sed abrogata iam ab Urbano VIII. qui omnia vivae vocis oracula abrogavit in Bulla* Alias feliciss. 20. Decembr. 1631.

82 The same Confessors can dispense with those who have entered marriage with a vow of chastity, for asking the debt, as Bassaeus notes, *V. Privil. num. 8*, and Bonagratia, *V. Dispensatio, num. 148, and V. Privilegium*.

> *Possunt Confessarii iidem cum eis dispensare, qui cum voto castitatis matrimonium inierunt, ad petendum debitum, ut notant Bassaeus* V. Privil. num. 8 *Bonagratia* V. Dispensatio, num. 148. et V. Privilegium.

83 The delegated power for dispensing in vows must be specified, and to a fit person. See Suarez, *lib. 6. cap. 12*. Filliucius, *tract. 26. cap. 9*. Bassaeus, *verb. Votum 7. num. 9*.

Potestas delegans ad dispensandum in votis, debet esse specificata, personaeque habili. Vide Suarez lib. 6. cap. 12. *Filliucium* tract. 26. cap. 9. *Bessaeum* verb. Votum 7. num. 9.

84 But you can draw many corollaries from this.

Potes autem hinc multa educere corollaria.

85 First, that regular Prelates with their subjects, and the Confessors of Mendicants with their penitents, can dispense in all true vows, except those reserved to the Pope related above; but some things must be noted about these.

Primo, posse Praelatos regulares cum subditis; et Confessarios Mendic. cum poenitentibus dispensare in omnibus veris, exceptis reservatis Papae, supra relatis; sed aliqua circa haec notanda sunt.

86 Concerning the vow of perpetual and integral Chastity, which excludes every act, even an internal licit one, of the flesh — with the danger of scandal, incontinence, or harm to a third person pressing, the Bishop can in some way dispense, or suspend, as Suarez teaches, *lib. 6. cap. 26*, and Sanchez, *lib. 4. cap. 40.* So also to the confessors above, as Crouf. notes, *ad cap. 7. Reg. lib. 29*; and it was tolerated in the year 1629 in the S. Congregation, and it is established by the Bull of Clement VIII, given 13 Jul. 1604, as found with Rodriguez and Bassaeus; and just as the Bishop can dispense with one who contracted marriage with a vow of chastity, even if he has not consummated it, that he ask the debt to avoid incontinence; and just as he can, on account of the same danger, dispense with both spouses concerning the vow of concordant continence. And so the custom and practice of Bishops from time immemorial has carried this; although some add that this is true if recourse to the Pope is difficult to be had, as you see in Diana, *part. 4. tract. 4. resol. 125.* So also the Confessors of Mendicants; and just as the Bishop can dispense in a vow of integral chastity entered from a fear that is not grave, as found with Diana, *part. 5. tract. 12. resol. 61.* He can also dispense in it if it is elicited less principally together with another vow; as if one should vow not to play under the penalty of keeping chastity; so also the confessors related above. Similar is the case of one vowing sacred orders, to which chastity is tied.

Circa votum Castitatis perpetuae, et integrae, quae omnem actum, etiam internum licitum carnis excludit, urgente periculo scandali, incontinentiae, vel damni tertiae personae, potest Episcopus aliquo modo dispensare, seu suspendere, ut docent Suarez lib. 6. cap. 26. *Sanchez* lib. 4. cap. 40. *Ita confessariis supra, ut notat Crouf.* ad cap. 7. Reg. lib. 29. *et toleratum est anno 1629. in S. Cong. et constat e Bulla Clem. VIII. data 13. Iul. 1604. apud Rodriquez, et Bassaeum, et sicut Episcopus cum eo dispensare potest qui cum voto castitatis matrimonium contraxit, etsi non consummaverit, ut petat debitum ad vitandam incontinentiam et sicut potest ob idem periculum dispensare cum ambobus coniugibus super voto concordi continentiae. Et ita consuetudo, et praxis a tempore immemorabili Episcoporum, id tulit; tametsi aliqui addant, hoc verum, si difficilis recursus pateat ad Papam, ut vides in Diana* part. 4. tract. 4. resol. 125. *Ita et Confessarii Mendicantium; et sicut potest Episcopus dispensare in voto integro castitatis, inito ex metu non gravi, apud Dianam* part. 5. tract. 12. resol. 61. *Potest et in ea dispensare, si minus principaliter cum alio voto eliciatur; ut si quis voveat non ludere sub poena servandae castitatis; Ita et confessores relati. Simile est de vovente sacros ordines, quibus nectitur castitas.*

87 Concerning all these reserved vows say: Just as the Bishop is able to dispense in a conditional vow, even though reserved absolutely; as if you vowed chastity if you escaped this danger, provided the condition be not yet fulfilled — indeed, probably, even with the condition fulfilled, with such great danger, as Diana relates, *part. 3. tract. 5. resol. 25, and part. 6. tract. 8. resol. 16* — because such a vow is

imperfect, arising more from affection for one's own utility. So also the Confessors can dispense in a similar case, above.

> *Circa haec omnia vota reservata dic: Sicut Episcopus valet dispensare in voto conditionali, etsi reservato absolute; ut si voveres castitatem, si ex hoc periculo evaderes, modo conditio non adhuc impleta sit, imo probabiliter, etiam conditione impleta, tanto periculo, ut refert Diana* part. 3. tract. 5. resol. 25. et part. 6. tract. 8. resol. 16. *eo quod tale votum sit imperfectum ex affectu potius ad propriam utilitatem. Ita possunt et in simili dispensare Confessarii, supra.*

88 Similarly, as in alternative vows, as if one of them is reserved, the other not; and the one vowing determines himself to the one not reserved, the Bishop can dispense. So also the confessors. And as it is more probable, in a reserved penitential vow, that the Bishop can dispense even with the condition fulfilled, since such a vow is not made directly for the worship of God, but from detestation of the crime; as if you vowed Religion, or the reserved pilgrimages, if you had committed fornication. So also the Confessors related above. Yet it is probable[1] that such a vow arising from a medicinal condition is reserved. See Suarez, lib. 6. cap. 15, and Bassaeus, num. 22. Say the same, therefore, of both.

1 N. Editor's note: the print/OCR shows a duplicated 'Probabile'; rendered once.

> *Similiter sicut in votis alternativis, ut si alterum sit reservatum, alterum non; et vovens se determinet ad non reservatum, potest Episcopus dispensare. Ita etiam et confessarii. Et sicut probabilius est in voto reservato poenali posse Episcopum etiam impleta conditione, quippe non fit votum directe ob Dei cultum, sed ex detestatione sceleris; ut si voveas Religionem, vel peregrinationes reservatas; si fornicatus fueris. Ita et Confessarii relati. Probabile tamen est tale votum e conditione medicinali esse reservatum. Vide Suarez lib. 6. cap. 15. Balsaeum num. 22. Idem ergo de utrisque dic.*

89 Just as the most urgent cause is left to the Bishop, that he dispense in a vow made for the utility of a third person, after he has accepted the promise: so, etc. See Sanchez, lib. 4. cap. 41. num. 16, Suarez, lib. 6. cap. 15, and Bassaeus, num. 275.

> *Sicut etiam urgentissima causa Episcopo relinquitur, ut dispenset in voto facto in utilitatem tertii, postquam is promissum acceptavit: ita, etc. Vide Sanchez lib. 4. cap. 41. num. 16. Suarez lib. 6. cap. 15. et Balsaeum num. 275.*

90 Note from the same author that it suffices that it be a matter of opinion whether it is reserved, for the Bishop and Confessors to be able to dispense. See V. Votum 7. num. 13.

> *Nota ex eodem satis esse, ut sit in opinione, an sit reservatum, ad hoc, ut Episcopus, et Confessarii valeant dispensare. Vide v. Votum 7. num. 13.*

91 What I said of chastity — namely that it must be integral to be reserved — say the same of the Vows of Religion, of pilgrimages not impeded, etc.

> *Quod dixi de castitate, integram scilicet esse debere, ut sit reservata, idem dic de Votis Religionis, de Peregrinationibus non impeditis, etc.*

92 Wherefore if anyone has vowed poverty, or part of the journey to Jerusalem, or a military Religion (except the Maltese), since it is disputed whether those are true Religions, dispensation could be given.

> *Quare si quis voverit paupertatem, vel partem itineris Hierusalem, vel Religionem militarem (excepta Melitensi) cum disputetur, an sint illae verae Religiones, posset dispensari.*

93 Finally, Regular Novices are to be dispensed by the regular Prelates; for although they are not subjected to their power of economic dominion, yet they are subjected to the power of jurisdiction, or spiritual polity. See Bassaeus, num. 25.

> *Regulares Novitii tandem dispensentur a Praelatis Regularibus; quamvis enim non subiiciantur potestati eorum dominatione oeconomicae; tamen subiiciuntur potestati Iurisdictionis, seu Politicae spirituali. Vide Balsaeum num. 25.*

Question XXX: Whether a cause is required for a dispensation, and which

1 The first opinion is that it is lawful for Superiors to dispense in vows without a cause; D. Thomas refers them to 2.

> *Prima opinio est, integram esse Superioribus sine causa in votis dispensare; eos refert D. Thom. ad 2.*

2 Yet it is most true that a human dispensation in divine natural law, as in vows and oaths without a cause, has been condemned and made void. So D. Bonaventure in 4 dist. 19 dub. 8 litt. and dist. 38 quaest. 3, and I showed it in 1. 2. tract. de leg. disp. 5 quaest. 14; D. Thomas loc. cit., whom all Theologians and Interpreters of Pontifical Law follow, with the Gloss cap. non est, v. adimplere, de voto. So warns Tanner disput. 5 quaest. 4 dub. 6 cap. 10; Balsaeus V. Votum 7 num. 8 and V. Dispensatio num. 9, where he lists others.

> *Verissimum tamen est, dispensationem humanam in iure divino naturali, ut in votis, et iuramentis absque causa, esse culpatam, et irritam. Ita D. Bonavent. in 4. dist. 19. dub. 8. litt. et dist. 38. quaest. 3. et ostendi 1. 2. tract. de leg. disp. 5. quaest. 14. D. Thom. loco cit. quos sequuntur universi Theologi, et Interpretes Iuris Pontificii cum Gloss. cap. non est, v. adimplere, de voto. Sic monet Tanner. disput. 5. quaest. 4. dub. 6. cap. 10. Balsaeus V. Votum 7. num. 8. et V. Dispensatio, num. 9. ubi alios recensent.*

3 I assert, with this opinion, that a cause is required for dispensing.

> *Assero cum hac sententia, ad dispensandum causam requiri.*

4 It is proved by D. Bonaventure loc. cit. dist. 19, from D. Bernard lib. 3 de consider. cap. 23, where he thus addresses Eugene III: *Dispensation without cause is not dispensation, but dissipation.* Others use this saying, adding with the same Bernard, 2 Corin. 13: *Power is given for edification, not for destruction.*

> *Probatur a D. Bonavent. loco cit. dist. 19. e D. Bernardo lib. 3. de consider. cap. 23. ubi sic Eugenium III. alloquitur:* Dispensatio sine causa, non est dispensatio, sed dissipatio. *Hoc effato utuntur alii, addentes cum eodem Bernardo id Apost. 2. Corin. 13.* Data est potestas in aedificationem, non in destructionem.

5 As to the causes, what sort they ought to be, so that these dispensations may be rightly made.

> *Quoad causas vero, quales esse debeant, ut rite hae dispensationes fiant.*

6 I suppose first that it is not necessary for a just dispensation that the cause be directly for the common good, but it suffices that it redound upon it indirectly, as the good of a part redounds to the good of the whole. This is clear from cap. Requisitis, §. nisi rigor, cap. quaest. 7. For although one may not act against the common good, and for that reason dispensation should not frequently be made in laws, because such frequency would enervate the force of the laws, by which the common good is preserved, and open the way to violation of the laws, as the Council of Trent says, sess. 25 cap. 18 De reform.; still, dispensation need not always tend directly to the common good.

Suppono primo non esse necessarium ad iustam dispensationem, ut causa sit ob bonum commune directe, sed sufficit, ut indirecte in ipsum redundet, pro ut bonum partis redundet in bonum totius. Constat ex cap. Requisitis, §. nisi rigor, cap. quaest. 7. Licet enim contra bonum commune nequeat agi, ob idque in legibus non sit frequenter dispensandum quod ea frequentia vim legum enervet, quibus commune bonum conservatur, et viam legum violationi adaperiat, ut ait Conc. Trid. sess. 25. cap. 18. De reform. tamen non semper dispensatio debet directe ad bonum commune tendere.

7 It is proved secondly by D. Bonaventure's second argument, from those things which I set out in the second place from the usage of the Church, which dispenses even for the bodily salvation of someone, redounding nevertheless to the public good; and he brings the example of King Louis. On this argument Sanchez leans, cap. 45 num. 13.

Probatur secundo a D. Bonavent. argumento secundo, ex his, quae secundo loco, ex usu Ecclesiae, quae ob salutem etiam corporalem alicuius, redundantein tamen in bonum publicum, dispensat; atque exemplum affert Regis Ludovici. Hoc argumento nititur Sanchez cap. 45. num. 13.

8 I suppose secondly, that the same cause is required and suffices for dispensing in a vow and in an oath, when it is not made to a man but in honor of God alone, because such an oath is in the state of a vow as to its dispensation, as Aragon notes, 2. 2. quaest. 89 art. 9, and Sanchez lib. 8 de matrim. disp. 20 and lib. 4 summae cap. 45 num. 14. The reason is, because the obligation of a vow made to God arises from the fidelity owed, or truth, as St. Bonaventure notes in 4 dist. 38 art. 2 quaest. 3 in corpore, and this is also in an oath, as the Saintly Doctor pursues at length in 3 dist. 39.

Suppono secundo, eandemmet causam exigi et sufficere ad dispensandum in voto, et in iuramento, quando non homini est praestitum, sed in solius Dei honorem, quod huiusmodi iuramentum sit in statu voti, quoad eius dispensationem, ut notat Aragon. 2. 2. quaest. 89. art. 9. et Sanchez lib. 8. de matrim. disp. 20. et lib. 4. summae, cap. 45. num. 14. Ratio est, quia obligatio voti facta Deo, oritur ex fidelitate debita, seu veritate, ut notat S. Bonavent. in 4. dist. 38. art. 2. quaest. 3. in corpore, et hoc est etiam in iuramento, ut late prosequitur S. Doctor in 3. dist. 39.

9 Truly, however, since the promise of an oath has man for its object (which is for the most part, as D. Bonaventure notes in 4 dist. 38 quaest. 1 ad ultimum), the obligation presses more in an oath, because we are treated more mildly by God than by men, as we have in the law Celsus in the Pandects.

Enim vero, cum promissio iuramenti habeat pro obiecto hominem (quod sit ut plurimum, ut notat D. Bonavent. in 4. dist. 38. quaest. 1. ad ultimum,) maior urget in iuramento, quia mitius tractamur apud Deum, quam apud homines, ut habetur leg. Celsus in pandectis.

10 Therefore a cause obstructing the execution of the vow is required, as D. Bonaventure teaches dist. 38 art. 2 quaest. 3 and 4, and D. Thomas 2. 2. quaest. 88 art. 12; for, since it is a promise made to God, it must redound to the honor of God; but, the cause failing, it would redound to contempt, in not keeping to him what was promised. In this many potentates of our time rage so madly that they usually command many questions to be put in this case, whereby, as they say: *Manghino di parola.* See very many on this in Sanchez lib. 8 de matrimonio disp. 20 num. 3.

Igitur requiritur causa obstans executioni voti, ut docet D. Bonav. dist. 38. art. 2. quaest. 3. et 4. et D. Thom. 2. 2. quaest. 88. art. 12. debet enim, cum sit promissio facta Deo, redundare in Dei honorem; at, deficiente causa, redundaret in contumeliam, non servando ei promissa. In quo multi nostri temporis potentes adeo insaniunt, ut hoc in casu multas quaestiones exigendas mandare soleant, qua, ut ipsi aiunt: Manghino di parola. *Vide de hoc plurimos apud Sanchez lib. 8. de matrimonio, disp. 20. num. 3.*

11 Say the same proportionally, when a vow is commuted to a lesser one, and so a partial dispensation intervenes, as Sotus notes lib. 7 de Iust. quaest. 4 art. 3; Aragon 2. 2. quaest. 88 art. 12 col. 4 vers. circa secundam conclusionem, dictae 2; and Sanchez loc. citato n. 4.

> *Idem proportionaliter dic, quando votum commutatur in minus, et ideo intervenit partialis dispensatio, ut notat Sotus lib. 7. de Iust. quaest. 4. art. 3. Aragon. 2. 2. quaest. 88. art. 12. col. 4. vers. circa secundam conclusionem, dictae 2. et Sanchez loco citato, n. 4.*

12 Where note that no certain rule can be given about the sufficiency of the cause, but it must be left to be weighed by the judgment of a prudent man. For three things ought to be looked at in such a cause, according to cap. Magnae de voto, namely, what is lawful according to equity; what is fitting according to honesty; and what is expedient according to utility.

> *Ubi adverte, non posse certam regulam de causae sufficientia dari, sed relinquenda est iudicio prudentis libranda. Quia ad talem causam tria spectare debet, iuxta cap. Magnae, de voto, nempe quid liceat secundum aequitatem: quid deceat secundum honestatem: et quid expediat secundum utilitatem.*

13 Now from a threefold source can arise a cause obstructing the execution of a vow, and therefore a just one for dispensing in it, as Sanchez notes lib. 4 summae cap. 45 num. 26. The first is on the side of the one vowing: the second on the side of the matter promised: the last from an extrinsic cause, which regards the public good, or the private good of the one vowing.

> *Ex triplici autem capite potest consurgere causa obstans executioni voti, atque adeo iusta ad dispensandum in illo, ut notat Sanchez lib. 4. summae, cap. 45. num. 26. Prima est ex parte voventis: Secunda ex parte materiae promissae: Ultima ex causa extrinseca, quae respicit bonum publicum, vel privatum voventis.*

14 From the first source: the first cause is when the vow did not proceed from a perfectly prudent deliberation, as when it was made from the impulse of some passion not taking away deliberation. Thus we have in cap. 2 de voto: *But we absolve from the vow him who in tender age promised it through easiness rather than from the judgment of discretion*, and Abbas holds there num. 3 and very many others related by Sanchez lib. 8 de matrimonio disp. 20 n. 12 and lib. 4 summae cap. 45 num. 27. See also Suarez Tract. de voto lib. 6 cap. 17.

> *Ex primo capite; prima causa est, quando votum non processit ex perfecta prudenti deliberatione, ut quando ex impetu alicuius passionis, non tollente deliberationem, factum est. Sic cap. 2. de voto, habetur:* Nos autem ipsum a voto, quod in tenera aetate, facilitate potius, quam ex arbitrio discretionis promisit, absolvimus*, et tenent ibi Abbas num. 3. et alii plurimi relati a Sanchez lib. 8. de matrimonio, disp. 20. n. 12. et lib. 4. summae, cap. 45. num. 27. Vide etiam Suarez Tract. de voto, lib. 6. cap. 17.*

15 The cause will also be fear arising from shipwreck, or another blow not induced to extort the vow, furnishing a just cause for dispensing. Or if the fear were induced fear, yet not sufficient for annulling, it will be a cause for dispensing; as Clau. reg. teaches lib. 6 cap. 12 num. 30. Similarly error concerning the impelling cause of the vow. See Lezana Tom. 3 qq. Reg. V. Dispensare.

> *Causa erit etiam metus, ortus ex naufragio, aut alia non incussa ad extorquendum votum, praebens iustam dispensandi causam. Vel si esset metus incussus, non tamen sufficiens ad irritandum; erit causa dispensandi; ut docet Clau. reg. lib. 6. cap. 12. num. 30. Similiter error circa causam impulsivam voti. Vide Lezanam Tom. 3. qq. Reg. V. Dispensare.*

16 The second kind of cause arises from the matter, when it is made useless, or evil, or impeding a greater good; and the Doctors speak of it. So D. Bonaventure *in 4. dist. 38. art. 2. quaest. 3.*; D. Thomas

2. 2. quaest. 88. art. 10. in corpore, et ad 3., where Cajetan and others, in Sanchez *lib. 8. de matrimonio, disp. 20. num. 8. et loco cit. summa, num. 36.* This, however, is understood not when it is clear that the matter has been made such, but when it is doubtful. So explain Azor *Tom. 1. lib. 11. c. 19. q. 17.*; Suarez *loco cit. lib. 6. cap. 17. num. 10.*; and Sanchez *loco cit.* It is also a just cause if a greater spiritual utility of the one vowing is hoped for from the dispensation; for this is chiefly intended by a vow, as D. Bonaventure teaches *loco cit. dist. 38.*, where Richard *art. 9. quaest. 1.*; Sanchez *loco cit. num. 8.*; and Suarez *loco cit. num. 10.*

> *Secundum genus causae oritur ex materia, quando est facta inutilis, vel mala, vel impediens maius bonum, et loquuntur DD. Ita D. Bonav.* in 4. dist. 38. art. 2. quaest. 3. *D. Thom.* 2. 2. quaest. 88. art. 10. in corpore, et ad 3. *ubi Caietanus, et alii apud Sanchez* lib. 8. de matrimonio, disp. 20. num. 8. et loco cit. summa, num. 36. *Hoc autem intelligitur, non quando perspicuum est, materiam factam esse talem, sed quando est dubium. Ita explicant Azor* Tom. 1. lib. 11. c. 19. q. 17. *Suarez* loco cit. lib. 6. cap. 17. num. 10. *et Sanchez* loco cit. *est etiam iusta causa, si ex dispensatione speretur maior voventis utilitas spiritualis; haec enim per votum maxime intenditur, ut docet D. Bonavent.* loco cit. dist. 38. *ubi Richardus* art. 9. quaest. 1. *Sanchez* loco cit. num. 8. *et Suarez* loco cit. num. 10.

17 Similarly on the side of the matter of the vow, when it can be the cause of ruin, either in general or with respect to the one who vowed: or when a great difficulty supervenes in fulfilling it, not sufficient to take away the obligation altogether.

> *Similiter ex parte materiae voti, quando potest esse causa ruinae, sive in genere, sive respectu huius, qui vovit: Vel quando magna supervenit ad implendum difficultas, non sufficiens ad tollendam omnino obligationem.*

18 The third kind is a good resulting in the dispensation, as if marriage were necessary for a King, either for succession or for the peace of the kingdom; this cause is taken *ex cap. magna, et cap. ex multa, de voto.* So D. Bonaventure *loco cit. in argumentis*, provided the matter be not morally doubtful, that peace or succession is to be had, or health necessary for a most preeminent person. So also Cajetan *2. 2. quaest. 88. art. 12.*; Sotus *lib. 7. de Iust. quaest. 4. art. 3.*; Suarez *loco cit. cap. 17. n. 13.*; Clavis Regia *eodem cap. 12. num. 29.*; Sanchez *lib. 8. de matrimonio, disp. 20. num. 24. et loco cit. summa, n. 49.* But probable hope, or moral certainty, suffices with D. Bonaventure.

> *Tertium genus est bonum resultans in dispensatione, ut si necesse esset coniugium Regi vel ad successionem, vel pro pace regni; haec causa sumitur* ex cap. magna, et cap. ex multa, de voto. *Ita D. Bonavent.* loco cit. in argumentis, *dummodo res non sit dubia moraliter, pacem, vel successionem habendam, vel sanitatem necessariam personae admodum praecellenti. Ita etiam Caietanus* 2. 2. quaest. 88. art. 12. *Sotus* lib. 7. de Iust. quaest. 4. art. 3. *Suarez* loco cit. cap. 17. n. 13. *Clavis Regia* eodem cap. 12. num. 29. *Sanchez* lib. 8. de matrimonio, disp. 20. num. 24. et loco cit. summa, n. 49. *Sufficiet vero spes probabilis, aut moralis certitudo apud D. Bonaventuram.*

19 But whether grave disease, for which expert physicians indicate that venereal acts must supply relief, is a sufficient cause — many deny it, asserting this to be the opinion of D. Thomas *2. 2. quaest. 88. art. 11. ad 3.*; they bring forward there Cajetan, Durandus *in 4. dist. 38. quaest. 2. in fine*, who although they speak of a solemn vow, yet the argument holds also for the private vow of chastity; for these establish a difference between abstinence and continence, because, since food is ordered directly to the sustentation of the individual, yet abstinence verges into notable harm to the individual if it be indiscreet, it is not an act of virtue, depriving oneself of food from necessity; but coitus is for the preservation of the species alone, and continence verges into danger to the individual only very much per accidens. And therefore continence even with danger to the individual is an act of

virtue; nor on that account is marriage to be entered, especially since the disease can be met with other medicines, as Medina learnedly proves *lib. 4. de foederum hominum continentia, controv. 4. c. 25.*; and that this is not a just cause for dispensing is handed down by D. Antoninus *2. part. tit. 11. cap. 2. §. 9.*, speaking of every vow. But Sotus *lib. 7. de Iustitia, q. 4. art. 2. ad tertium* asserts it of the solemn vow of chastity; and so he seems to think the contrary of the private one. Sanchez judges this part the truer *lib. 8. de matrimonio, disp. 20. num. 26.* He adds, however, that he thinks it should be partly commuted, partly relaxed into some good; nor does God intend that the danger of death be undergone for chastity's sake, although that be an act of virtue; but he wills the Church to use benignity, partly relaxing, partly commuting, because the matter is most arduous. Nor does it avail to say that relief can come from other remedies, because it suffices that this is doubtful and most difficult, and in the judgment of physicians the remedy of coitus is better; just as also, when someone is driven by the most violent stimuli of lust, although one might provide by other remedies, nevertheless because these are not so well adapted to human frailty, hence it is held a just cause for dispensing in the vow of chastity. Nor does the testimony of D. Thomas and others stand in the way, who speak of a solemn vow; since its keeping is most grave and its dispensation redounds to notable detriment of the religious state, it will require a much more urgent cause for dispensing.

> *An vero sit causa sufficiens morbus gravis, cui periti medici indicent venereis actibus subveniendum, multi id negant asserentes, esse sententiam D. Thom.* 2. 2. quaest. 88. art. 11. ad 3. *adducunt ibi Caietanum, Durandum* in 4. dist. 38. quaest. 2. in fine*, qui licet loquantur de voto solemni; at ratio valet etiam pro voto privato castitatis; hi enim differentiam constituunt inter abstinentiam, et continentiam, quod cum cibus ordinetur directe ad individui sustentationem; abstinentia autem vergat in notabile damnum individui, si sit indiscreta, non est actus virtutis, privando cibo necessitato; at coitus est ad solius conservationem, et valde per accidens continentia vergit in individui periculum. Atque ideo continentia etiam cum individui periculo est actus virtutis; nec ob id matrimonium ineundum, praesertim cum aliis medicinis morbo illi occurri possit, ut erudite probat Medina* lib. 4. de foederum hominum continentia, controv. 4. c. 25. *et hanc non esse iustam dispensandi causam tradunt D. Antoninus* 2. part. tit. 11. cap. 2. §. 9. *loquens de omni voto. Sotus vero* lib. 7. de Iustitia, q. 4. art. 2. ad tertium*, id asserit de voto castitatis solemni; atque adeo videtur contrarium sentire de privato. Hanc partem censet veriorem Sanchez* lib. 8. de matrimonio, disp. 20. num. 26. *Addit tamen, se existimare eam in aliquod bonum partim commutandam, partim relaxandam; nec Deum praetendere subiri mortis periculum ob castitatem servandam, licet id sit actus virtutis; sed velle, Ecclesiam benignitate uti, partim relaxando partim commutando, quia res admodum ardua est. Nec valet dicere, posse aliis remediis subveniri, quia satis est id anceps esse, et valde difficile, ac iudicio medicorum melius esse remedium coitus, sicut etiam, cum aliquis vehementissimis luxuriae stimulis agitur, licet posset aliis remediis prospici, attamen quia non adeo fragilitati humanae haec sunt adaptata, hinc iusta habetur causa dispensandi in voto castitatis. Nec obstat testimonium D. Thomae, et aliorum, qui loquuntur de voto solemni, quod cum gravissimum sit eiusque dispensatio cedat in notabile status religiosi detrimentum, multo urgentiorem causam dispensandi requiret.*

20 But whether that cause ought to be of the common good, or whether the good of a religious suffices: Richard *in 4. dist. 38. art. 9. quaest. 1. in corpore, et ad 5. ait* that the good of the one vowing suffices. Cajetan favors him *in opusc. tom. 1. tract. 27. de dispensatione matrimonii in occidentali Ecclesia, quaest. unica, et Tom. 3. Tract. ultimo ad art. 12.*

> *An vero ea causa debeat esse boni communis; an sufficiat bonum religiosi: Richardus* in 4. dist. 38. art. 9. quaest. 1. in corpore, et ad 5. ait*, satis esse bonum voventis. Cui favet Caietanus* in opusc. tom. 1. tract. 27. de dispensatione matrimonii in occidentali Ecclesia, quaest. unica, et Tom. 3. Tract. ultimo ad art. 12.

21 But a hundred and ten Doctors assert that a cause of universal good is necessary, with Sanchez *lib. 8. de matrimonio, disp. 8. num. 7.*; and they expressly attack the doctrine of Cajetan: Medina *lib. 5. de sacrarum hominum continentia, cap. 37.*, Valentia *2. 2. disp. 6. q. 6. puncto 7.*, and Sanchez *disp. citata*, but especially Catherinus *lib. 6. in Caietanum.*

> *At necessariam esse causam boni universalis asserunt centum, et decem DD. cum Sanchez* lib. 8. de matrimonio, disp. 8. num. 7. *atque doctrinam Caietani ex professo impugnant Medina* lib. 5. de sacrarum hominum continentia, cap. 37. *Valentia* 2. 2. disp. 6. q. 6. puncto 7. *et Sanchez* disp. citata*, praecipue vero Catherinus* lib. 6. in Caietanum.

22 As to D. Bonaventure, Sanchez himself *loco cit. num 5.* brings him in among those denying that the Pope can dispense in the solemn vow of chastity, and therefore neither is there any reason why any cause should be admitted. Of this we shall treat *disput. sequenti de Castitate religiosa, quaest. ult.*

> *Quoad D. Bonaventuram ipse Sanchez* loco cit. num 5. *adducit eum cum negantibus, posse Papam in voto solemni castitatis dispensare, et ideo neque est cur aliqua causa admittatur. De quo agemus* disput. sequenti de Castitate religiosa, quaest. ult.

23 The blessed Bonaventure therefore *in 4. dist. 38. art. 2. quaest. 1. corpore, ait*, it is commonly said that the Church cannot dispense in vows of religion.

> *Divus igitur Bonaventura* in 4. dist. 38. art. 2. quaest. 1. corpore, ait*, communiter dici, non posse Ecclesiam in votis religionis dispensare.*

24 But he treats *quaest. 3.* of the proposal, and sets down first the opinion of those asserting that the Church can dispense in all vows, even solemn ones, because the universal good is preferred to the solemn vow of continence, as if peace in the kingdom or the Church were obtained from marriage; and he says this can be done, and has at some time been done by the Church. Therefore he supposes it cannot be done except for the common good, against Cajetan.

> *Agit vero* quaest. 3. *Ex proposito, et ponit primo opinionem asserentem, posse Ecclesiam in omnibus votis, etiam solemnibus dispensare, quia voto solemni continentiae praefertur bonum universale, ut si ex matrimonio obtineretur pax in regno, vel Ecclesia, et hoc fieri posse ait, et factum esse aliquando ab Ecclesia. Itaque supponit, non posse fieri nisi ob bonum commune, contra Caietanum.*

25 He then reports another opinion, saying that dispensation can be granted in all things except in the vow of Continence, because *it is not a worthy weighing of the continent soul*; and he seems to speak still of the solemn one, although the argument holds for the private one too; for these concede dispensation even in other solemn vows; and the Saintly Doctor himself in his reply to the arguments indicates the same, while he answers three arguments for the individual solemn vows, and none for the private one of Chastity. Although someone might say that in the argument, etc., he concludes for both continence.

> *Refert deinde aliam opinionem dicentem, posse dispensari in omnibus, praeterquam in voto Continentiae, quia, non est digna ponderatio continentis animae, et videtur loqui adhuc de solemni, licet ratio de privato etiam valeat; nam isti concedunt dispensationem etiam in aliis solemnibus; et ipse S. Doctor in responsione ad argumenta, idem indicat, dum tribus argumentis respondet pro singulis votis solemnibus, et nulli pro privato Castitatis. Licet posset quis dicere, eum in argumento, etc. pro continentia utraque concludere.*

26 The third opinion, which he reports *quaest. 3. eiusdem art. 2.*, denies of solemn vows only, and he subjoins: *Which of these three opinions is the truer, I confess I do not know, and each can sufficiently be sustained; therefore I assert none. O the humility of the wisest Doctor!*

> *Tertia opinio, quam refert* quaest. 3. eiusdem art. 2. *negat de votis solemnibus tantum, et subdit:* Quae istarum trium opinionum sit verior, fateor, me nescire, et satis potest qualibet sustineri, Ideo nullam assero. O mitam sapientissimi Doctoris humilitatem!

27 But soon, lest he leave the first affirming opinion altogether infallible, he answers its arguments, and especially the dispensation in the vow of chastity, because profession is a solemn vow; for in the two following arguments he answers the objections as to the other two vows, namely obedience and poverty; but now he says: certainty is not present (he speaks for the most part), because as to the necessity of preserving the species, men will never fail. There the greater utility of the one vowing does not fall in, because it commutes the merit of the hundredfold fruit into the merit of the thirtieth (he alludes, moreover, to the parable of the sower, in which it is said that some earth gave a hundredfold fruit for each grain of seed, and this earth is called virgin, or chaste; the other part is of the married). Moreover it would be uncertain, because it is not known whether the sick man would be healed through coitus; it is not known whether from coitus someone would be begotten; it is not known whether peace would be restored from the marriage; and the certain is not to be given up for the uncertain; therefore it does not avail. Such are the words of D. Bonaventure.

> *Mox vero, ne omnino infallibilem relinquat primam opinionem affirmantem, respondet argumentis eius, et praecipue, ad dispensationem in voto castitatis, quod professio, votum solemne est; nam in duobus sequentibus argumentis respondet instantiis quo ad alia duo vota obedientiae scilicet, et paupertatis, iam vero dicit; non adesse certitudinem (loquitur ut plurimum) quia quoad necessitatem conservandae speciei, nunquam deficient homines. Non cadit ibi maior utilitas voventis, quia commutat meritum centesimi fructus, in meritum tricesimi (alludit autem ad parabolam seminantis, qua dicitur, terram aliquam dedisse fructum centesimum pro singulis seminum granis, et haec dicitur terra virgo, vel casta; alia pars coniugatorum) Praeterea incertum esset, quia nescitur, utrum infirmus per coitum sanaretur; nescitur, utrum ex coitu aliquis generaretur: nescitur, utrum ex matrimonio pax reformaretur, et non est dimittendum certum pro incerto, ideo non valet. Haec D. Bonaventura.*

28 Which things being so, he concedes that if health were certain (he understands of some King, bringing the example of King Louis of France in the argument) still continence would not be sufficiently compensated, because it would commute the hundredfold fruit into the thirtieth: but if public peace, or another good, were certainly to be had (which can happen), he concedes the commutation is rightly made. Such a good would also be the health of a Prince as to succession.

> *Quae cum ita sint, concedit, quod si esset sanitas certa (intelligit alicuius Regis, afferens exemplum in argumento Regis Ludovici Franciae) adhuc non esset satis compensata continentia, quia commutaret fructum centesimum in trigesimum: at si pax publica, vel aliud bonum certo esset habendum (quod potest evenire) concedit recte fieri commutationem. Tale bonum esset etiam Principis sanitas ad successionem.*

29 Finally, that the good also of the family is a cause for dispensing the father of a family from a long pilgrimage; many say, with *Sanchez lib. 4. summae, cap. 45. num. 50. et Suarez loco cit. num. 13.*

> *Tandem bonum etiam familiae esse causam dispensandi a peregrinatione longa patremfamilias; dicunt multi cum* Sanchez lib. 4. summae, cap. 45. num. 50. et Suarez loco cit. num. 13.

30 But he notes *num. 4.* that the individual causes from what has been said do not always suffice for such a dispensation of the vow, but some merciful commutation on the part of it. Indeed he adds *num. 19.* that a cause rarely concurs for a total dispensation.

> *Notat vero* num. 4. *non semper singulas ex dictis causis pro tali voti dispensatione sufficere, sed misericordem aliquam commutationem ex parte. Imo addit* num. 19. *raro concurrere causam ad totalem dispensationem.*

Question XXXI: Whether, and how, the commutation of vows is to be made

1 Now we must speak of the third mode by which vows are taken away, namely commutation, not absolving entirely from the obligation of the vow, but commuting it into another good work. That commutation can be made is clear from the most ancient practice of the Church. Commutation can be made, moreover, either into another better work, or into an equal, or into a lesser. The question, therefore, will be whether it can be made in all these ways.

> An, et quomodo facienda sit Votorum commutatio.
>
> *Iam de tertio modo dicendum est, quo vota tolluntur, nempe commutatione, non absolvendo omnino a voti obligatione, sed commutando in aliud opus bonum. Posse autem fieri commutationem patet ex perantiqua Ecclesiae praxi. Potest autem fieri commutatio, vel in aliud opus melius, vel in aequale, vel in minus. Erit itaque quaestiotan possit fieri in omnibus his modis.*

2 The first opinion is that commutation can be made not only into a better and also into an equal good, but even into a somewhat lesser good. So *Aragon. 2. 2. quaest. 88. art. 12. d. 1. Alcozer summa, cap. 19. concl. 3. Medina lib. 1. summae, cap. 14. §. 7. regula 3. Toletus summa, lib. 4. cap. 18. Sà verbo votum, num. 10. Henriquez lib. 7. de Indulg. cap. 30. Leonard. lib. 2. de Iustitia, cap. 40. disp. 1. num. 95. Manuel Bulla Cruc. §. 9. num. 107. et Tom. 2. summae, cap. 100. Clau. reg. lib. 6. cap. 12. Bassaeus V. Votum 6. num. 8.*, with Bonagratia cited.

> *Prima opinio est posse fieri non solum in melius, atque etiam in aequale, sed etiam in aliquanto minus bonum. Ita* Aragon. 2. 2. quaest. 88. art. 12. d. 1. Alcozer summa, cap. 19. concl. 3. Medina lib. 1. summae, cap. 14. §. 7. regula 3. Toletus summa, lib. 4. cap. 18. Sà verbo votum, num. 10. Henriquez lib. 7. de Indulg. cap. 30. Leonard. lib. 2. de Iustitia, cap. 40. disp. 1. num. 95. Manuel Bulla Cruc. §. 9. num. 107. et Tom. 2. summae, cap. 100. Clau. reg. lib. 6. cap. 12. Bassaeus V. Votum 6. num. 8. *cum Bonagratia citando.*

3 The second opinion is that a true commutation can be made only into a better or an equal. So *D. Bonau. hic, D. Thom. 4. dist. 38. q. 1. art. 4. quaestiuncula ult. in corpore, Abb. c. 1. n. 3. et 5. de voto, Palud. q. dist. 38. q. 4. art. 3. suppl. Gabr. q. 1. art. 5. Caiet. 2. 2. q. 88. art. 12. Rosella V. votum, 5. n. 6. Syluest. votum 4. Couar. de pactis, p. p. §. num. 4. Sutus septimo de Iustitia, quaest. 4. art. 3. Palac. 4. dist. 38. disp. 3. col. 28. Gregorius Lopez lib. 5. v. Contando, tit. 8. p. 1. Angl. flor. 2. part. quaest. unica de voto, art. 8. Ouandus 4. disp. 38. dist. unica, prop. 25. Alcozer summa, cap. 16. concl. 2. Beta in respons. casu 49. Azor. Tom. 1. lib 11. cap. 18. quaest. 6. Clau. reg. lib. 6. cap. 12. Suarez Tract. de voto, lib. 6. cap. 12. num. 6. et cap. 29. num. 7.*; nor does *Bassaeus* refuse, and Bonagratia to be cited below.

> *Secvnda opinio est, posse fieri commutationem veram solum in melius, vel aequale. Ita* D. Bonau. hic, D. Thom. 4. dist. 38. q. 1. art. 4. quaestiuncula ult. in corpore, Abb. c. 1. n. 3. et 5. de voto, Palud. q. dist. 38. q. 4. art. 3. suppl. Gabr. q. 1. art. 5. Caiet. 2. 2. q. 88. art. 12. Rosella V. votum, 5. n. 6. Syluest. votum 4. Couar. de pactis, p. p. §. num. 4. Sutus septimo de Iustitia, quaest. 4. art. 3. Palac. 4. dist. 38. disp. 3. col. 28. Gregorius Lopez lib. 5. v. Contando, tit. 8. p. 1. Angl. flor. 2. part. quaest. unica de voto, art. 8.

Ouandus 4. disp. 38. dist. unica, prop. 25. Alcozer summa, cap. 16. concl. 2. Beta in respons. casu 49. Azor. Tom. 1. lib 11. cap. 18. quaest. 6. Clau. reg. lib. 6. cap. 12. Suarez Tract. de voto, lib. 6. cap. 12. num. 6. et cap. 29. num. 7. *nec renuit* Bassaeus, *et Bonagratia infra citandi.*

4 I assert with this opinion that the commutation of vows can be made only into a better, or an equal.

Assero cum hac sententia, votorum commutationem solum in melius, vel aequale, fieri posse.

5 It is proved by the argument *of S. Bonau. in corpore*, for the commutation of a vow is a kind of contract, which God enters into through a procurator without damage to himself, commuting with the one vowing. But for it to be a rightful contract without damage to God, it must be rendered equal. For so it is done in every good contract, as we have in *3. Eth.* Therefore as a procurator among us would be unjust, contracting to the damage of him who entrusted the cause to him; so also now.

Probatur argumento S. Bonau. in corpore, *nam commutatio voti est quiddam contractus, quam absque sui damnificatione init Deus per procuratorem, commutantem cum vouente. Ut autem sit rectus contractus absque damnificatione Dei, oportet reddi aequale. Sic enim in omni bono contractu fit, ut habetur* 3. Eth. *Sicut igitur iniquus esset inter nos procurator, contrahens in damnum eius, qui demandauit ipsi causam; ita et nunc.*

6 It is confirmed by *D. Bonauent.* from the very name of commutation, which properly indicates an equal return. Therefore, favors are to be accepted with all liberality, but they must not be drawn beyond the propriety of the words.

Confirmatvr a D. Bonauent. *ex nomine commutationis, quae proprie redditum aequalis indicat. Itaque quavis largitate sint accipiendi fauores, non debent extra proprietatem verborum trahi.*

7 Yet these things are not to be bounded Mathematically; otherwise, since it is difficult to find such an equality, it would already become arduous to commute; and perhaps this is what the authors of the first opinion intend, as *Sanchez lib. 4 summae, cap. 50.* notes, where he supports our opinion. So also Bonagratia *V. Votum, n. 478. Bassaeus V. Votum 6. num. 2.*

Haec tamen non sunt Mathematice limitanda, alioqui, cum difficile sit talem aequalitatem reperire, iam arduum fieret commutare, et hoc forsan volunt authores primae sententiae, ut notat Sanchez lib. 4 summae, cap. 50. *ubi nostram sententiam tuetur. Sic et Bonagratia* V. Votum, n. 478. Bassaeus V. Votum 6. num. 2.

8 Now the question is: Whether a commutation can be made without the authority of a prelate. But the question can also be: Whether a commutation into an equal and into a better ought to be made with such authority.

Est autem quaestio: An commutatio fieri possit absque authoritate praelati. Potest autem esse quaestio: An commutatio in aequale, et in melius tali authoritate facienda sit.

9 The first opinion is that the commutation of vows can be made even into an equal good without other authority. So *Maior in 4. dist. 38. quaest. 3. Medina lib. 1. summae, cap. 14. §. 7. Manuel 2. Tom. summae, cap. 100. Henriquez lib. 5. de poenit. cap. 20. n. 5. et lib. 7. de Indulg. c. 30. Ioan. Benedictus in summa de peccatis, lib. 1. c. 9.*, and they teach that it is probable: *Aragon. 1. 2. q. 88. art. 12. dub. 1. dicto 3. Suarez de Voto, lib. 6. cap. 20. Alcozer summa, c. 16. Less. 2. de Iust. c. 40. dub. 11. n. 91. et alii apud Sanchez lib. 4. cap. 49. n. 10. et Bonagr. n. 478.*

Prima opinio est posse fieri commutationem votorum etiam in aequale bonum, absque alia authoritate. Ita Maior in 4. dist. 38. quaest. 3. Medina lib. 1. summae, cap. 14. §. 7. Manuel 2. Tom. summae, cap. 100. Henriquez

lib. 5. de poenit. cap. 20. n. 5. et lib. 7. de Indulg. c. 30. Ioan. Benedictus in summa de peccatis, lib. 1. c. 9. *et docent esse probabilem* Aragon. 1. 2. q. 88. art. 12. dub. 1. dicto 3. Suarez de Voto, lib. 6. cap. 20. Alcozer summa, c. 16. Less. 2. de Iust. c. 40. dub. 11. n. 91. et alii apud Sanchez lib. 4. cap. 49. n. 10. et Bonagr. n. 478.

10 The second opinion is that by the power of the vow-makers alone it can be commuted into an equal. So *Angelus verbo votum 4. n. 2. Caiet 2. 2. quaest. 88. art. 12. et summa, v. votum, c. ult. Sotus lib. 7. de Iustitia, q. 4. art. 2. Couar. de pactis 1. parte. §. 3. Alcozer n. 10. loco cit. Corduba sum. q. 149. Toletus lib. 4. summae, c. 18. Graff. p. p. decis. lib. 2. c. 10. Philiarc. de off. sacerd. Tom. 1. part. 2. lib. 1. c. 22. Petrus de Ledesma 3. Tomo summae, tract. 10. c. 8. Angles flor. 2. part. quaest. unica de voto, art. 8. difficultate 4 et 6. Azor Tom. 1. lib. 11. c. 18. q. 2. Clau. reg. lib. 6. c. 12. Manuel in Bull. Cruc. §. 9. n. 106. Sorbus in compend. mendic. v. votum, Suarez de voto, lib. 6. cap. 19. Sanchez lib. 4. cap. 49. num. 11.*

> *Secvnda sententia est, sola potestate vouentium posse in aequale commutari. Ita* Angelus verbo votum 4. n. 2. Caiet 2. 2. quaest. 88. art. 12. et summa, v. votum, c. ult. Sotus lib. 7. de Iustitia, q. 4. art. 2. Couar. de pactis 1. parte. §. 3. Alcozer n. 10. loco cit. Corduba sum. q. 149. Toletus lib. 4. summae, c. 18. Graff. p. p. decis. lib. 2. c. 10. Philiarc. de off. sacerd. Tom. 1. part. 2. lib. 1. c. 22. Petrus de Ledesma 3. Tomo summae, tract. 10. c. 8. Angles flor. 2. part. quaest. unica de voto, art. 8. difficultate 4 et 6. Azor Tom. 1. lib. 11. c. 18. q. 2. Clau. reg. lib. 6. c. 12. Manuel in Bull. Cruc. §. 9. n. 106. Sorbus in compend. mendic. v. votum, Suarez de voto, lib. 6. cap. 19. Sanchez lib. 4. cap. 49. num. 11.

11 Yet all these, even for the first opinion, add — although they hold — that the authority of the Prelate is not necessary in the commutation of a vow into a better. To these add *Imolam cap. peruenit et 2. num. 2. de iureiur. Bacon in 4. dist. 38. quaest. 5. art. 6. Armillam voto n. 14. Abul. q. 110. in 30. Numer. Nauar. summa, cap. 12. num. 75. Pedrazam in summa, praecepto 1. §. 8. Ouandum 4. dist. 38. disp. unica, praepositione 27. Ludouicum Lopez p. p. Instruct. cap. 49. Coronam confess. part. 3. Tract. de voto, num. 18. Gomez in Bulla Cruciatae, clausula 10. num. 112. Valentiam 2. 2. disp. 6. quaest. 6. puncto 7. Viualdum Candel. 3. part. cap. 14. et Sanchez num. 4.* This is the safer, *Bassaeus loco cit.* says.

> *Hi tamen omnes etiam pro prima sententia addunt etsi sustinent, non esse necessariam authoritatem Praelati in commutatione voti in melius. His adde* Imolam cap. peruenit et 2. num. 2. de iureiur. Bacon in 4. dist. 38. quaest. 5. art. 6. Armillam voto n. 14. Abul. q. 110. in 30. Numer. Nauar. summa, cap. 12. num. 75. Pedrazam in summa, praecepto 1. §. 8. Ouandum 4. dist. 38. disp. unica, praepositione 27. Ludouicum Lopez p. p. Instruct. cap. 49. Coronam confess. part. 3. Tract. de voto, num. 18. Gomez in Bulla Cruciatae, clausula 10. num. 112. Valentiam 2. 2. disp. 6. quaest. 6. puncto 7. Viualdum Candel. 3. part. cap. 14. et Sanchez num. 4. *Hanc tutiorem ait* Bassaeus loco cit.

12 But the opinion at loc. cit. *D. Bonauent.* is that a commutation cannot be made even into a better without the authority of a Prelate. With the Seraphic Doctor walk *D. Thom. 4. dist. 38. quaest. 1. art. 4. quaestiuncula ultima. Innocentius cap. peruenit, et 2. num. unico de, Iureiur. ibi Ioannes Andreas, Hostiensis, Antonins, Baldus, Anchar, Abbas, Henricus, Bellamera, Felinus, Naeuo, et Richardus in 4. dist. 38. art. 8. quaest. 1. Supplem Gabr. quaest. 1. art. 5. Palacius col. 3. dist. 27. fol. 875. Syluest. votum 4. quaest. 7. dicto 2.*

> *At sententia est, loco cit.* D. Bonauent. *non posse, etiam in melius, fieri commutationem absque authoritate Praelati. Cum Seraphico incedunt* D. Thom. 4. dist. 38. quaest. 1. art. 4. quaestiuncula ultima. Innocentius cap. peruenit, et 2. num. unico de, Iureiur. ibi Ioannes Andreas, Hostiensis, Antonins, Baldus, Anchar, Abbas, Henricus, Bellamera, Felinus, Naeuo, et Richardus in 4. dist. 38. art. 8. quaest. 1. Supplem Gabr. quaest. 1. art. 5. Palacius col. 3. dist. 27. fol. 875. Syluest. votum 4. quaest. 7. dicto 2.

13 I assert with this opinion that a vow cannot be changed into a better without the authority of a prelate.

> *Assero cum hac sententia, non posse absque authoritate praelati mutari votum in melius.*

14 It is proved from *D. Bonau. first from Leviticus ult.*: *But the animal that can be immolated to the Lord, if anyone shall have vowed it, shall be holy, and it could not be changed,* that is, neither better into worse, nor worse into better. Where the Gloss says: *without the authority of a superior.*

> *Probatur a* D. Bonau. primo ex Leuitici ult. Animal autem, quod immolari potest Domino, si quis vouerit, sanctum erit, et mutari non potuit, idest nec melius malo, nec peius bono. *Ubi Glossa ait:* absque authoritate superioris.

15 *Suarez cap. 8. num. 12. Sanchez cap. 49. num. 9.* answer, with *Oleastro,* that this law is ceremonial, and therefore has ceased.

> *Respondet* Suarez cap. 8. num. 12. Sanchez cap. 49. num. 9. *cum* Oleastro*, eam legem esse caeremonialem, et ideo cessasse.*

16 But who does not know that that oblation of animals was ceremonial? Yet the reasons are rather reduced to the moral, namely, not to change what was promised to God at one's pleasure is a bond of contract by natural law; for a vow is a contract between God and man; and the commutation between God and the one commuting in the name of God, whence the rules of contract are to be kept by the law of nature. As Sanchez himself confesses cap. 50. n. 4. But as he who sold a horse cannot commute it into an ox, even if of greater price, without the consent of the Buyer, as we have in leg. 2. ff. si certum petatur; so also in our case. Nor does Sanchez sufficiently answer at num. 4, that there is a disparity, because man wills according to his utility: but God always wills what is better. For neither is the offering made at pleasure better than that made by license; but this latter is more perfect.

> *At quis ignorat, eam animalium oblationem fuisse caeremonialem? sed tamen rationes ad moralem potius reducuntur, ut non mutare promissum Deo ad libitum, est nexum iure naturali contractus; est enim votum contractus inter Deum, et hominem; et commutatio inter Deum, et commutantem nomine Dei, unde ex iure naturae servandae sunt regulae contractus. Ut ipse Sanchez fatetur cap. 50. n. 4. Sicut autem is, qui vendidit equum, non potest eum commutare in bouem, etiamsi maioris pretii, absque consensu Emptoris, ut habetur leg. 2. ff. si certum petatur; ita et in casu nostro. Neque satis respondet Sanchez num. 4. Disparitatem esse, quia homo vult iuxta suam utilitatem: at Deus semper vult, quod melius est. Neque enim melius est oblatum pro libito, quam ex licentia; sed hoc est perfectius.*

17 *It is proved* secondly by D. Bonaventure from D. Bernard on dispensation, where he says: *When monasteries are well ordered, no one, by my counsel, will go out, from desire of a higher life, without the license of his superior.*

> Probatur *secundo a D. Bonavent. ex D. Bernardo de dispensatione, ubi ait:* Bene ordinatis monasteriis, nullus meo consilio egredietur, desiderio altioris vitae, sine licentia superioris.

18 Where note gravely, that this is expounded by D. Bonaventure as mere counsel of D. Bernard, because *cap. licet de regular. et cap. scripturae extra de voto, et voti redemptione,* we have that passage to a stricter religion, and to a more perfect state, even without the license of the Prelate obtained; and these cases alone are excepted by the law, as D. Bonaventure notes in corpore; and this rule is not extended to all, as Abulensis thinks *quaest. citata,* and Sanchez *num. 4.*; nor are these followed because they are certainly better, whence it would be lawful to do the same whenever the matter into which

the vow is transmuted will be better, as Sanchez thinks; but on account of the excellence of this commutation the laws grant license, as D. Bonaventure notes.

> *Ubi graviter nota, exponi a D. Bonavent. tanquam merum consilium D. Bernardi, quia* cap. licet de regular. et cap. scripturae extra de voto, et voti redemptione*, habetur transitus ad strictiorem religionem, et ad statum perfectiorem, etiam non obtenta Praelati licentia, et hi casus excipiuntur soli a iure, ut notat D. Bonavent. in corpore, et haec regula non extenditur ad omnes, ut putat Abulensis* quaest. citata*, et Sanchez* num. 4. *neque haec assectantur, quia certo meliora sunt, unde liceat etiam idem facere, quoties materia, in quam votum transmutatur, erit melior, ut putat Sanchez; sed propter excellentiam huius commutationis licentiam dant iura, ut notat D. Bonaventura.*

19 Now that this is the mind of the Pontiff is gathered from *cap. Licet*, for, bringing the reason, he says: *Because where the Spirit of God is, there is liberty, and they who are driven by the Spirit of God, these are under the law: Because the law is not laid for the just.* Such a one, therefore, is presupposed as he who transfers the whole manner of his life to a religion declared stricter by Holy Church, or to a more perfect state of the whole life; but not whoever shall have commuted a vow in any way whatsoever into anything better whatever; for it does not seem to be of the mind of God, that if you had promised him a good of four degrees, one little drachm of a different good being added, he wills it to be commuted.

> *Hic autem esse Pontificis sensus colligitur e* cap. Licet*, nam adducens rationem, ait:* Quia ubi spiritus Dei est, ibi libertas, et qui Dei spiritu aguntur, hi sunt sub lege: Quia iusto lex non est posita. *Talis ergo praesumitur, qui totam vitae suae rationem transfert ad religionem, strictiorem a S. Ecclesia declaratam, vel statum totius vitae perfectiorem; non autem quicunque in aliquid melius quodcunque votum quomodocumque commutaverit, non enim videtur ex Dei mente, ut si ei promisisses bonum quatuor graduum, addita una drachmula diversi boni, velit commutari.*

20 And in *cap. scripturae, thus we have: He who is known to commutate temporal service into the perpetual observance of religion is not held in any way guilty of a broken vow.* Whence, from the nobility of the change of state, it is held that this is conceded to be done without the authority of a superior.

> *Et* cap. scripturae, sic habetur: Qui temporale obsequium in perpetuam noscitur religionis observantiam commutare, reum fracti voti aliquatenus non habetur: *Unde ex nobilitate mutationis status habetur haec concedi fieri absque authoritate superioris.*

21 But as from like things there is no rightful argument for extending privileges, so in our case, so much the less, because the reason, and the honor of God resulting from it, is less than from that change described there, of him who commuted the visitation of the Holy Sepulchre into religion; but not if he had commuted it into any almsgiving whatever, or another thing.

> *Sicut autem a similibus non est rectum argumentum pro ampliandis privilegiis, sic in casu nostro, eo vel minus, quia minor est ratio, et honor Dei inde resultans, quam ex eo ibi descripto, qui visitationem sancti sepulchri in religionem commutavit, non autem si commutasset in quamcumque eleemosynam, vel aliud.*

22 *It is confirmed* from *cap. 1. de votis*, where we have: *Of vows of pilgrimage, whether they can be redeemed by alms, or for necessity be commuted into another thing. We answer that it depends on the will of him who presides, that he may consider more diligently the quality of the person, and the cause of the commutation.*

> Confirmatur *ex* cap. 1. de votis*, ubi habetur:* De peregrinationis votis, an eleemosynis redimi possint, vel pro necessitate in aliud commutari. Respondemus quod ab eius, qui praesidet, pendet arbitrio, ut consideret diligentius qualitatem personae, et causam commutationis.

23 *Sanchez num. 4. et 9.* answers that this text rather favors him, because the Pontiff wills the authority of a superior to intervene only in doubtful cases, and his judgment to be required only in doubtful ones; but not when there is a clear mutation, made into a better.

> Respondet *Sanchez* num. 4. et 9. *hunc textum sibi potius favere, quia Pontifex solum in dubiis vult authoritatem superioris intervenire, eiusque iudicium solum requiri in dubiis; non autem quando est clara mutatio, facta in melius.*

24 But he errs, for since the account of every matter of a vow has been signed over by the Pontiff to the judgment of the prelate, and the judgment entrusted to him, it follows clearer than light that the one vowing cannot make this judgment, so much the less as it is entrusted, that the quality of the person, the motives of the vow, the infirmity, and the power of the one vowing be preserved; but this judgment is entrusted by law, and deservedly to another, because the one vowing in these matters is not a fit judge, being in his own cause. Nor does Sanchez answer well at *loco cit.* that this is not a Judgment of jurisdiction, but a more abundant payment of the vow; for whatever it be, whether of Jurisdiction, or of doctrine, and prudence, it is entrusted to a Superior, as Sanchez himself confesses *num. 12. et 19.* Moreover Sanchez *num. 22.* confesses that the faculty of commuting vows is of Jurisdiction conceded by Christ. As it is also of the power of dispensing, and *therefore num. 28.* he says that those alone have the ordinary power of commuting vows who have also that of dispensing in them.

> *At fallitur, nam cum omnis materiae voti ratio sit iudicio praelati a Pontifice consignata, eique demandatum iudicium; luce clarius sequitur, voventem non posse hoc iudicium facere, eo minus, quo demandatur, ut serventur qualitas personae, motiva voti, infirmitas, et potentia voventis; hoc autem iudicium demandatur iure, ac merito alii, quia vovens in his non est iudex aptus, quippe in propria causa. Neque bene respondet Sanchez* loco cit. *hoc non esse Iudicium iurisdictionis, sed abundantiorem voti solutionem; nam quodcunque illud sit, sive Iurisdictionis, sive doctrinae, et prudentiae, demandatur Superiori, ut ipse Sanchez fatetur* num. 12. et 19. *Praeterea Sanchez* num. 22. *fatetur, facultatem commutandi vota esse Iurisdictionis concessae a Christo. Sicut est etiam de potestate dispensandi, et* ideo num. 28. *ait, eos solos habere potestatem ordinariam commutandi vota, qui habent etiam ea dispensandi.*

25 Now truly, that I may return to the Seraphic Doctor; *he answers* that D. Bernard asserts nothing for us, but offers only counsel as to passage to a stricter life. Yet he concedes *in corpore*, conceded by the law in *cap. Licet, et cap. scripturae, related above*, that without the license of a superior the vows of a laxer religion are commuted into vows of a stricter one, and that this has been conceded to so illustrious a mutation, as I showed above. Wishing to infer that only for this reason do we not have the argument from D. Bernard, that we might draw it out; much less of other inferior commutations, because in the time of D. Bernard those laws did not yet exist, for *Caput Licet de regular.* is of Innocent III. and *cap. scripturae*, of Alexander III. who were after D. Bernard; for Alexander III. canonized D. Bernard, and indeed D. Bernard had died before the Pontificate of Alexander III.; for he died in the year 1153, in which Eugenius III. also died, to whom Anastasius IV. succeeded; to Anastasius, Adrian IV. [1], and to him Alexander III. in the year 1159. Innocent III. however was much more recent, who died in the year 1216.

[1] N. Editor's note: the print reads 'Adrianus III.'; corrected to Adrian IV (Nicholas Breakspear, successor of Anastasius IV in 1154), as 'III' is a factual print error.

> *Iam vero ut ad Seraphicum revertar;* Respondet, *D. Bernardum nil pro nobis asserere, sed tantum consilium praebere quoad transitum ad vitam arctiorem. Concedit vero* in corpore, *concessum a iure* cap. Licet, et cap. scripturae, supra relatis, *absque licentia superioris commutare vota religionis laxioris, in vota strictioris, et hoc esse huic tam*

illustri mutationi concessum, ut supra ostendi. Volens inferre, ideo tantum non habere nos argumentum ex D. Bernardo, ut id deducamus; multo minus de aliis inferioribus commutationibus, quia tempore D. Bernardi non adhuc erant illa iura, nam Caput Licet de regular. *est Innocentii III. et* cap. scripturae, *Alexandri III. qui fuere post D. Bernardum; nam Alexander III. Canonizavit D. Bernardum, et quidem D. Bernardus mortuus erat ante Alexandri III. Pontificatum; nam mortuus est anno 1153. quo mortuus est etiam Eugenius III. cui successit Anastasius IV. Anastasio Adrianus IV. et huic Alexander III. anno 1159. Innocentius vero III. fuit multo recentior, qui obiit anno 1216.*

26 From the body of the question, however, the argument is thus gathered, because, if this privilege was conceded only for the most illustrious commutation of the state of the whole life into a more perfect state, or a stricter religion; it is a sign that it is not conceded for the rest.

Ex corpore vero quaestionis sic colligitur argumentum, quia, si privilegium hoc concessum est solum pro commutatione illustrissima status totius vitae in perfectiorem, vel arctiorem religionem; signum est, pro caeteris non concedi.

27 *Nor* should you say that before that there was another privilege for the superiors of religious, lest that passage be made without their license, as we have in *cap. Licet*. Therefore by your reasoning it is held to be conceded for other vows without the license of superiors.

Neque *dicas, ante illud fuisse aliud privilegium regularium superioribus, ne absque eorum licentia fieret ille transitus, ut habetur eo* cap. Licet. *Ergo ex tua ratione habetur, id aliis votis concessum absque licentia superiorum.*

28 *It is answered* that from that chapter is had the cause of that prior concession, because some under the pretext of a stricter religion were passing over to other places, even of non-religious, and this some Hospitallers and Templars also did, as is said in the same place. Therefore he subjoins; for that reason this seems to have been conceded to them, lest anyone from temerity, or levity, to the loss, or injury of his own order, under the pretext of greater religion, fly over to another order, as it is established by many to have been frequently presumed; not indeed that license be denied to him who shall have asked truly, not feignedly, that he may be able to pass over to the fruit of a better life. Therefore the law was not enacted for a real passage, but for the feigned, and those acting from levity; which is to be guarded against in every commutation, as D. Bonaventure notes *in corpore*.

Respondetur, *ex eo capite haberi causam illius prioris concessionis, quia aliqui praetextu arctioris religionis ad alia loca, etiam non religiosorum transibant, et hoc faciebant etiam aliqui Hospitalarii, et Templarii, ut ibidem dicitur. Igitur subdit; ea ratione videtur hoc illis concessum, ne quis ex temeritate, vel levitate in iacturam, vel iniuriam sui ordinis sub praetextu maioris religionis ad alium ordinem transvolaret, sicut a multis constat frequenter esse praesumptum; non quidem, ut ei licentia denegetur, qui postulaverit vere, non ut ficte ad melioris vitae frugem valeat transmigrare. Igitur non fuit statuta lex pro reali transitu, sed pro fictis, et ex levitate operantibus, quod in omni commutatione cavendum est, ut notat D. Bonavent.* in corpore.

29 Others prove it, because not to keep promises is to break faith, even if another thing is given; but this reason is weak, to which Sanchez answers at *loco cit. ex D. Bonav. ad 3.*, that it is not a lie while a greater thing is given, as we have in *cap. pervenit*, citing. St. Bonaventure adds, even while an equivalent is given.

Alii id probant, quia non servare promissa, est fidem frangere, etiamsi aliud det; sed haec ratio est infirma, cui respondet Sanchez loco cit. ex D. Bonav. ad 3. *non esse mendacium, dum datur maius, ut habetur* cap. pervenit, *citando. Addit S. Bonav. etiam, dum datur aequivalens.*

30 *You will object* first with Sanchez *loco cit. ex cap. pervenit, et c. 2. de Iureiur. Promissum non infringit, qui illud in melius commutat, et cap. Scripturae, de voto: Reus fracti voti aliquatenus non habetur, qui temporale obsequium in perpetuum noscitur religionis observantiam commutare.* Where the Pontiff grants no privilege to religious profession, but renders the reason of this licit commutation, sought from the very nature of the thing.

> Obiicies *primo cum Sanchez* loco cit. ex cap. pervenit, et c. 2. de Iureiur. Promissum non infringit, qui illud in melius commutat, et cap. Scripturae, de voto: Reus fracti voti aliquatenus non habetur, qui temporale obsequium in perpetuum noscitur religionis observantiam commutare. Ubi Pontifex nullum privilegium religiosae professioni indulget, sed huius licitae commutationis rationem reddit, ex ipsa rei natura petitam.

31 *It is answered* with D. Bonaventure that this is true as to the truth of what was promised; nevertheless, because the promise ought to be equalled by what is given, and this judgment belongs to the procurator of God, it follows that it is to be done by his authority. To that about religion I answered already above, that it is a singular privilege, and the reason is rendered from the excellence of the mutation.

> Respondetur *cum D. Bonavent. id verum esse, quoad promissi veritatem; attamen quia promissio debet cum dato aequari, et hoc iudicium spectat ad Dei procuratorem, sequitur, id agendum eius authoritate. Ad illud de religione iam supra respondi, esse privilegium singulare, et ratio redditur ex mutationis excellentia.*

32 *He objects* secondly; with the consent of the creditor one thing can rightly be paid for another, *Instit. Quibus modis tollitur obligatio*, and God always wills the better: *Therefore*, if the better is always given, it is more grateful to him.

> Obiicit *secundo; de consensu creditoris potest unum pro alio recte solvi,* Instit. Quibus modis tollitur obligatio*, et Deus semper vult melius:* Ergo*, si datur semper, est ei gratius.*

33 *It is answered* from what has been said, that whatever better thing is offered belongs to the creditor, and that God also wills this, as I said. It is confirmed, for therefore Sanchez *num. 12. et 19.* denies that a commutation of an equal good can be made, because it is impossible to attain this equality, and therefore it is not credible that it has been committed to any vow-maker whatever, especially in his own cause. But this also imports the same difficulty in knowing the excess, because to know the excess one must see whether it is above the equal: *Therefore* by this reasoning it is not to be believed that it has been remitted to the judgment of the one vowing.

> Respondetur *ex dictis, ad creditorem spectare, quodcumque melius offeratur, et hoc etiam Deum velle, ut dixi. Confirmatur, nam ideo Sanchez* num. 12. et 19. *negat, posse fieri commutationem aequalis boni, quia impossibile est attingere hanc aequalitatem, et ideo non est credibile, commissum esse cuilibet voventi, maxime in propria causa. Sed hoc importat etiam eandem difficultatem in cognoscendo excessu, quia ad cognoscendum excessum oportet videre: An sit super aequale:* Ergo *hac ratione non est credendum, id iudicio voventis esse remissum.*

Question XXXII: Whether commutation requires a cause

1 *The first* opinion is that some cause is always required. So Innocentius *rubrica de observatione ieiunii, num. 2. Archid. cap. presbyter, d. 82. num. 3. as Angel. notes, V. votum, 4. num. 10.*

> An commutatio requirat causam.

Prima *opinio est, semper requiri aliquam causam. Ita Innocentius* rubrica de observatione ieiunii, num. 2. Archid. cap. presbyter, d. 82. num. 3. ut notat Angel. V. votum, 4. num. 10.

2 *Sanchez cap. 50. num. 13.* answers that they say only that fasts promised can be redeemed by the authority of a superior, if utility be present; and therefore they declare neither way whether this is necessary, when the commutation is made into a better.

Respondet *Sanchez* cap. 50. num. 13. *eos tantum dicere, ieiunia promissa posse redimi authoritate superioris, si utilitas subsit; et ideo neutrum declarare, an id opus sit, quando commutatio fit in melius.*

3 *Truly,* since Innocentius holds that it must always be done by the authority of a Prelate, as Sanchez himself relates *cap. 49. num. 2.*, I do not see by what reason he doubts whether utility is to be looked at by him, even when the matter is more useful: for on that account the judgment is entrusted to the Prelate, as I shall say presently.

Verum *cum Innocentius teneat, semper faciendam authoritate Praelati, ut refert ipse Sanchez* cap. 49. num. 2. *non video qua ratione dubitet, an spectanda sit ab eo utilitas, etiam cum materia est utilior: ob id enim demandatur iudicium Praelato, ut mox dicam.*

4 *The second* opinion is that no cause is required for an evident commutation into a better. So Abbas *cap. 1. de voto, v. 3. et 5. et cap. magna, num. 16. de voto. D. Bonavent. loc. cit. in 4. dist. 38. art. 2. quaest. 2. as Sanchez notes, lib. 4. cap. 50. num. 15. Richardus eadem dist. art. 8. quaest. 1. Rosella verb. votum 5. num. 6. et verbo Papa. Angelus votum, num. 10. Sylvest. votum, 4. Caietanus 2. 2. quaest. 88. art. 12. Sotus 7. de Iust. quaest. 4. art. 3. Lessius lib. 2. de inst. cap. 40. dub. 21. num. 96. Vivaldus Candel. 3. part. cap. 14. num. 14. Clau. Regia lib. 6. cap. 12. num. 25. Azor. tom. 1. lib. 11. cap. 18. quaestio 3. Beia. in resp. p. p. casu 49. et 2. part. casu 9. Suarez Tract de voto, lib. 6. cap. 18. num. 9. Sanchez loc. cit.*

Secunda *opinio est, nullam causam requiri ad commutationem in melius evidens. Ita Abbas* cap. 1. de voto, v. 3. et 5. et cap. magna, num. 16. de voto. D. Bonavent. loc. cit. in 4. dist. 38. art. 2. quaest. 2. ut notat Sanchez lib. 4. cap. 50. num. 15. Richardus eadem dist. art. 8. quaest. 1. Rosella verb. votum 5. num. 6. et verbo Papa. Angelus votum, num. 10. Sylvest. votum, 4. Caietanus 2. 2. quaest. 88. art. 12. Sotus 7. de Iust. quaest. 4. art. 3. Lessius lib. 2. de inst. cap. 40. dub. 21. num. 96. Vivaldus Candel. 3. part. cap. 14. num. 14. Clau. Regia lib. 6. cap. 12. num. 25. Azor. tom. 1. lib. 11. cap. 18. quaestio 3. Beia. in resp. p. p. casu 49. et 2. part. casu 9. Suarez Tract de voto, lib. 6. cap. 18. num. 9. Sanchez loc. cit.

5 I assert with this opinion that no other cause is required than a greater utility, when it is commuted into a better.

Assero cum hac sententia, non requiri aliam causam, quam maiorem utilitatem, quando commutatur in melius.

6 *It is proved* by D. Bonaventure: *A vow is a promise made to God, which must be commuted without damage to the glory of God, to which it is ordered, and the spiritual utility of the soul: But in a commutation into a better there is sought a greater glory of God, and utility of the soul, to which the commutation of the Vow is ordered; and thus the Procurator prudently judges, acting in the name of God, who therefore is not unfaithful while he commutes the things of the Lord into others more grateful to him; and this is what is said in cap. 1. de voto: Let the diligent ius consider the person, whether the recompense will have been better, and more acceptable to God. Behold, moreover, a great utility, when the commutation is made into a better. And in the chapter de voto the vow of Jerusalem pilgrimage is commuted into an endowment for women, for this sole cause, that the supply of money might profit more than their presence.* Sanchez uses this reason at *num. 15.*

> Probatur *a D. Bonavent.* Votum est promissio facta Deo, quae debet commutari absque damnificatione Dei gloriae, ad quam ordinatur, et spiritualis utilitatis animae: In commutatione autem in melius repetitur maior Dei gloria, et utilitas animae, ad quam ordinatur commutatio Voti, et ita prudenter iudicat Procurator, agens nomine Dei, qui ideo non est infidelis, dum res Domini in alias gratiores ei commutat, et hoc est, quod dicitur, cap. 1. de voto: Consideret diligens ius personam, an recompensatio melior fuerit, et Deo magis accepta. Ecce autem magna utilitas, dum fit commutatio in melius. Et cap. de voto commutatur votum peregrinationis Hierosolymitanae faeminatum, ea sola causa, quod subsidium pecuniarum magis prosit, quam earum praesentia. *Hac ratione utitur Sanchez* num. 15.

7 I assert secondly, that a cause is required when the commutation is made into an equal. So D. Bonaventure, whom many follow, in Sanchez *num. 17.*; among whom are very many related above with D. Bonaventure, to whom add Couarr. *de pallis 1. part. §. 3. n. 4.*; Angles *flor. 2. p. quaest. un. art. 8. diff. 6.*; Suarez *V. supra cap. 19.*; Bassaeum *V. Votum, 6. num. 3.* with those brought forward by him.

> *Assero secundo, requiri causam quando commutatio fit in aequale. Ita D. Bonavent. quem multi sequuntur apud Sanchez* num. 17. *ex quibus plurimi sunt, qui supra sunt relati cum D. Bonavent. quibus adde Couarr.* de pallis 1. part. §. 3. n. 4. *Angles* flor. 2. p. quaest. un. art. 8. diff. 6. *Suarez* V. supra cap. 19. *Bassaeum* V. Votum, 6. num. 3. *cum adductis ab illo.*

8 *It is proved* by D. Bonaventure, because as the vow is ordered to the greater glory of God and the utility of souls, so also the commutation itself; but if only an equal be rendered, no glory results to God, nor utility to the soul, unless a cause be present from elsewhere: *Therefore.* Sanchez uses this reason at *num. 17.*

> Probatur *a D. Bonavent. quia sicut votum ordinatum est ad maiorem Dei gloriam, atque animarum utilitatem; ita etiam ipsa commutatio; at si aequale tantum reddatur, nulla gloria Deo, nullaque resultat utilitas animae, nisi aliunde adsit causa:* Ergo. *Hac ratione utitur Sanchez* num. 17.

9 Sanchez adds another reason, because this commutation has something of dispensation mixed in; for dispensation is granted from the rigor of fidelity, paying in a different species, and forthwith some cause is needed. Yet this reason is solved by D. Bonaventure *ad 3.: fidelity is kept, while an equal is given.*

> *Aliam rationem addit Sanchez, quia haec commutatio habet non nihil dispensationis mixtum; dispensatur enim in rigore fidelitatis, solvendo in diversa specie, ac subinde aliqua causa opus est. Haec tamen ratio solvitur a D. Bonavent.* ad 3. servari fidelitatem, dum datur aequale.

10 Now the question is, what cause is required for a commutation into an equal.

> *Quaestio autem est, quae causa exigatur ad commutationem in aequale.*

11 Some require a cause obstructing the execution of the vow. So Abbas *cap. 1. de voto. Rosella votum, 5. num. 6. Sylvest. votum, 4. in fine, Angel. votum, 4. num. 10. Abul. cap. 10. Numer. quaest. 105. Ouandus 4. d. 38. d. unic. propositione 26. Azor. tom. 1. lib. 11. cap. 18. quaest. 5. Clau. Reg. lib. 6. cap. 12. num. 26. Vivaldus supra, et innuit Sotus 7. Iust. quaest. 4. art. 3.*

> *Aliqui petunt causam, obstantem executioni voti. Ita Abbas* cap. 1. de voto. Rosella votum, 5. num. 6. Sylvest. votum, 4. in fine, Angel. votum, 4. num. 10. Abul. cap. 10. Numer. quaest. 105. Ouandus 4. d. 38. d. unic. propositione 26. Azor. tom. 1. lib. 11. cap. 18. quaest. 5. Clau. Reg. lib. 6. cap. 12. num. 26. Vivaldus supra, et innuit Sotus 7. Iust. quaest. 4. art. 3.

12 More probable, however, is that such a cause is not required. So D. Bonaventure *loc. cit.*, whom follow Caietanus *2. 2. quaest. 88. art. 12. et in summa V. votum cap. ult. Armilla num. 14. Nauart. lib. 3. consil. tit. de voto, consil. 16. in the prior edition; but in the later, 36. Aragon. 1. 2. quaest. 88. num. 12. Valentia 1. 2. d. 6. quaest. 6. puncto 7. Corduba summa, quaest. 149. Henriquez lib. 7. de Indulg. cap. 3. Petrus de Ledesma 2. tomo, tract. 10. cap. 8. Lessius lib. 2. de inst. cap. 40. dub. 11. num. 96. Gomez in Bulla Cruciata, clausula 10. num. 105. Suarez loco citato. et Sanchez num. 21. cap. 50.*

> *Probabilius tamen est, non requiri talem causam. Ita D. Bonavent.* loc. cit. *quem sequuntur Caietanus* 2. 2. quaest. 88. art. 12. et in summa V. votum cap. ult. Armilla num. 14. Nauart. lib. 3. consil. tit. de voto, consil. 16. in priori editione; at in posteriori, 36. Aragon. 1. 2. quaest. 88. num. 12. Valentia 1. 2. d. 6. quaest. 6. puncto 7. Corduba summa, quaest. 149. Henriquez lib. 7. de Indulg. cap. 3. Petrus de Ledesma 2. tomo, tract. 10. cap. 8. Lessius lib. 2. de inst. cap. 40. dub. 11. num. 96. Gomez in Bulla Cruciata, clausula 10. num. 105. Suarez loco citato. et Sanchez num. 21. cap. 50.

13 The reason is, because since in the commutation there is repaid at least an equal work; it is not to be believed that a cause is required which is exacted in a dispensation, while it is let go.

> *Ratio est, quia cum in commutatione rependatur saltem ad aequale opus; non est credendum, requiri causam, quae exigitur in dispensatione, dum dimittitur.*

14 *What vows can be commuted by the ordinary power of Prelates.*

> Quae vota possint commutari ordinaria Praelatorum potestate.

Question XXXIII: Which vows can be commuted by the ordinary power of prelates

1 I suppose, with Sanchez *cap. 52.*, that Prelates can change all those vows which have power to dispense. But which these are, I said in question 26.

> *Suppono cum Sanchez* cap. 52. *ea omnia vota posse Praelatos commutare, quae valent dispensare. Quae autem sint haec, dixi quaestione 26.*

2 VOTA: but that the Pope's reserved vows, reserved to him as regards dispensation, are reserved to him also as regards commutation, all acknowledge. For in the Extravagant *Et si Dominicus, la 2. de paenitentia, et remissi.*, where the reservation of these vows is supposed, there is speech of their commutation. This reservation of commutation extends even to their not being able to be changed for the better; So Suarez *Tract. de voto, lib. 6. cap. 21.*, Sanchez *lib. 4. cap. 52.*, although others hold the opposite.

> *VOTA vero Papae reservata quoad dispensationem, reservari ipsi etiam quoad commutationem, omnes fatentur. Nam in extravagant.* Et si Dominici la 2. de paenitentia, et remiss. *ubi horum votorum reservatio supponitur, est sermo de eorum commutatione. Haec commutationis reservatio extenditur etiam, ne in melius commutari valeant; Ita Suarez* Tract. de voto, lib. 6. cap. 21. *Sanchez* lib. 4. cap. 52. *Licet oppositum alii sentiant.*

3 IN the vow of religion, however, all things can be changed into it, as is had in *cap. Scriptura de voto.* See Sanchez *loc. cit.* Unless, however, such a vow has been accepted by the Supreme Pontiff or a Bishop. See Diana *part. 3. tract. 6. miscell. resol. 65.* Wherefore if a prince should vow the liberation of the Holy Land, it would not suffice for him to change it into a vow of Religion. Hence the Supreme Pontiff must be consulted, as Bassaeus notes *V. Votum 6. num. 1.*, with D. Thomas *quaest. 88. artic. 12.*, Suarez *tom. 3. de relig. lib. 6. cap. 14.*, Lessius *lib. 2. cap. 40. dubio 16.*, Vecchio *disp. 13. dub. 4.*

IN votum tamen religionis possunt omnia commutari, ut habetur cap. scriptura de voto. *Vide Sanchez* loc. cit. *Nisi tamen tale votum a Pontifice maximo, aut Episcopo sit acceptatum. Vide Dianam* part. 3. tract. 6. miscell. resol. 65. *Quare si princeps voverit liberationem terrae sanctae, non satis eam commutaret in votum Religionis. Unde consulendus Summus Pontifex, ut notat Bassaeus* V. Votum 6. num. 1. *cum D. Thom.* quaest. 88. artic. 12. *Suarez* tom. 3. de relig. lib. 6. cap. 14. *Lessio* lib. 2. cap. 40. dubio 16. *Vecchio* disp. 13. dub. 4.

4 SI: Yet if they are changed evidently for the better, it is not an act of jurisdiction. So Bonacina *Tom. 2. d. 4. quaest. 7. puncto 7. §. 3. num. 9.,* Tolet. *lib. 4. cap. 18.,* Faustus *lib. 4. quaest. 5.,* and Bassaeus *cit. num. 5.*

SI tamen commutentur in melius evidenter, non est actus iurisdictionis. Ita Bonacina Tom. 2. d. 4. quaest. 7. puncto 7. §. 3. num. 9. *Tolet.* lib. 4. cap. 18. *Faustus* lib. 4. quaest. 5. *et Bassaeus* cit. num. 5.

5 THIS faculty is delegable even by those having the privilege.

HAEC facultas est delegabilis etiam ab habentibus privilegium.

6 But to the confessors of the Society of Jesus, and, by communication, to other Mendicant confessors approved by the Ordinary for hearing the confessions of seculars, Paul III granted the faculty of changing all Vows. And Gregory XIII extended it even to the oath-bound, except the five reserved, which Eugenius IV had previously granted in the Congregation of Saint Justina, in the year of the Lord 1437. See Sanchez *lib. 8. de matr. d. 16.,* Compend. Privil. Mendic. *V. Absolutio quoad saeculares 2.,* Crousers on *cap. 7. Reg. min. lec. 29.,* and Bassaeus *num. 5.*

Confessariis autem Societ. Iesu, et per communicationem aliis Mendicantibus confessariis ab Ordinario approbatis ad audiendas saecularium confessiones, concessit Paulus III. facultatem commutandi Vota omnia. Et Gregorius XIII. extendit etiam ad iurata, exceptis quinque reservatis, quod ante concesserat Eugenius IV. Congregatione Sanctae Iustinae, anno Domini 1437. Vide Sanchez lib. 8. de matr. d. 16. *Compend. Privil. Mendic.* V. Absolutio quoad saeculares 2. *Crousers in* cap. 7. Reg. min. lec. 29. *et Bassaeum* num. 5.

Disputation II: On the Religious State, or on Solemn Vows

1 AMONG the other advantages of solemn vows this one especially shines forth, that in this state not fewer vows are joined together among themselves than of lives of many persons joined together; Hence, as the Seraphic Doctor teaches *tit. 4. Diaetae, cap. 1.*, many gathered together into one walk more securely, resist more strongly, and take their comfort more sweetly: hence also it is said in *Psalm 49.*: *Gather together unto him his saints*, seeing that, *it is better that two be together than one*, for birds flying apart are either rapacious, like hawks; or mourning the loss of their companion, like turtledoves; nor does the Lord suffer anything but a pair of Turtledoves to be offered in the Temple, that we may know that, if the soul is alone, having no one to be joined to, it has not even that bond of perfection, namely charity, by which it is joined; wherefore the Holy Spirit descended not upon the Disciples scattered, but assembled together *Act. 2.*, as the Saintly Doctor observes *in the place cited*, where he illustrates the conventual life with many other and most beautiful similitudes.

> *INTER caetera solemnium votorum emolumenta illud praecipue emicat, ut non minus in hoc statu plura inter se vota, quam plurium inter se vitae consocientur; Hinc enim, ut Seraphicus edocet* tit. 4. Diaetae, cap. 1. *plures in unum congregati incedunt securius, resistunt fortius, et solatiantur iucundius: hinc etiam* Psalmo 49. *dicitur:* Congregate illi sanctos eius*, quippe quia,* melius est duos esse simul, quam unum*, volucres enim seorsim volantes, aut rapaces sunt, ut accipitres; aut socii iacturam lugentes, ut turtures, nec patitur nisi par Turturum offerri in Templo Dominus, ut sciamus, signum esse, si sola sit anima, non habens cui societur, non habere etiam vinculum illud perfectionis, charitatem scilicet, quo societur; quare non in disgregatos, sed in convocatos Discipulos descendit Spiritus Sanctus* Act. 2. *ut observat S. Doctor* loco citato*, ubi pluribus aliis, et praeclaris similitudinibus conventualem vitam illustrat.*

2 HE treats of these things also in the Ecclesiastical Hierarchy, and more broadly in many little works, after the exposition of the Rule of the Friars Minor, where he disputes against the assailants of religion. But since this disputation is broad, we shall divide it into many Sections; and first concerning the state of Religion in general: Then indeed we shall treat of the individual Vows: in which disputation Suarez and Sanchez speak excellently and at length. Waldensis *Tom. 1. Doctrinalis fidei.*, Bellarm. *Tom. 2.*, with Valentia *disput. 10.*

> *DE his agit etiam in Ecclesiastica Hierarchia, et latius in multis opusculis, post expositionem Regulae Minorum, ubi disputat contra religionum impugnatores. Quoniam vero lata est haec disputatio, in multas Sectiones eam dividemus; et primo de statu Religionis in communi: Deinde vero de singulis Votis agemus: In qua disputatione egregie loquuntur, et late Suarez, et Sanchez. Waldensis* Tom. 1. Doctrinalis fidei. *Bellarm.* Tom. 2. *cum Valentia* disput. 10.

Section I: On the Vows of Religious in Common

1 As in ancient times in the Mosaic law there were some sacrifices which the people offered to God in part, and others which they offered totally; so in the law of grace the Church dedicates some to God in part through simple vows, but devotes others totally through solemn vows; for those are accustomed to fall upon some particular thing; but these heal the whole man, by taking away those three sicknesses with which almost the whole world is infected, according to the saying of D. John, *everything that is in the world is either the concupiscence of the eyes, or the concupiscence of the flesh, or the pride of*

life; yet the solemnity or simplicity of vows does not arise from this totality or partiality alone, as will be discussed shortly.

> De votis Religiosorum in communi.
>
> *Ut antiquitus in lege Mosaica alia erant sacrificia, quae partim populus Deo offerre, talia vero quae totaliter; ita in lege gratiae Ecclesia alios partim Deo dedicat per vota simplicia, alios vero totaliter devovet per vota solemnia; illa enim solent cadere supra rem aliquam particularem; haec autem totum hominem sanant, tres illas aegritudines auferendo, quibus totus fere mundus inficitur, iuxta dictum D. Ioannis,* omne quod est in mundo aut concupiscentia oculorum est, aut concupiscentia carnis, aut superbia vitae; *non tamen ex hac solum totalitate, vel partialitate oritur votorum solemnitas, aut simplicitas, ut mox discutietur.*

Question I: In what solemn vows differ from simple vows

1 Famous is this question, and exceedingly necessary, all the more so as new decrees of the Pontiffs are in force for deciding it.

> In quo solemnia vota a simplicibus differant.
>
> *Celebris est quaestio ista, atque admodum necessaria, eo magis, quo nova Pontificum decreta ad eam decidendam vigent.*

2 ¶ The first opinion is, that Solemn and simple vows differ from the very nature of the vows themselves, with all ecclesiastical law set aside; and that the essence of solemn vows consists in the handing over of oneself and of one's goods into the hands of God and of those who act in God's place: Brought forward by Sanchez for this opinion are D. Thomas *in 4. d. 38. quaest. 1. art. 2. quaestiuncula 3.*, D. Bonaventura *same dist. art. 2. quaest. 1.*, Durandus *there quaest. 1. and 2.*, Richardus *there art. 7.*, Mayro *quaest. unic. part. 4.*, Capreolus *4. d. 33. quaest. unic. art. 1. concl. 2. and art. 3.*, Deca *there quaest. unic. art. 3.*, Carthus. *4. d. 3. quaest. 2.*, Fortunius Garcia *cap. 1. de pactu, num. 13.*, Turrecrem. *cap. presbyterus, num. 1. and 2. d. 27.*, Tabiena *dispensatio quaest. 7.*, Sotus *7. de Iust. quaest. 2. art. 5. and 4. d. 38. quaest. 2. art. 1.*, Petrus Soto *lect. 5. de matrim.*, Couarr. *4. decret. 2. part. cap. 7. § 4. num. 7.*, Ledesma *2. part. 4. quaest. 55. art. 5.*, Alex. Carterius *lib. 3. de sponsal. cap. 6.*, Celatia *4. d. 37. quaest. 3. and d. 38. quaest. after the seventh argument*, Viguerz *Instit. cap. 16. § 7.*, Stunica *lib. 5. recopil. tit. 1. rubr gloss. 1.*, Vega *in summa, cap. 49.*, Henriquez *lib. 1. de matrim. cap. 5.*, Barbosa *Rubrica, ff. soluto matrimonio 2. part. from num. 93. up to 100.*, Aragon. *2. 2. quaest. 88. art. 7.*, Hugolinus *de Sacramentis, where on marriage cap. 19.*, Valentia *2. 2. d. 6. quaest. 9. puncto 5. and 4. puncto d. 10. de matrimonio quaest. 5. puncto 3.*, Candelabr. *p. p. num. 129.*, Petrus Ledesma *de matrim. quaest. 53. art. 2.*, Barthol. Ledesma *de matrim. dub. 32. and dub. 33.*, Ludovicus Lopez *2. part. Instruct. de matrim. cap. 48.*, Graffi *2. part. decis. lib. 2. cap. 12.*, Vega *2. Tomo summa, cap. 57. casu 21.*

> ¶ *Prima sententia est, Vota solemnia, et simplicia differre ex natura ipsorum votorum, praeciso omni iure Ecclesiastico; atque solemnium votorum essentiam consistere in traditione sui, rerumque suarum in manus Dei, ac vices Dei gerentium: Adducuntur a Sanchez pro hac sententia D. Thom.* in 4. d. 38. quaest. 1. art. 2. quaestiuncula 3. *D. Bonaventura* eadem dist. art. 2. quaest. 1. *Durandus* ibi quaest. 1. et 2. *Richardus* ibi art. 7. *Mayro* quaest. unic. part. 4. *Capreolus* 4. d. 33. quaest. unic. art. 1. concl. 2. et art. 3. *Deca* ibi quaest. unic. art. 3. *Carthus.* 4. d. 3. quaest. 2. *Fortunius Garcia* cap. 1. de pactu, num. 13. *Turrecrem.* cap. presbyterus, num. 1. et 2. d. 27. *Tabiena* dispensatio quaest. 7. *Sotus* 7. de Iust. quaest. 2. art. 5. et 4. d. 38. quaest. 2. art. 1. *Petrus Soto* lect. 5. de matrim. *Couarr.* 4. decret. 2. part. cap. 7. § 4. num. 7. *Ledesma* 2. part. 4. quaest. 55. art. 5. *Alex. Carterius* lib. 3. de sponsal. cap. 6. *Celatia* 4. d. 37. quaest. 3. et d. 38. quaest. post septimum argumentum, *Viguerz* Instit. cap. 16. § 7. *Stunica* lib. 5. recopil. tit. 1. rubr gloss. 1. *Vega* in summa, cap.

49. *Henriquez* lib. 1. de matrim. cap. 5. *Barbosa* Rubrica, ff. soluto matrimonio 2. part. a num. 93. usque ad 100. *Aragon.* 2. 2. quaest. 88. art. 7. *Hugolinus* de Sacramentis, ubi de matrimonio cap. 19. *Valentia* 2. 2. d. 6. quaest. 9. puncto 5. et 4. puncto d. 10. de matrimonio quaest. 5. puncto 3. *Candelabr.* p. p. num. 129. *Petrus Ledesma* de matrim. quaest. 53. art. 2. *Barthol. Ledesma* de matrim. dub. 32. et dub. 33. *Ludovicus Lopez* 2. part. Instruct. de matrim. cap. 48. *Graffi* 2. part. decis. lib. 2. cap. 12. *Vega* 2. Tomo summa, cap. 57. casu 21.

3 ¶ Certain other, older authors also acknowledged this same difference between a solemn and a simple vow, though they assert that the subsequent marriage can be dissolved by mere human law through the profession. These are Ioan. Andr. *cap. unico de voto. in 6.*, there Abb. Anchar., Dominicus Archid., who has the same thing *cap. finali. num. 5. d. 27.*, Cardin. *Clementina unica de consang. num. 19. quaest. 42.*, Altisiodor. *lib. 3. summae, Tract. 28. cap. 1. quaest. 3.*, and Brunellus *de sponsal. concl. 31.*

¶ *Hanc quoque differentiam inter votum solemne, et simplex agnovere quidam alii antiquiores, licet solo iure humano dirimi matrimonium subsequens per professionem asserant. Hi sunt Ioan. Andr.* cap. unico de voto. in 6. *ibi Abb. Anchar. Dominicus Archid. qui idem habet* cap. finali. num. 5. d. 27. *Cardin.* Clementina unica de consang. num. 19. quaest. 42. *Altisiodor.* lib. 3. summae, Tract. 28. cap. 1. quaest. 3. *et Brunellus* de sponsal. concl. 31.

4 ¶ As to D. Bonaventure, who is brought forward for this opinion, I say that in that question he only asserts that it cannot commonly be said that the Church dispenses in a solemn vow of chastity for entering marriage, and that therefore it seems false to him that its illegitimacy comes from her, because she can dispense in her own constitutions.

¶ *Quoad D. Bonavent. qui pro hac adducitur, dico, eum illa quaestione solum asserere, communiter dici non posse Ecclesiam dispensare in voto solemni castitatis ad matrimonium ineundum, et ideo videri falsum, eam illegitimitatem esse ab ea, quia ipsa potest in suis constitutionibus dispensare.*

5 ¶ But in question 1, proposing again: *Whether the Church can dispense in solemn vows*, as we said *in the preceding disputation, quaest. 29.*, and reviewing the opinions on both sides, he does not dare to define, and candidly admits he does not know which is the truer opinion (for he records another besides these two) and he adds: *Either can well be sustained, for I bring forward no decisive reason.* As I noted above as well.

¶ *At quaestione 1. rursus proponens:* An Ecclesia possit in votis solemnibus dispensare, *ut diximus* disputatione praecedenti, quaest. 29. et *revis utrinque opinionibus, non audet definire, et ingenue se fatetur nescire, quae sit verior sententia (aliam enim etiam praeter has duas recenset) et subdit:* Satis potest qualibet sustineri, rato nullam affero. *Ut supra etiam notavi.*

6 ¶ But in the Dicta salutis *lec. cit.* he candidly admits that the solemnity of vows arose from the Church, as I shall say *in the arguments*. However that may be, no one insists on this first opinion, as it is commonly circulated. Rather he seems to embrace the second, which I shall report immediately; although he holds all vows to be of Divine law as regards their obligation, whence he uses a certain moderation in dispensation, as we saw; nothing against this; for that is common to simple vows.

¶ *In Dicta vero salutis* lec. cit. *ingenue fatetur votorum solemnitatem ab Ecclesia esse ortam, ut dicam in* argumentis. *Quaecumque ita sint, non insistitur isti primae sententiae, ut communiter circumfertur. Sed secundam potius videtur amplecti, quam statim referam; quamvis autem vota omnia teneat esse de iure Divino quoad obligationem, unde in dispensatione utatur moderatione quadam, ut vidimus, nil contra hoc; nam id commune est votis simplicibus.*

7 The second opinion, therefore, is that solemn vows are distinguished from simple ones by the sole institution of the Church. So D. Bonaventure, reported above, whom Scotus follows *in 4. d. 38. quaest. unica, and there Paludanus quaest. quart. 4. concl. 11. num. 49.*, Caiet. *2. 2. quaest. 88. art. 7. dub. 1.*, Abul. *quaest. 100. ad 30. Numer.*, Michael Medina *de sacrorum hominum continentia, lib. 4. controv. 7. cap. 12.*, Guilielmus Vottilongo *4. d. quaest. unica, art. 2. concl. 1. and there Palacios d. 1. concl. 1. 2. 3. and 4.*, Ouandus *there quaest. unica prop. 16.*, Azor. *lib. 11. Instit. moral. cap. 6. quaestio 1. and all these are they*, who assert that the marriage bond can be dissolved by mere ecclesiastical law through the profession of religion, whom I shall report *below*; and Valentia says this opinion is probable *2. 2. d. 6. quaest. 6. puncto 5.*

> *Secunda igitur sententia est, Vota solemnia ex sola Ecclesiae institutione a simplicibus esse distincta. Ita D. Bonavent. supra relatus, quem sequuntur Scotus* in 4. d. 38. quaest. unica, et ibi Paludanus quaest. quart. 4. concl. 11. num. 49. *Caiet.* 2. 2. quaest. 88. art. 7. dub. 1. *Abul.* quaest. 100. ad 30. Numer. *Michael Medina* de sacrorum hominum continentia, lib. 4. controv. 7. cap. 12. *Guilielmus Vottilongo* 4. d. quaest. unica, art. 2. concl. 1. et ibi Palacios d. 1. concl. 1. 2. 3. et 4. *Ouandus* ibi quaest. unica prop. 16. *Azor.* lib. 11. Instit. moral. cap. 6. quaestio 1. et sunt omnes*, qui asserunt, solo iure Ecclesiastico dirimi matrimonium per religionis professionem, quos referam* infra*; et hanc sententiam probabilem ait Valentia* 2. 2. d. 6. quaest. 6. puncto 5.

8 ¶ Finally this opinion is excellently defended by Ribadeneira *in libro de Instit. Societatis Iesu, cap. 15., Vasquez p. 2. d. 165.*, Sanchez *lib. 7. de matrimonio, d. 25. and lib. 5. summae mor. cap. 1.*, Tanner. *d. 5. quaest. 4. num. 63.*, citing all the Canonists, D. Thomas, Aragonius *quaest. 88. art. 7.*, Suarez *Tom. 2 de religione, cap. 14.*, Lessius *lib. 2. cap. 40. dub. 14.*, Bellarminus *lib. 1. de matrimonio, cap. 21.*, Vasquez *d. 165. cap. 2. and with him Abulensis, Pelag. Ledesma, Corduba, and others:* So too the Scotists in Mastrius *Tom. 4. d. 7. num. 438.*

> ¶ *Demum hanc tuentur egregie Ribadeneira* in libro de Instit. Societatis Iesu, cap. 15. Vasquez p. 2. d. 165. *Sanchez* lib. 7. de matrimonio, d. 25. et lib. 5. summae mor. cap. 1. *Tanner.* d. 5. quaest. 4. num. 63. *referens Canonistas omnes, D. Thomam, Aragonium* quaest. 88. art. 7. *Suarez* Tom. 2 de religione, cap. 14. *Lessium* lib. 2. cap. 40. dub. 14. *Bellarminum* lib. 1. de matrimonio, cap. 21. *Vasquez* d. 165. cap. 2. et apud eum Abulensem, Pelag. Ledesmam, Cordubam, et alios: *Sic etiam Scotistae apud Mastrium* Tom. 4. d. 7. num. 438.

9 ¶ I assert that solemn vows differ from simple ones by the tradition of the Church, probably.

> ¶ *Assero, vota solemnia a simplicibus differre ex traditione Ecclesiae probabiliter.*

10 ¶ It is proved first from D. Bonaventure *lib. 1. Pharetrae, cap. 51. from D. Bernard tract. de praecepto, et dispens. before the middle, where he says; Let consideration be with the Abbot, that this or that should be in the providence, or judgment, or disposition of the Abbot; Yet that he may change anything of the rule at his own will,*[1] *I do not recall reading there: nay rather let all follow the mistress rule, nor let anyone rashly depart from it: Therefore not even the Abbot himself. Let all follow the mistress rule, therefore no one his own will; and a little later: We are founded upon the transgressions of brothers, not upon the traditions of the Fathers, whence the Abbot is chosen, a keeper of commandments, an avenger of vices.* Where the Abbot asserts that the observance of the rule belongs to the traditions of the Fathers: Therefore of the Church.

[1] N. Editor's note: the print/OCR reads 'pro sua voluntate diis uid mutet de regula' (garbled); rendered as 'aliquid mutet' with St. Bernard, De praecepto et dispensatione.

¶ *Probatur primo a D. Bonavent.* lib. 1. Pharetrae, cap. 51. ex D. Bernardo tract. de praecepto, et dispens. ante medium, ubi ait; Consideratio penes Abbatem sit, et hoc, vel illud esse in providentia, vel arbitrio, seu dispositione Abbatis, Ut tamen pro sua voluntate aliquid mutet de regula, me ibi legisse non recolo: quinimo omnes magistram regulam sequantur, nec ab ea temere devietur a quoquam: Ergo nec etiam ab ipso Abbate. Omnes magistram sequantur regulam, nemo ergo suam voluntatem, et paulo post: Super fratrum transgressiones, non super Patrum traditiones constituimur, quo Abbas eligitur, mandatorum cultor, ultor vitiorum. *Ubi Abbas observantiam regulae asserit esse Patrum traditiones: Ergo Ecclesiae.*

11 *PROVED* second from D. Bonaventure in the *Diaeta salutis, titulo 4. cap. 1.*, because although in ancient times Samuel, Elias, and Eliseus gathered disciples for perfection, and John the Baptist educated disciples, as is had in *1. Reg. 10. 4. Reg. 4. Ioan. 1.*, and Christ chose disciples and Apostles, as is had in *Matth. 4.*; nevertheless those who first together instituted the religious life were the Apostles *Actorum 4.*, where no one said that anything was his own, but all things were common; as also D. Mark in Alexandria. For from there the Monks arose, of whom there were three kinds, that is, of Caenobites, who lived in common, Remobath, who dwelt two or three together, and Anchoretes, who lived alone in the desert, whose Prince was John the Baptist. But that Religious Orders began from the Apostles, as D. Bonaventure says, is proved from Eusebius *lib. 2. historiae, cap. 16.*, Jerome *de viris illustribus on Philo.*, Augustine *sermone 2. de vita communi clericorum.*, Possidius *in vita Augustini.*, Isidore *l. 2. de off. cap. 15.*, Cassian *collat. 18.*, as Bellarminus notes *lib. 1. de monach. cap. 5.*

PROBATUR *secundo a D. Bonavent. in* Diaeta salutis, titulo 4. cap. 1. *quia licet etiam antiquis temporibus Samuel, Elias, et Elisaeus Discipulos ad perfectionem congregatint, et Ioannes Baptista Discipulos educarit, ut habetur* 1. Reg. 10. 4. Reg. 4. Ioan. 1. *et Christus Discipulos, et Apostolos elegerit, ut habetur* Matth. 4. *attamen qui primi simul vitam religiosam instituere, fuerunt Apostoli* Actorum 4. *ubi nemo quidquam suum esse dicebat, sed omnia erant communia; sicut et D. Marcus Alexandriae. Inde enim orti sunt Monachi, ex quibus tria erant genera, id est, Caenobitarum, qui in communi vivebant, Remobath, qui bini, vel terni inhabitabant, et Anachoretae, qui soli in deserto vivebant, quorum Princeps fuit Ioannes Baptista. Quod vero ab Apostolis inceperint Religiones, ut ait D. Bonavent. probatur ex Eusebio* lib. 2. historiae, cap. 16. *Hieronymo* de viris illustribus in Philone. *Augustino* sermone 2. de vita communi clericorum. *Possidio* in vita Augustini. *Isidoro* l. 2. de off. cap. 15. *Cassiano* collat. 18. *ut notat Bellarminus* lib. 1. de monach. cap. 5.

12 This is what Boniface VIII *cap. unico de voto, in 6.* declares, that the solemnity of a vow was found to be from the sole institution of the Church.

Hoc est, quod Bonifacius VIII. cap. unico de voto, in 6. *declarat, solemnitatem voti ex sola Ecclesiae institutione inventam esse.*

13 And Gregory XIII in his Extravagant *Ascendente Domino*, in order to refute those saying that those making simple vows of the biennium in the Society of Jesus are not religious, gives the reason for their error, namely that they did not consider that the solemnity of a vow was found by the sole constitution of the Church.

Et Gregorius XIII. in sua Extravaganti: Ascendente Domino*, ut redarguat dicentes, emittentes vota simplicia biennii in Societate Iesu non esse religiosos, reddit rationem eorum erroris, eo quod non consideratint, solemnitatem voti sola Ecclesiae constitutione inventam esse.*

14 But these Bulls were issued after the time of D. Bonaventure, as clearly appears; therefore it is no wonder if D. Bonaventure seemed to incline also to the other opinion, which was the older; for this

opinion first had as its defender Scotus, who lived long after D. Bonaventure; the other, however, many ancients, reported above.

> *Hae autem Bullae emissae fuerunt post D. Bonaventurae tempora, ut liquido patet, ideo nil mirum, si D. Bonavent. in alteram etiam sententiam propendere visus sit, quae erat antiquior; haec enim sententia primum habuit defensorem Scotum, qui multo post D. Bonaventuram vixit; altera vero multos antiquos, supra relatos.*

15 *THEY ANSWER*, however, that the solemnity of vows which is from ecclesiastical tradition is that which was instituted so that the profession may be manifest in the face of the Church and cannot be denied; but essentially, insofar as it speaks of the handing over of oneself into the hands of the prelate, it is from the very law of solemn vows; Just as the solemnity of marriage, that it be made before witnesses and the Pastor, is necessary from the institution of the Church, so that if it is lacking the marriage is rendered void; but no one will deny that the essential solemnity of marriage is by natural Divine law; for it consists in the mutual handing over of bodies: which the anxious [provision] of the Council of Trent suffices for the validity of marriage. This answer is gathered in D. Bonaventure *loc. cit. in corpore*.

> RESPONDENT *tamen, solemnitatem votorum, quae est ex traditione Ecclesiastica, eam esse, quae instituta est, ut in facie Ecclesiae professio sit manifesta, nec valeat negari; at essentialiter, prout dicit traditionem sui in manus praelati, esse ex ipso iure votorum solemnium; Sicuti solemnitas matrimonii, ut coram testibus, et Parocho fiat, est ex Ecclesiae institutione necessaria, ita ut si desit, reddatur matrimonium irritum; at vero solemnitatem essentialem matrimonii nemo negabit iure Divino naturali; ea enim consistit in traditione mutuae corporum: Quae anxius positionis Concilii Trident. sufficiat ad valorem matrimonii. Haec responsio colligitur apud D. Bonavent.* loc. cit. in corpore.

16 Sanchez *loc. cit. de matrimonio, num. 2.* strives to refute this answer thus, because Boniface VIII deduces from it that only two vows annul marriage; for since the nature of a solemn vow depends on the sole institution of the Church, and the Church admitted that a vow made in Profession and in Order is solemn, therefore the solemn vow is only twofold; which reasoning would collapse if it were understood of a merely accidental solemnity; for that thing was not to be defined from accidents.

> *Sanchez* loc. cit. de matrimonio, num. 2. *hanc responsionem sic refellere nititur, quia Bonifacius VIII. ex eo deducit, duo tantum vota solemnia irritare matrimonium, quia enim ex solius Ecclesiae institutione pendet voti solemnis natura, et Ecclesia admisit, ut solemnfe votum emissum in Professione, et Ordine, ideo tantum est duplex votum solemne, quae ratio corrueret, si intelligeretur de solemnitate tantum accidentali; non enim ex accidentibus res illa definienda erat.*

17 Yet this answer is blunted by the example brought forward of marriage; for even the Council of Trent annuls marriages lacking that accidental solemnity superinduced, because that solemnity was added as necessary thereafter; and therefore it does not stand in the manner of an accident. It is enough, therefore, if it be deduced thus: Because there are only two vows solemn according to the decrees of the Church; therefore according to the same decrees we will that they annul marriage. Nay, I urge: If he defined that by force of solemn vows marriage is annulled, whose bond is of the law of nature, because essential vows are by ecclesiastical law alone, essentially it would follow that the reasoning of the Pontiff is weakened, and that from a mere impediment of ecclesiastical law the annulment is introduced of a thing which is of the law of nature. I know that the reasoning is not drawn from there: for since marriage is also a contract, it can be compelled to certain necessary conditions, by whose failure it becomes annulled. So from the defect of the Church's solemnity it is

annulled newly by the Council of Trent, although before it was valid, just as it is also valid in places where the Holy Council has not been received.

> *Haec tamen responsio retunditur exemplo allato matrimonii; nam etiam Concil. Trident. irritat matrimonia carentia ea solemnitate accidentali superinducta, quia solemnitas illa apposita est, ut deinceps necessaria; et ideo non se habet ad modum accidentis. Satis ergo est, si sic deducatur: Quia sunt tantum duo vota, iuxta decreta Ecclesiae solemnia; ideo iuxta eadem volumus ea esse irritantia matrimonium. Imo urgeo: Si ex vi votorum solemnium irritum esse matrimonium definiret, cuius vinculum est de iure naturae, eo quod vota essentialia sint Ecclesiastico iure solo, essentialiter sequeretur infirmari rationem Pontificis, et induci ex iuris Ecclesiastici mero impedimento irritationem rei, quae est de iure naturae. Scio, inde non proferri rationem: nam cum matrimonium sit etiam contractus, potest illud ad aliquas conditiones necessarias cogere, quibus deficientibus irritum fiat. Sic ex defectu Ecclesiae solemnitatis irritatur a Concilio Tridentino nouiter, licet antea validum esset, sicuti etiam validum est in locis, ubi Sanctum Concilium non est receptum.*

18 *MORE FORCEFULLY*, therefore, the Pope will argue: A solemn vow is such essentially by natural Divine law, and this is twofold: Therefore it will suffice for annulling the contract of marriage if it is introduced.

> VALIDIUS *ergo Papa arguet: Votum solemne est tale essentialiter ex iure Divino naturali, et hoc est duplex: Ergo sufficiens erit ad contractum matrimonii irritandum induci.*

19 Vasquez brings forward other arguments *loc. cit. from num. 14. up to 18.* in order to make the opinion seated in these decrees immovable; but with peace to all, let it be only probable.

> *Alia adducit Vasquez* loc. cit. a num. 14. usque ad 18. *ut his decretis sitam sententiam immobilem reddat; at pace omnium, sit probabilis tantum.*

20 *PROVED* third from Sanchez *lib. 5. de variis, cap. 1. num. 6.*, because although in the vows of poverty and chastity that transfer of dominion takes place, and the incapacity for marriage; yet in the vow of obedience it is not present; for after the vow he can still freely will and do many things, and against the precept of the superior: here the just man, lest he vow, or do an act for another, can still act validly. Similarly the vow of the Minims concerning the forty-day fast is at the same time solemn, although in this there is not given that handing-over depriving of dominion, even with the contrary faculty of acting validly.

> PROBATUR *tertio a Sanchez* lib. 5. de variis, cap. 1. num. 6. *quia licet in votis paupertatis, et castitatis ea dominii translatio fit, et inhabilitas ad matrimonium; at in voto obedientiae non adest; nam post votum adhuc multa potest libere velle, et facere, et contra superioris praeceptum: hic iustus ne voveat, vel pro alio factum faciat, potest adhuc valide agere. Similiter votum Minimorum de vita quadrag. simul est solemne, cum tamen in hoc non detur haec traditio privans dominium, etiam facultate contrarium valide faciendi.*

21 This reasoning is weak, for the Pontiff argues (and deservedly) the annulment of marriage from the solemn vow insofar as it is a handing-over of dominion, implicated with the conjugal handing-over; but we are invited in vain to this handing-over of the Minims as regards Lenten foods, and the vow of obedience in certain things: yet it is necessary that liberty be present even in other things implicated with the law of matrimony.

> *Haec ratio est infirma, nam Pontifex arguit (et merito) irritationem matrimonii ex voto solemni prout est traditio dominii, implicantis cum traditione coniugali; ad hanc vero frustra veniamur traditionem Minimorum, quoad cibos quadragesimales, et votum obedientiae in quibusdam rebus: oportet tamen, ut libertas adesset, etiam in aliis implicantibus cum iure matrimonii.*

22 *PROVED* fourth from Sanchez. No handing-over can naturally annul marriage even if it be the greatest (except the bond of a preceding marriage still subsisting). It is proved; for servitude, which is the greatest of all handings-over, does not impede a future marriage.

> PROBATUR *quarto a Sanchez. Nulla traditio naturaliter potest irritare matrimonium etiam si maxima sit (excepto vinculo praecedentis matrimonii adhuc subsistentis.) Probatur; nam servitus, quae maxima omnium traditionum est, non impedit matrimonium futurum.*

23 This reasoning is weak, as D. Bonaventure has it *in 4. d. 38. art. 1. quaest. 3. in corpore.* For servitude consists only in the service of the body with respect to those things which regard the remainder for the Lord,[2], and it includes neither the will, nor cohabitation with the wife, if he has one to serve: Therefore servitude is not the greatest handing-over, as Sanchez himself admits in the *summa, lib. 4. cap. 15.*; which is proved from himself, for the spouse can annul all the vows of the wife (according to him:) but not so the Lord; the reason of the thing is, because the power of dominion, which the slave handed over, is less than others, and it requires at least some services of the body, owed to the Lord: but the vow of religion in many things obliges to subjection, as is clearer than the noonday light: even if in some respect servitude goes before in having something of one's own, which the religious cannot have.

2 Editor's note: the print/OCR reads 'in corporis servitio quo ad ea, quae Domino reliquium respiciunt ... serviti ratio ems est'; the passage is garbled in the print itself — rendered from context as 'with respect to those things which regard the remainder for the Lord ... the reason of the servitude is'

> *Haec ratio est infirma, ut habet D. Bonavent.* in 4. d. 38. art. 1. quaest. 3. in corpore. *Nam servitus solum in corporis servitio quo ad ea, quae Domino reliquium respiciunt, consistit, nec includit voluntatem, nec cohabitationem cum uxore, si habeat ad obsequendum: Itaque servitus non est maxima traditio, ut fatetur ipse Sanchez in* summa, lib. 4. cap. 15. *quid probatur ab ipso, nam coniux potest uxorfs vota omnia irritare (secundum ipsum:) at non sic Dominus, serviti ratio ems est, quia potestas dominatiua, quam traditus est seruus, est minor aliis, et saltim aliquas corporis ministeria requirit, Domino debita: at votum religionis in pluribus obligat subiectioni, ut luce clarius patet meridiana: esto in aliquo seruitus praecedat in habendo aliquid proprii, quod religiosus non potest habere.*

24 *PROVED* fifth from Sanchez, because one vowing poverty is not by its nature made deprived of the dominion of his goods, nor incapable of acquiring dominion; for it is not any donation with another accepting; therefore it comes from the law of the Church.

> PROBATUR *quinto a Sanchez, quia vovens paupertatem, non redditur ex natura sua privatus dominio suarum facultatum, nec inhabilis ad acquirendum dominium, non enim sit donatio aliqua acceptante alio, ideo ex Ecclesiae iure venit.*

25 *IT IS ANSWERED*, that it comes from the very law of the vow, whereby it passes to the Prelate holding the place of God under the common life; but wherever the goods are diverted, it matters nothing; therefore, with ecclesiastical law set aside, dominion has been transferred by the very vower, at least to the heirs ab intestato.

> RESPONDETUR, *venire ex ipso iure voti, quo Praelato, sub vita communi vices Dei tenenti, cedat; quocumque vero deuoluantur bona, nil refert, ideo, secluso iure Ecclesiastico, translatum est ab ipso vovente dominium, saltem ad haeredes ab intestato.*

26 Add, that testimonies intervene, which proceed from the counsel of God: *Go, sell, etc.*

Adde, accedere testamenta, quae ex Dei consilio procedunt: Vade, vende, etc.

27 PROVED sixth from *Sanchez loc. cit.*, at least with respect to marriage, that the vower is not rendered solemnly incapable, because the will of any private person can be revoked by the same person through another contrary will, because the incapacity, being revoked, ceases: Therefore that incapacity does not come from the law of nature. It is confirmed; for by the ancient law it is probable that the professed had the dominion of certain goods, as *Ribad., Vasquez, and Azorius* prove at length. But these things are far weaker, for it is false that every handing-over (donation and conjugal handing-over excepted) can be validly revoked, human law being removed. But if that were true, even a dispensation by the Pontiff, given without cause in vows, especially of religion, would be valid; for the Pope could take away the annulment of human law, since he presides over all ecclesiastical constitutions, as *D. Bonavent. loc. cit. in corpore.* notes. Why then, with the religious himself willing, and the Church consenting, is the liberation from vows invalid, unless because, since dominion is transferred to God through the vows of poverty, chastity, and obedience, it cannot be validly revoked by the sole will of the vower, as *Sanchez lib. 4. summa, cap. 45.* proves.

PROBATUR sexto a Sanchez loc. cit. *saltem respectu matrimonii, non reddi voventem solemniter inhabilem, quia voluntas cuiusvis personae privatae revocari potest ab eadem persona per aliam contrariam voluntatem, quia revocata cessat inhabilitas: Ergo illa inhabilitas non venit ex iure naturae. Confirmatur; nam iure antiquo probabile est professos habuisse aliquorum bonorum dominium, ut late probant* Ribad. Vasquez, et Azorius. *At haec multo imbecilliora sunt, nam falsum est, omnem traditionem (dempta donatione, et traditione coniugali) posse valide revocari, sublato iure humano. Quod si verum esset, valida esset etiam dispensatio a Pontifice, lata absque causa in votis, maxime religionis; posset enim Papa tollere iuris humani irritationem, cum Ecclesiasticis omnibus constitutionibus praesit, ut notat* D. Bonavent. loc. cit. in corpore. *Quare ergo volente ipso religioso, et Ecclesia consentiente, invalida est liberatio a votis, nisi quia, cum dominium transfertur ad Deum per vota paupertatis, castitatis, et obedientiae, non potest valide ex sola voluntate voventis revocari, ut probat* Sanchez lib. 4. summa, cap. 45.

28 BUT that otherwise it would not be an entire handing-over of the dominion of temporal goods is frivolous, as is had in all the rules of the Patriarchs, and is gathered from *4. Actuum Apostolorum* cited. Nay, by the ancient law no clerics were permitted to have anything of their own, as *D. Bonavent. ad caput 1. Regulae, §. fine proprio.* notes.

QUOD vero alias non esset omnimoda traditio dominii rerum temporalium, frivolum est, ut habetur in omnibus Patriarcharum regulis, et colligitur ex 4. Actuum Apostolorum *citato. Imo iure antiquo nullis clericis licebat habere proprium, ut notat* D. Bonavent. ad caput 1. Regulae, §. fine proprio.

29 The same is PROVED also *d. 25. septimi de matrimonio*, first from *cap. unico de voto*, to which I answered.

PROBATUR idem etiam d. 25. septimi de matrimonio primo ex cap. unico de voto, *cui respondi.*

30 THEN because *Caelestinus III. cap. rursus, qui clerici, vel vou.* says: *A simple vow obliges no less before God than a solemn one.*

DEINDE quia Caelestinus III. cap. rursus, qui clerici, vel vou. *ait:* Votum simplex non minus apud Deum obligare, quam solemne.

31 IT IS ANSWERED, that he is then answering the case in which someone had vowed chastity and afterwards had sworn to take a certain girl as wife: whether the oath was valid.

RESPONDETUR, eum tunc respondere casui, quo quis voverat castitatem, et postea iuraverat puellam quamdam accipere uxorem: an iuramentum esset validum.

32 But he answers that it is evil, and he imposes penance, because the vow is a promise owed to God, just as the solemn one, and in this the oath can render both void, after it has been made. Therefore that (*no less*) signifies a comparison as it were proportional, so that nevertheless by its nature the solemn vow is the greater bond; which is proved, for he immediately adds: *If he has hastened to these nuptials, he says the marriage is valid, because a simple vow impedes a marriage from being contracted, but does not dissolve a contract:* Where note, the Pontiff says in the same way, A simple vow obliges before God, even if afterwards the contrary is sworn, just as the solemn vow also obliges, that is, by its nature; and to subjoin: the simple vow does not annul, just as the solemn one annuls, that is, by its nature; otherwise the Pontiff would not have spoken soundly.

*RESPONDET autem, esse malum, et imponit poenitentiam, quia votum est promissio Deo debita, sicut et solemne, et in hoc utrumque evacuare potest iuramentum, post emissum. Itaque illud (*non minus*) sonat comparationem velut proportionalem, ita ut natura sua tamen solemne sit maius vinculum, quod probatur, nam statim subdit:* Si his ad nuptias convolavit, dicit, valere matrimonium, quia votum simplex impedit matrimonium contrahendum, non autem dirimit contractum: *Ubi nota, eodem modo Pontificem dicere, Votum simplex obligare coram Deo, etsi postea, iuretur contrarium, sicut obligat etiam solemne, idest, natura sua, et subdere; votum simplex non irritare, sicut irritat solemne, idest, natura sua; alioquin Pontifex non solide locutus esset.*

33 He PROVES third, because before the times of *Caelestinus III. cap. Rursus cited: and of Alexander III. cap. insinuante and cap. meminimus, same title.* no mention of a simple and solemn vow was heard of in the Church. Wherefore *D. Augustinus Psal. 75.*, recounting the species of vows, does not mention this one. Nor *Hugo serm. 53. de Instit. Monast. and lib. 2. de Sacramentis, parte 12.*, where he only speaks of a vow secret and public. That *S. Theodorus Archiepiscopus Cantuariensis*, who flourished in the year 690, mentions a simple vow, as it is reported *cap. si vir, 27. dist.*, seems to be something added by someone, since it is not had in *cap. si quis votum, 27. quaest. 1.*, where the same chapter is reported. Whence it is a sign that a mere institution of the Church imposed this distinction. *It is confirmed,* because in ancient times this form of profession did not exist, and it was invented by the Church.

PROBAT tertio, quia ante tempora Caelestini III. cap. Rursus citato: et Alexandri III. cap. insinuante et cap. meminimus, eodem tit. *non est in Ecclesia audita mentio voti simplicis, et solemnis. Quare* D. Augustinus Psal. 75. *votorum species recensens hanc non memorat. Nec* Hugo serm. 53. de Instit. Monast. et lib. 2. de Sacramentis, parte 12. *ubi solum dicit votum in occultum, et publicum. Quod* S. Theodorus Archiepiscopus Cantuariensis*, qui floruit anno 690. meminit voti simplicis, ut refertur* cap. si vir, 27. dist. *videtur id additum ab aliquo, cum id non habeatur* cap. si quis votum, 27. quaest. 1. *ubi idem caput refertur. Unde signum est, meram Ecclesiae institutionem id discrimen apposuisse.* Confirmatur*, quia antiquitus non erat haec professionis forma, et fuit inventa ab Ecclesia.*

34 IT IS ANSWERED, that he has nothing firm; for the gloss on a simple vow was added in *cap. si vir*, where the whole canon is recited; but *cap. si quis votum* refers itself to the Canon *Si vir*, and only begins: *Si quis votum virginitatis habens, etc.*, referring itself to the said chapter *si vir*, that it be a simple vow, as the marginalist and the Gloss note; therefore nothing to the point against the first opinion; nay, I refute it: the solemnity of the vow, which is from the institution of the Church, is added by Boniface VIII, who died in the year 1303, and reigned after S. Caelestinus V, who died in 1294;

wherefore before that another essential solemnity was given, annulling marriage. Nor may you say that Boniface supposes it to be already so; for this is found nowhere.

> *RESPONDETUR, nil firmum habere; nam appositum nota voti simplicis in* cap. si vir*, ubi integer canon recitatur; at* cap. si quis votum*, remittit se ad Canonem,* Si vir*, et solum incipit:* Si quis votum virginitatis habens, etc. *remittens se ad dictum caput* si vir*, quod sit votum simplex, ut notat marginista, et Glossa, ideo nil ad rem contra primam sententiam; imo redarguo: solemnitas voti, quae est ex institutione Ecclesiae, apponitur a Bonifacio VIII. qui obiit anno 1303. et regnavit post S. Caelestinum V. qui obiit 1294. quare antea alia solemnitas essentialis dabatur, irritans matrimonium. Neque dicas, Bonifacium supponere iam ita esse; nusquam enim hoc reperitur.*

35 AS TO the profession indeed, it is established from the rules of the Saints, Benedict, Augustine, Pachomius, Basil, that the same solemnity existed essentially, even if something of the words has been changed.

> *QUOAD professionem vero, constat ex regulis Sanctorum, Benedicti, Augustini, Pachomii, Basilii, eandem essentialiter solemnitatem extitisse, esto aliquid verborum immutatum sit.*

36 PROVED fourth, because the Church could decree that solemn vows should not annul marriage.

> *PROBAT quarto, quia posset Ecclesia decernere, ut vota solemnia non irritarent matrimonium.*

37 IT IS ANSWERED, by denying it; nor does Sanchez, at any rate, or anyone else prove it; nay, Sanchez himself admits it below *in the answer to the argument from cap. Cum ad monasterium.*

> *RESPONDETUR, negando id, nec Sanchez at vel alius probat, imo id fatetur Sanchez infra in* responsione ad argumentum ex cap. Cum ad monasterium.

38 PROVED fifth, if someone, deceived, should vow solemnly in a religion not approved by the Church, he can, not being bound by those vows, [marry], the subsequent marriage, as is gathered *from cap. unico de voto, in 6.*

> *PROBAT quinto, si aliquis deceptus voveat solemniter in religione, non approbata ab Ecclesia, possit non solute ea vota matrimonium subsequens, ut colligitur* ex cap. unico de voto, in 6.

39 IT IS ANSWERED, that it does not prove; for the promise must be made to someone deputed in the name of God: but a prelate not legitimate is not deputed by God, nor indeed does one hand himself over as a slave to God, beating the air, as Sanchez supposes *in the confirmation*, but to someone acting in the place of God.

> *RESPONDETUR, non convincere; nam promissio debet fieri alicui nomine Dei deputato: at Praelatus non legitimus non est deputatus a Deo, neque vero se tradit in mancipium Deo, aërem verberans, ut supponit Sanchez* in confirmatione*, sed alicui vices Dei gerenti.*

40 PROVED sixth, because someone could hand himself over to God, transferring the dominion of his own will, and yet it will not be a vow of religion.

> *PROBAT sexto, quia posset aliquis se Deo tradere, transferendo dominium suae voluntatis, et tamen non erit votum religionis.*

41 IT IS ANSWERED, that for the solemnity of the vow there is required the foundation of a perfect handing-over of all things, especially of obedience to a man, which should not be to God alone, to whom we are always bound.

RESPONDETUR, ad solemnitatem voti requiri fundamentum traditionis perfectae omnium rerum, praecipue, obedientiae homini, quae non sit soli Deo, cui semper tenemur.

42 One vowing chastity and afterwards fornicating sins; but he who vows to enter religion in the future does not sin by sacrilege; the reason is, because the former has already handed himself over to God; the latter not yet: Therefore in the simple vow there is a handing-over, and it does not differ in this from the solemn one.

Vovens castitatem, et postea fornicans, peccat; at qui vovit de futuro religionem ingredi, sacrilegio non peccat; ratio est, quia ille iam se tradidit Deo; hic vero non adhuc: Ergo in voto simplici est traditio, et non differt in hoc a solemni.

43 IT IS ANSWERED, that there is some handing-over in the vow of chastity, but not an adequate one, as I shall say below; nor of the whole of life, whence it is not to the point; nor should religion be understood as endowed with a single vow, since three are necessary for it. Moreover let there be a handing-over under some man, in the name of God; yet the obligation is still of Divine law; for that man is not the Lord of this vower by human law. By this the way is open to the rest.

RESPONDETUR, aliquam esse traditionem in voto castitatis, sed non adaequatam, ut infra dicam; neque vitae totius, unde non est ad rem; neque religio debet accipi praedita unico voto, cum tria sint ad eam necessaria. Praeterea sit traditio sub aliquo homine, nomine Dei; obligatio tamen adhuc est iuris Divini; non enim iure humano sit ille Dominus huius voventis. Per hoc patet ad reliqua.

44 NAY, I argue from the ninth argument of Sanchez, where he proves the assertion from this, that Gregory XIII defines that the simple vows of the biennium in the Society of Jesus constitute a true religious. If those vows are newly decreed by the very ecclesiastical law, as the Pope admits, saying: *We ordain that the three vows of this kind, although simple, by the institution of this See, and by our declaration and confirmation also, are truly substantial vows of religion, and in the said society, as in a religion approved by the same See, have been admitted and are, and are admitted by us;* it follows therefore from ecclesiastical law that there is no difference, and that all are solemn; for the simple vows of the Society of Jesus have the same effect: therefore the difference must be found elsewhere.

IMo arguo ex nono argumento Sanchez, ubi probat assertionem ex eo, quod Gregorius XIII. definit vota simplicia biennii in Societate Iesu constituere verum religiosum. Si ex ipso Ecclesiastico iure decernuntur noviter ea vota, ut fatetur Papa, dicens: Statuimus tria vota huiusmodi, etsi simplicia, ex huius sedis institutione, ac nostra etiam declaratione, et confirmatione, esse vere substantialia religionis vota, ac in dicta societate, tanquam in religione approbata per sedem eandem admissa fuisse, et esse, ac per nos admitti; *sequitur ergo ex iure Ecclesiastico nullam esse differentiam et omnia esse solemnia; nam vota simplicia Societatis Iesu eundem effectum habent: oportet ergo aliunde invenire differentiam.*

45 He proves 10. A handing-over and a promise are contraries; but a solemn vow is a promise made to God; therefore it is not a handing-over.

Probat 10. Traditio, et promissio sunt contraria; sed votum solemne est promissio Deo facta; ergo non est traditio.

46 This argument is frivolous; for it is called a promise with respect to the whole future life, to be led to that service; it is called a handing-over with respect to the present donation, which therefore has a promise joined to it, because the handing-over could be for the present.

Hoc argumentum frivolum est; dicitur enim promissio, quoad totam vitam futuram, eo obsequio ducendam; dicitur traditio, quoad praesentem donationem, quae ideo habet adiunctam promissionem, eo quod traditio posset esse pro nunc.

47 PROVED eleventh, because the handing-over has the character of genus in the solemn vow; but the circumstances imposed by the Church the character of difference; but a thing has its being not from the genus, but from the difference: Therefore the solemn vow has its being from the ecclesiastical circumstances.

> *PROBAT undecimo, quia traditio habet rationem generis in voto solemni; at circumstantiae ab Ecclesia impositae rationem differentiae; sed res non a genere, sed a differentia habet esse: Ergo votum solemne ab Ecclesiasticis circumstantiis habet esse.*

48 SURELY a FUTILE argument, begging the question; for this is the very thing to be proved, since the adversaries say that the ecclesiastical solemnities have only the character of an accident.

> *FUTILE sane argumentum petens principium; hoc enim est, quod erat probandum, cum adversarii dicant, Ecclesiasticas solemnitates habere tantum rationem accidentis.*

49 LASTLY he proves. A solemn oath differs from a simple one only because it has a certain formula prescribed by law: Therefore also the vow.

> *ULTIMO probat. Iuramentum solemne differt a simplici solum, quia habet formulam quandam iure praescriptam: Ergo et votum.*

50 IT IS ANSWERED, by denying the parity; indeed, in this way he would prove that a public and a private vow are the same thing; but the solemn one exhibits more, and more perfectly, than the private one.

> *RESPONDETUR negando paritatem, hoc sane sic idem esse probaret et votum publicum, et privatum; at solemne exhibet plura, et perfectius, quam privatum.*

51 I ASSERT second, that the former opinion is not to be disapproved.

> *ASSERO secundo, non esse priorem opinionem improbandam.*

52 It is PROVED from D. Bonaventure *loc. cit.: Whatever things are of ecclesiastical law can be changed and dispensed by the Church; but in the solemn vow the Church cannot probably dispense for marriage, as Sanchez admits lib. 8. de matrimonio, d. 8. num. 5.* Therefore the major is evident, and granted by all.

> *PROBATUR a D. Bonavent.* loc. cit. Quaecumque sunt de iure Ecclesiastico, possunt ab Ecclesia immutari, et dispensari; sed in voto solemni non potest probabiliter Ecclesia dispensare ad matrimonium, ut fatetur Sanchez lib. 8. de matrimonio, d. 8. num. 5. *Ergo maior est evidens, et ab omnibus concessa.*

53 The minor is proved from *cap. cum ad Monasterium toward the end of de statu Monachorum, where it is had: The keeping of chastity is so closely annexed to the Monastic rule that not even the Supreme Pontiff can grant a dispensation against it.*

> *Minor probatur ex* cap. cum ad Monasterium ad finem de statu Monachorum, ubi habetur. Custodia castitatis, adeo adnexa est regulae Monasticae, ut contra eam nec summus Pontifex possit licentiam indulgere.

54 Innocent answers there *num. 31.*, the Cardinal *num. ultimo.*, Durandus in *4. d. 28. quaest. 2.*, Pelagius *de planctu Ecclesiae, lib. 1. art. 46.*, that the text says advisedly that the Pope cannot give a dispensation, and does not speak of dispensation, as if it said that he cannot at will and without just cause.

Respondet ibi Innocentius num. 31. *Cardinalis* num. ultimo. *Durandus in* 4. d. 28. quaest. 2. *Pelagius* de planctu Ecclesiae, lib. 1. art. 46. *consulto textum dicere, non posse Papam dare licentiam, et non loqui de dispensatione, quasi dicat non posse ad libitum, et absque causa iusta.*

55 CONTRA, because, as the Abbot notes there, "licentia" comes from *licet*, which implies a just cause and a consistent reason, as with Bartolo *leg. aliam, num. 8. ff. de alim. et cibar. and* as others hand down, Menochius *de arbitr. lib. 1. quaest. 8. num. 45.*, Naevo *cap. 1. num. 110. de constit.*

CONTRA, quia, ut notat Abbas ibi, licentia venit a licet*, quod importat causam iustam, rationemque consentaneam, ut cum Bartolo* leg. aliam, num. 8. ff. de alim. et cibar. et *aliis tradunt Menochius* de arbitr. lib. 1. quaest. 8. num. 45. *Naevo* cap. 1. num. 110. de constit.

56 The Abbot answers there that the Pontiff cannot dispense easily with a cause; or cannot dispense, by changing into another good more acceptable to God.

RESPONDET Abbas ibi, non ex facili causa Pontificem dispensare posse; vel non posse, commutando in aliud bonum magis Deo acceptum.

57 But this answer does not please Sanchez himself. The reason may be, because the text is absolute.

At haec responsio non placet ipsi Sanchez. Ratio esse potest, quia textus absolutus est.

58 Bartholomaeus Socinus *consil. 91. num. 1. vol. 1.*, Richardus in *4. d. 38. art. 9. quaest. 1.*, Durandus *loc. cit.*, Paludanus *quaest. 4. art. 4. concl. 11.*, Caietanus *2. 2. quaest. 88. art. 11. and in opuscul. tom. 1. tit. 27. quaest. unica.*, Palud. *dist. 3. quadrupl.*, Azorius *lib. 11. Instit. moral. cap. 7. quaest. 1.*, Valentia *2. 2. d. 6. quaest. 6. puncto 7.*, Sanchez *lib. 8. de matrim. d. 8. num. 12.* ANSWER that the Pope cannot dispense a Monk in chastity in the composite sense, so that he takes a wife, remaining in the Monastic state, because it is against the essence of the Monastic state.

RESPONDENT Bartholomaeus Socinus consil. 91. num. 1. vol. 1. *Richardus in* 4. d. 38. art. 9. quaest. 1. *Durandus* loc. cit. *Paludanus* quaest. 4. art. 4. concl. 11. *Caietanus* 2. 2. quaest. 88. art. 11. et in opuscul. tom. 1. tit. 27. quaest. unica. *Palud.* dist. 3. quadrupl. *Azorius* lib. 11. Instit. moral. cap. 7. quaest. 1. *Valentia* 2. 2. d. 6. quaest. 6. puncto 7. *Sanchez* lib. 8. de matrim. d. 8. num. 12. *Non posse Papam dispensare in castitate Monachum in sensu composito, ut sumat uxorem, manens in statu Monachali, quia est contra status Monastici essentiam.*

59 Sanchez ADDS another answer, that the Pope speaks in a kind of hyperbole; for since the Abbot wished it to be entirely within his power to dispense a Monk in retaining property, the Pope argues from the lesser to the greater; as if saying: Scarcely is there in me the power of dispensing, and it is greatly disputed; by what reasoning, then, do you usurp it to yourself?

ADDIT Sanchez aliam responsionem, Papam loqui quadam hyperbole; quia enim Abbas volebat sibi integrum esse dispensare Monachum in proprietate retinenda, arguit Papa a minori ad maius; quasi dicens: Vix mihi potestas est dispensandi, atque de ea magnopere controvertitur. Qua ergo ratione eam tu tibi usurpas?

60 TRUE, as the Gloss notes there, the Pope defines his opinion not hyperbolically; but seriously, and concluding adequately: Nor let the Abbot judge that he can dispense with any Monk in holding property, because the abdication of property, just like the keeping of chastity, is so closely annexed to the Monastic rule that not even the Supreme Pontiff can grant a dispensation against it. But the reason of the Gloss is that which D. Bonaventure gives in *4. d. 38. art. 2. quaest. 3. in corpore*, because

nothing worthy exists into which the state of solemn chastity could be changed, to which there is an allusion *Ecclesiast. 26: All weight is not worthy of the soul of the continent*, not because he could not be religious, for it is not at all established whether entire chastity is necessary for the religious state, as Sanchez admits *cap. 1. num. 17.*

> *VERUM, ut Glossa advertit ibi, Papa definit suam sententiam non hyperbolice; sed serio, et adaequate concludendo: Nec aestimet Abbas, quod super habenda proprietate possit cum aliquo Monacho dispensare, quia abdicatio proprietatis, sicut et custodia castitatis, adeo est adnexa regulae Monachali, ut contra eam nec summus Pontifex possit licentiam indulgere. Ratio autem Glossae est, quae est D. Bonavent. in* 4. d. 38. art. 2. quaest. 3. in corpore*, quia nil condignum est, in quod transmutetur status solemnis castitatis, ad quod alluditur* Ecclesiast. 26. Omnis ponderatio non est digna continentis animae*, non eo quod non possit esse religiosus, nam non omnino constat, an omnimoda castitas sit necessaria statui religioso, ut fatetur Sanchez* cap. 1. num. 17.

61 NOR is that case relevant, that the Abbot presumed to grant the Monks property; nor does the Pontiff rebuke him, but he hands down many things necessary for observance, as is clear to the reader of his works. These things I have said probably. Therefore probable is the opinion which S. Bonaventure does not dare to reprove, namely that the solemn vow, which indeed is not such insofar as it is public, as some would have it, unless perhaps Hugo *lib. 1. and* others employ the word "public" for "solemn" — certainly he knew solemn vows, as is clear to the reader of his works. The vow, I say, is solemn differing by its nature from the simple one; that it is solemn is a translation of the dominion of the vower into the hands of the one accepting in the name of God, who accepts it, so that from this he is rendered incapable of transferring the same dominion to another by revoking it from the first legitimate possessor through marriage: but in the simple vow dominion is not transferred perfectly to God, but only as regards the non-use of venereal acts, therefore it can be validly transferred through marriage.

> *NEQUE casus ille refert, Abbatem praesumpsisse concedere Monachis proprium; nec Pontifex eum redarguit, sed multa ad observantiam necessaria tradit, ut patet legenti eius opera. Haec probabiliter dixi. Probabilis igitur est sententia, quam S. Bonavent. non audet reprobare, nempe votum solemne, quod quidem non est tale in quantum est publicum, ut aliqui voluere, nisi forte Hugo* lib. 1. et *alii nomen publice pro solemni adhibent, certe enim vota solemnia noverat, ut patet legenti eius opera. Votum inquam solemne est natura sua differens a simplici; quod solemne sit translatio dominii voventis in manus acceptantis nomine Dei, qui acceptat illud, ita ut hinc reddatur inhabilis, ut idem dominium transferrat in aliud revocando a primo possessore legitimo per matrimonium: at in voto simplici non transfertur perfecte dominium in Deum, sed solum quoad non usum venereorum, ideo potest transferri valide per matrimonium.*

62 SIMILARLY in the solemn vow man is bound to man and to God at the same time, just as also in marriage; therefore there is an equal obligation on both sides, and an equal obligation does not dissolve the bond of the obligation of peace; therefore the obligation of the solemn vow cannot be broken by the supervening bond of marriage, but not so the simple one, which promises to God alone.

> *SIMILITER in voto solemni homo homini, et Deo simul obligatur, sicut etiam in matrimonio, ideo est par utrobique obligatio, et par obligatio non solvit vinculum pacis obligationis, ideo obligatio voti solemnis non potest infringi per superveniens vinculum matrimonii, non sic autem simplex, quod soli Deo spondet.*

63 HENCE I seem to elicit some reason why Caelestinus III, *cap. Rursus, qui clerici, vel voventes*, defining that he who, after a simple vow of chastity, had sworn marriage to a girl is not bound to keep that oath, although it seemed a promise was made to God and to man, brings forward as the reason that a

simple vow obliges before God no less than a solemn one; as if he said: The solemn vow is a promise made not only to God, but to men; therefore in this respect I compare the obligation of these vows only before God, for in the other respect the solemn vow excels; but the promise of the oath, made to that woman, is posterior, and inferior, to the promise made to God; nor could that other legitimate promise be made to God on any other foundation through that oath; he adds, nay rather it is an injury; therefore it does not stand, nor subsist.

> *HINC videor rationem aliquam elicere, cur Coelestinus III.* cap. Rursus, qui clerici, vel voventes; *definiens, eum, qui post votum simplex castitatis iuraverat puellae matrimonium, non teneri servare illud iuramentum, licet videretur facta promissio Deo, et homini, adducat pro ratione, quod simplex votum apud Deum non minus obliget quam solemne, quasi dicat: Votum solemne est promissio facta non solum Deo, sed hominibus, ideo in hoc comparo obligationem votorum istorum tantum coram Deo, nam in altero votum solemne praecellit; promissio vero iuramenti, facta mulieri illi, posterior, et inferior est promissione facta Deo; neque potuit fundamento aliquo alia legitima promissio fieri Deo per illud iuramentum; addit, imo potius iniuria, ideo non valet, nec subsistit.*

64 I gather THE SAME difference of vows from *cap. meminimus, same title,* where the Pontiff defines: *If anyone who has devoted himself to religion, and has made profession with the habit received, afterwards joins himself to some woman, he is compelled to withdraw from her, and to pass to the Church to which he applied himself without contradiction. But if he has received neither the habit, nor made the profession, but has only made a vow, and promised that he would pass to religion: Although he afterwards contracted marriage, he is not compelled to pass to religion and to rescind the marriage vow.*

> *EANDEM differentiam votorum colligo ex* cap. meminimus, eodem titulo*, ubi Pontifex definit:* Si quisquam, qui se religioni devovit, et habitu suscepto professionem fecit, postmodum sibi aliquam copulaverit, est cogendus ab ea recedere, et ad Ecclesiam, cui se contulit sine contradictione transire. Verum si nec habitum suscepit, nec professionem, sed votum solummodo fecit, et se ad religionem transiturum promisit: Licet postea matrimonium contraxerit, non est co- *gendus ad religionem transire, et matrimoniale votum rescindere.*

65 HERE the Pontiff clearly gives the reason of S. Bonaventure why the solemn vow, but not the simple vow, annuls marriage, namely because the solemn vow is by its nature the greater bond, namely a handing-over of the man made to God, but the simple vow is a promise to God alone. The same is intimated in *cap. insinuante, same title.*

> *HIC Pontifex clare dat rationem S. Bonavent. cur votum solemne, non autem votum simplex, irritet matrimonium, nempe, quia votum solemne est natura sua maius vinculum, scilicet traditio hominis Deo facta, at votum simplex est promissio soli Deo. Idem innuitur* cap. insinuante, eodem titulo.

66 NOW indeed the best reason is had for the first opinion, which D. Bonaventure seems to embrace. However much two things are equal: one does not act upon the other, as is had in sound Philosophy, but action must be upon an unequal inferior: but the bond of marriage and of religion are equal, for each hands itself over to God and to man; but the vow of chastity is an unequal inferior, because it is a handing-over to God alone: Therefore marriage cannot act to dissolve the bond of the solemn vow of religion, and it can act upon the simple vow. These things I would say, because the adversaries say that no reason is found for this opinion; but only that doctrine concerning the handing-over.

> *IAM vero optima ratio habetur pro sententia prima, quam videtur amplecti D. Bonavent. Quamdocumque duo paria sunt: alterum non agit in alterum, ut in bona Philosophia habetur, sed actio debet esse in impar inferius: at vinculum*

matrimonii, et religionis sunt paria, nam utrumque tradit se Deo, et homini; at votum castitatis est impar inferius, quia est traditio soli Deo: Ergo matrimonium non potest agere ad solvendum vinculum solemnis voti religionis, et potest agere in simplex votum. Haec dixerim, quia nullam aiunt adversarii pro hac sententia rationem reperiri; sed solam illam doctrinam de traditione.

Question II: Whether solemn vows are necessary to the religious state

1 RELIGION is commonly defined as *The state of men tending toward perfection, through chastity, poverty, and obedience.* It is gathered from D. Thomas 2. 2. last question, and D. Bonaventure *in the Diaeta, tit. 4. cap. 1. and in the exposition of the rule of the Minors.* And it is reported by Bellarmine *Tom. 2. lib. 2. de Monachis, cap. 1.*

RELIGIO communiter definitur Status hominum, ad perfectionem, castitate, paupertate, et obedientia tendentium. *Colligitur ex D. Thom. 2. 2. quaest. ultima, et D. Bonavent.* in Diaeta, tit. 4. cap. 1. et in expositione regulae Minorum. *Et refertur a Bellarmino* Tom. 2. lib. 2. de Monachis, cap. 1.

2 IT IS SUPPOSED, however, rather than what I would wish to prove from D. Bonaventure *in the Diaeta loc. cit.*, that for religion three vows are necessary, Chastity, by which the goods of the body are consecrated to God: Poverty, by which external goods; and obedience, by which the most precious good of the soul, namely the will, is consecrated to God. So it is had in *cap. cum ad Monasterium* related above. So D. Thomas *2. 2. last question, art. 3. 4. and 5.* Bellarmine *Tomo 2. lib. 2. cap. 9. and from cap. 20.* as I shall show in *quaest. 4.*

SUPPONO autem, magis, quam velim probare ex D. Bonavent. in Diaeta loc. cit. *ad religionem necessaria esse tria vota, Castitas, qua corporis bona Deo consecrantur: Paupertas, qua res extrinsecae; et obedientia, per quam pretiosissimum bonum animae, nempe voluntas, Deo consecratur. Ita habetur* cap. cum ad Monasterium *supra relato. Ita D. Thom.* 2. 2. quaest. ultima, art. 3. 4. et 5. *Bellarminus* Tomo 2. lib. 2. cap. 9. et a cap. 20. *ut ostendam* quaest. 4.

3 The REASON of D. Bonaventure *loc. cit. of the Diaeta, and of the rule,* is, because the state of religion is a way to perfection; and therefore those things must be removed which impede it most, namely dietetic pleasures, as the Apostle has, *first Timot. 6. The root of all evils is covetousness.* Chastity takes away venereal things, which tickle most with the itches of pleasure, and plunge into filth, and add the care of a household and of children: and obedience takes away one's own will, without which there would be no hell, as D. Bernard says *serm. 3. de resurrect. Domini* before the middle. These things D. Bonaventure, whom Sanchez imitates *lib. 5. cap. 1. num. 16.*

RATIO D. Bonavent. loc. cit. Diaetae, et regulae, *est, quia status religionis est via ad perfectionem; atque adeo ea debent amoveri, quae maxime impediunt, nempe diaetitiae, ut habet Apostolus,* prima Timot. 6. Radix omnium malorum est cupiditas. *Castitas aufert venerea, quae maxime delectationis pruritibus titillant, ac in foeditatem demergunt, et curam addunt familiae, atque filiorum: et obedientia aufert voluntatem propriam, sine qua non esset infernus, ut ait D. Bernardus* serm. 3. de resurrect. Domini *ante medium. Haec D. Bonavent. quem imitatur Sanchez* lib. 5. cap. 1. num. 16.

4 NOTE, as regards poverty, that it is enough if goods are so retained that they may not use them without the license of a superior. So Gregory XIII. *Extrau. Ascendente* de Biennalibus Religiosis Societatis Iesu.

NOTA quoad paupertatem, satis esse, si res adeo retineantur, ut non liceat eis uti absque superioris licentia. Ita Gregorius XIII. Extrau. Ascendente *de Biennalibus Religiosis Societatis Iesu.*

5 THESE, however, must be confirmed in some way, as D. Bonaventure teaches *loc. cit.* from D. Thomas *2. 2. last question, art. 6.* The reason is, because the state demands immobility.

HAEC autem necesse est, ut modo aliquo firmentur, ut docet D. Bonavent. loc. cit. *ex D. Thom.* 2. 2. quaest. ultima, art. 6. *Ratio est, quia status petit immobilitatem.*

6 MOREOVER it is required that the vows be emitted in a Religion approved by the holy Roman Apostolic See. This S. Doctor indicates *at the beginning of the exposition of the Rule,* and the Gloss *in Clem. cum ex eo, V. tertio, de sentent. excom.* Abbas *Rubr. de regul. num. 1. and others.*

PRAETEREA requiritur, ut vota emittantur in Religione approbata a sancta Sede Apostolica Romana. Hoc indicat S. Doctor initio expositionis Regulae, *et Glossa* in Clem. cum ex eo, V. tertio, de sentent. excom. *Abbas* Rubr. de regul. num. 1. et alii.

7 FINALLY it is required that the one vowing be constituted under the power of someone, which arises either from Ecclesiastical institution, or from the nature of the thing according to what was said in *quaest. 1.*

TANDEM requiritur, ut haec vovens constituatur sub alicuius potestate, quod vel ex Ecclesiastica institutione oritur, vel ex natura rei iuxta dicta quaest. 1.

8 WHAT is to be inquired here is, whether solemn vows are of the essence of Religion.

QUOD hic quaerendum est, an vota solemnia sint de essentia Religionis.

9 IT WAS the opinion of those saying that solemn vows are of the essence of Religion. So D. Thomas seemed to think *2. 2. last question, art. 2. ad 1.* The Gloss *cap. 1. verb. dedicanda de relig. domib.* D. Antonin. *3. part. tit. 16. cap. 3.* Sylvest. *votum 4. quaest. 5. and verb. religio beginning and 3.* Angelus *verb. religiosus,* Armilla *religio. and there.* Tabiena, Caietanus *2. 2. quaest. 188. art. 1. ad 4.* Sotus *lib. 7. de Iustitia, quaest. 5. art. 1. concl. 8.* Nauarr. *cap. non dicam 12. quaest. 1. num. 25.*

FUIT opinio dicentium, vota solemnia esse de essentia Religionis. Ita visi sunt sentire D. Thom. 2. 2. quaest. ultima, art. 2. ad 1. *Glossa* cap. 1. verb. dedicanda de relig. domib. *D. Antonin.* 3. part. tit. 16. cap. 3. *Sylvest.* votum 4. quaest. 5. et verb. religio initio et 3. *Angelus* verb. religiosus, *Armilla* religio. et ibi. *Tabiena, Caietanus* 2. 2. quaest. 188. art. 1. ad 4. *Sotus* lib. 7. de Iustitia, quaest. 5. art. 1. concl. 8. *Nauarr.* cap. non dicam 12. quaest. 1. num. 25.

10 BUT IN TRUTH already in our age the most holy Pope Gregory XIII. of his own motion declared, that the Biennials of the Society of Jesus, by mere simple vows, are religious, no less than the professed of any religion whatsoever: So all the Jesuit Fathers, and so it must be held.

ENIM vero iam nostra aetate sanctissimus Papa Gregorius XIII. motu proprio declaravit, Biennales Societatis Iesu, votis mere simplicibus esse religiosos, non secus, ac professos cuiuscunque religionis: Ita omnes PP. Iesuitae, et ita tenendum.

11 NEVERTHELESS, because so many holy and eminent Theologians must not be condemned, among whom is also D. Bonaventure *in 4. d. 38. art. 2. quaest. 1.* who acknowledge only the solemn vow of religion, and assert it to be distinct from the simple vow,

ATTAMEN, quia non sunt damnandi tot sancti, et proceri Theologi, inter quos est etiam D. Bonavent. in 4. d. 38. art. 2. quaest. 1. *qui solum votum solemne religionis agnoscunt, et a voto simplici diversum astruunt.*

12 IT MUST be noted with Caietanus *2. 2. quaest. 88. art. 7. col. 2.* that the state of Religion can be constituted by the Church in a simple vow, which however will not be from the nature of the thing, but from a privilege against the common law, as the most learned Sylvester shows *V. Privilegium* at the beginning. This I prove thus, point by point, against Sanchez.

OPORTET adnotare cum Caietano 2. 2. quaest. 88. art. 7. col. 2. *statum Religionis posse ab Ecclesia in voto simplici constitui, quod tamen non erit ex natura rei, sed ex privilegio contra ius commune, ut ostendit eruditissimus Sylvester* V. Privilegium *initio Hoc vero ita probo ad hominem contra Sanchez.*

13 Those things which by the ancient law were not such, and became such only after Ecclesiastical law, are not such by their nature, from Sanchez *disput. 25. of the seventh book de matrimonio, num. 2.* and proportionally they are not simply from Ecclesiastical law, if before, by Ecclesiastical law they were not such: but simple vows before the decree of Gregory XIII. did not constitute Religious, nor did they dissolve marriage, which was granted to the solemn vow alone *cap. unico de voto in 6.* Therefore they are not such from the nature of the thing, or simply from Ecclesiastical law, but from a new privilege.

EA quae iure antiquo non erant talia, et solum post ius Ecclesiasticum facta sunt talia, non sunt natura sua talia ex Sanchez disput. 25. septimi libri de matrimonio, num. 2. *et proportionaliter non sunt ex iure Ecclesiastico simpliciter, si ante, iure Ecclesiastico non erant talia: at vota simplicia ante decretum Gregorii XIII. non constituebant Religiosos, nec matrimonium dirimebant, quod soli solemni concessum erat* cap. unico de voto in 6. *Ergo ex natura rei, vel Ecclesiastico simpliciter non sunt talia, sed ex novo privilegio.*

14 Sanchez RESPONDS, that no law provided that no one should be a Religious without solemn vows, though those alone invalidate marriage. But this is disproved *by cap. minimus ubi qui Clerici, vel vou.* where the one vowing solemnly is compelled to the Monastery; but the one vowing with a simple vow is not compelled to pass over, as is certain, which is because he is not a Religious.

RESPONDET Sanchez, nullo iure fuisse cautum, ut nullus esset Religiosus absque votis solemnibus, licet ea sola irritarent matrimonium. At hoc probatur ex cap. minimus ubi qui Clerici, vel vou. *ubi vovens solemniter cogitur ad Monasterium; at vovens simplici voto non cogitur transire, ut certum est, id esse quia non est Religiosus.*

15 I prove the SAME *by cap. ex parte tua, de conuer. coniugat.* where it is had, that a certain woman, who was withdrawing from a ratified marriage, is compelled either to consummate the marriage, or to vow religion; nor is a private vow of chastity judged sufficient for this: Therefore a private vow does not make a Religious by the ancient law.

IDEM probo cap. ex parte tua, de conuer. coniugat. *ubi habetur, quod mulier quaedam, quae a matrimonio rato recedebat, cogitur vel matrimonium consummare, vel vovere religionem; nec ad hoc satis censetur votum privatum castitatis: Ergo votum privatum non facit Religiosum iure antiquo.*

16 THEREFORE since this privilege was given whole centuries after D. Bonaventure, for it was given in the year 1572, it is a sign that this is not to be said simply the common Ecclesiastical law, which before, with the contrary practice, persevered down to these times.

IGITUR cum hoc privilegium datum fuerit tot centurias post D. Bonavent. nam fuit datum anno 1572. signum est, hoc non esse dicendum simpliciter ius commune Ecclesiasticum, quod antea opposita praxi usque ad haec tempora

perseveravit.

17 WHENCE I do not see by what right Sanchez strikes terror *lib. 5. of the summa, cap. 1. num. 26.* lest anyone assert that simple vows constitute the state of Religion by a privilege alone, since never before the times of Gregory XIII. did it do so.

QUARE non video quo iure terrorem iniiciat Sanchez lib. 5. summae, cap. 1. num. 26. *ne quis asserat, vota simplicia ex solo privilegio constituere statum Religionis, cum nunquam ante tempora Gregorii XIII. id fecerit.*

18 Sanchez PRESSES, that Gregory defines these to be religious, no less than the others. Let them enjoy my good will: he does not say, *by the same law; but, no less,* which indicates a likeness. It is confirmed from Valentia *4. part d. 10. quaest. 5. puncto 3.* where he says, that the Biennials in the Society of Jesus are indeed truly religious, yet not in that perfect degree of the religious state, as the solemnly professed. Henriquez thinks the same *lib. 12. de matrim. cap. 5. num. 3. with the commentary joined, litt. N, and num. 6.*

INSTAT Sanchez, Gregorium definire, hos esse religiosos, non secus ac alios. Bona pace fruantur: non dicit, eodem iure; sed, non secus, *quod similitudinem indicat. Confirmatur ex Valentia* 4. parte d. 10. quaest. 5. puncto 3. *ubi dicit, Biennales in Societate Iesu esse quidem religiosos vere, non tamen in eo gradu perfecto status religiosi, sicuti professi solemnes. Idem sentit Henriquez* lib. 12. de matrim. cap. 5. num. 3. iuncto commento, litt. N, et num. 6.

19 Sanchez *PRESSES num. 16.* That by those simple vows a perfect donation is made.

INSTAT *Sanchez* num. 16. *Per ea vota simplicia fieri perfectam traditionem.*

20 *IT IS ANSWERED*, that these are raised to that which before they did not effect. Moreover, they fall short of perpetuity by the nature of the thing, because they can be expelled, whence the donation is not accepted with that perfection with which the solemn donation. Add, that they retain the ownership of goods, which the solemnly professed do not retain.

RESPONDETUR, *haec elevari ad hoc, quod ante non operabantur. Praeterea deficiunt ex natura rei a perpetuitate, quia possunt expelli, unde non est acceptata traditio ea perfectione, qua traditio solemnis. Adde, eos retinere bonorum dominium, quod non retinent solemniter professi.*

21 *IT IS CONFIRMED*, for the Cardinals of the Congregation of the holy Inquisition, gathered together with Sixtus V. decreed, that the substance of religion consists regularly in solemn vows: but that the Supreme Pontiff can indulge, know, and determine otherwise, as Rebadeneira reports *de suo Instituto, cap. 17. ad 3.* Therefore those emitting those vows by a privilege alone are true religious, even in the opinion of those saying that the solemnity of vows is of Ecclesiastical law. If you wish to say, that solemn vows constitute a religious from the nature of the thing, but this from Ecclesiastical faculty, still the privilege must be judged. On this account Sixtus V. decrees with the Cardinals, that the Church can indulge, or determine otherwise, that is, grant a privilege, and determine, which is not a simple decree, according to the common law, as Sanchez believes *num. 26. at the end*, saying, that to indulge signifies *to determine;* for it was something superfluous to premise *indulge*, and afterward *determine*. Therefore these two words are rightly joined, by the one of which the Privilege of the indulgence granted to the religion would be expressed; by the other, however, the firm decree, or law, by which all were so held.

CONFIRMATUR, *nam et Cardinales Congregationis sanctae Inquisitionis, congregati una cum Sixto V. decrevere, substantiam religionis consistere regulariter in votis solemnibus: at posse Summum Pontificem aliter indulgere, scire, et statuere, ut refert Rebadeneira* de suo Instituto, cap. 17. ad 3. *Ergo emittentes ea vota ex solo privilegio sunt veri religiosi, etiam in opinione dicentium, solemnitatem votorum esse iuris Ecclesiastici. Si velis dicere, vota solemnia constituere religiosum ex natura rei; hoc vero ex Ecclesiastica facultate, adhuc privilegium est censendum. Ob id Sixtus V. decernit cum Cardinalibus, posse Ecclesiam aliter indulgere, seu statuere, id est, privilegium concedere, ac determinare, quod non simplex decretum, iuxta ius commune est, ut credit Sanchez* num. 26. in calce, *dicens, illud indulgere significare* statuere; *nam aliquid superfluum erat praemittere* indulgere, *et postea* statuere. *Igitur duo haec verba recte apposita sunt, quorum altero Privilegium indulgentiae religionis concessum exprimeretur; altero autem firmum decretum, seu lex, qua sic ab omnibus teneretur.*

22 Therefore let these Reverend Biennials be *CONTENT* to be numbered as truly religious with the rest; but without prejudice to the solemnly professed, who, as clearer than light shines forth, are in a more perfect state; and without distinction of the Holy Doctors, who did not venerate the state of religion in simple vows, because it had not yet been granted by the Church.

CONTENTI *igitur sint hi Reverendi Biennales, se vere religiosos numerari cum reliquis; at sine praeiudicio solemniter professorum, qui, ut luce clarius elucet, perfectiori in statu sunt; et absque Sanctorum Doctorum discrimine, qui statum religionis in votis simplicibus non sunt venerati, quia adhuc ab Ecclesia non erat indultum.*

23 WHETHER, however, by those vows after the biennium a ratified marriage is invalidated, the more probable part is the negative, which is upheld by Vasquez *d. illa 165. cap. 10.* Rebad. *cap. 19. Instituti Societatis*, Henriquez *lib. 11. de matrimonio, cap. 8.* Sanchez *lib. 2. de matrimonio, d. 18.* for the laws speak of solemn vows alone *cap. desponsatam, and cap. decreta Regalia 27. quaest. 2. Extrav. Ioan. XXII. Antiqua de voto, cap. Ex publico, and cap. ex parte de conver. coniug.* and the Council of Trent *sess. 24. de matrim. can. 6.* Nay, neither is this granted to a solemn vow of fact of Order, as is decided in that *Extravag. Antiqua.* Yet I do not think it improbable, that the Church, by whose law the solemnity of vows is required, could have defined those private vows to be enough of law, as many teach.

AN *vero per vota ista post biennium irritetur matrimonium ratum, probabilior est pars negativa, quam tuentur Vasquez* d. illa 165. cap. 10. *Rebad.* cap. 19. Instituti Societatis, *Henriquez* lib. 11. de matrimonio, cap. 8. *Sanchez* lib. 2. de matrimonio, d. 18. *nam iura de solis solemnibus loquuntur* cap. desponsatam, et cap. decreta Regalia 27. quaest. 2. Extrav. Ioan. XXII. Antiqua de voto, cap. Ex publico, et cap. ex parte de conver. coniug. *et Concilium Trident.* sess. 24. de matrim. can. 6. *Imo nec solemni facti Ordinis voto id conceditur, ut deciditur ea* Extravag. Antiqua. *Non tamen improbabile reor, Ecclesiam, cuius iure requiritur solemnitas votorum, posse definisse, vota privata illa sat esse de iure, ut docent multi.*

Question III: Whether, and how, this state is holy

1 *THIS* status, so illustrious, this member so vivid and laborious of the mystic body of the Church, has been hated by heretics from ancient times; and therefore they tried to torment and tear apart Monks with the sword, with flames, and with every force of tortures. But the unhappy Sectaries of this age pursue the religious life with such hatred that their Books and sermons are filled with gibes and most grievous insults, to stir up the hatreds of all men against them; hardly anything else do they more sharply reprehend. I lament, for from their very ranks very many, having shaken off the holy yoke of Religion, have rushed into the abyss of all crimes, and, with most shameful nuptial chambers, have even defiled the sacred Sacrament of matrimony with Nuns taken from Monasteries; but they

did not touch the Sacrament of matrimony. They were rather most filthy concubinages, which they adorned with most foul epithalamiums. Thee I adjure from the abyss, most wretched Heresiarch, thee most unhappy apostate from Religion, from faith, thee most filthy suitor of a holy woman, strangled by a demon in her lap that night, I summon, most lost Luther. Come forth to confess thy filthiness. This indeed I should promise myself, that no other arguments would be needed than to learn the confession of this reprobate from the place of torment.

> STATUS *hic adeo illustris, membrum hoc adeo vividum, atque operosum corporis mystici Ecclesiae fuit haereticis invisum ab antiquis temporibus; propterea Monachos ferro, flammis, ac omni tormentorum vi torquere, ac rescindere tentarunt. Huius vero saeculi infelices Sectarii adeo religiosam vitam persequuntur, ut Libri eorum, concionesque repletae sint dicteriis, contumeliisque gravissimis ad omnium in eos odia commovenda; nihil aliud fere acrius reprehendunt. Miseror, ex ipsis enim plurimi sancto Religionis iugo excusso, in omnium flagitiorum baratrum corruerunt, et foedissimis thalamis etiam e Monasteriis assumptis Sanctimonialibus sacrum matrimonii Sacramentum conspurcarunt; At Sacramentum non tetigere matrimonii; Fuere potius spurcissimi concubinatus, quos teterrimis epithalamiis adornaverunt. Te ex orco adiuro miserrime Haeresiarcha, te infoelicissime apostata a Religione, a fide, te sanctimonialis foedissimum procum, in eius sinu a daemone ea nocte suffocatum, compello perditissime Luthere. Prodeas ad tuas spurcitias confitendas. Id profecto mihi pollicerer, nulla alia fore necessaria argumenta, quam reprobi huius confessionem e loco tormentorum percipere.*

2 *PLURIMA* he wrote in his most filthy *Epithalamium*, which he weaves onto chapter *7. of the former epistle to the Corinthians*, with brazen face and impious hand. He has much in his other works deserving to be burned, *On Monastic Vows*, and the rest.

> PLURIMA *is in foedidissimo suo* Epithalamio*, quod capiti* 7. epistolae prioris ad Cor. *contexit, attrita fronte, et manu impia exaravit. Plurima habet in aliis conflagrandis suis operibus,* De votis Monasticis*, et caeteris.*

3 *PLURIMA* that unspeakable Calvin too, marked with the coal of burned Pentapolis, perverter of nature and of the foul, exhaled in those pestilential corrupting *Institutions* of his, especially *book 4. chapter 13.*

> PLURIMA *infandus ille Calvinus atro Pentapolis exustae carbone obsignatus, naturae foedaeque perversor, in suis illis pestiferis corruptricibus Institutionibus, praecipue* lib. 4. cap. 13. *exhalavit.*

4 *PLURIMA* also the bitter Melancthon, and others of this same sort, not men but Wolves, vomited forth. See them in Bellarmine *Tom. I. lib. 2. de Monachis. and* Bouerio *exam. 2. Cens. 18. errore 3.*

> PLURIMA *etiam felleus Melancthon, aliique huius farinae, non homines, sed Lupi, evomuere. Hos vide in Bellarmino* Tom. I. lib. 2. de Monachis. et *Bouerio* exam. 2. Cens. 18. errore 3.

5 These men, therefore, cry out that the Monastic life is a new invention of superstition, a cult of the devil, a plague of the Church, a monster, brought forth with no hand of Divine authority acting as midwife from the deep abyss of Tartarus into the light, in order to overthrow true religion.

> *Hi igitur conclamant, Monasticam vitam novum esse superstitionis inventum, diaboli cultum, Ecclesiae pestem, monstrum, nulla authoritatis Divinae obstetricante manu e Tartari Abysso profunda in lucem editum, ad veram religionem evertendam.*

6 But we, on the contrary, will show that it is a most ancient exquisite mode of Divine worship, a holy buttress of the Church, proceeding from the bosom of God, and a hammer of heretics. Since

indeed I find very many things recorded in monuments of letters, I will expose them according to custom in the Arena, which my Seraphic Saint Bonaventure wrote.

> *Nos autem e regione ostendemus, esse antiquissimum Divini cultus exquisitum modum, sanctum Ecclesiae fulcimentum, e Dei sinu prodiens, ac malleum haereticorum. Quoniam vero plurima litterarum monumentis Invenio consignata; ea ex more in Arena exponam, quae Seraphicus meus Sanctus Bonaventura scripsit.*

7 *FIRST* indeed, these religious men, whom I have undertaken to defend, are called by the Greeks by five names, men destined, namely, for Divine worship; for this the Latins hold as the chief name. Thus D. Dionys. *cap. 6. Ecclesiasticae Hierarchiae*, where he says that Monks were called by the Apostles. *Therapeutae*, because they worshipped God purely, beyond the others. Philo uses the same name at the beginning of the book *de contemplativa vita*, and D. Basil everywhere, who also calls his discourses on Monastic matters *Ascetical*.

> PRIMO *quidem quinque nominibus a Graecis sunt vocati homines hi religiosi, quos defendendos suscepi, Divino quippe cultui destinatos; hoc enim praecipuum nomen Latini tenent. Sic D. Dionys.* cap. 6. Ecclesiasticae Hierarchiae*, ubi ait, ab Apostolis fuisse Monachos vocatos.* Therapeutas*, eo quod ipsi pure, praeter caeteros, Deum colerent. Eodem nomine utitur Philo initio libri* de contemplativa vita*, et D. Basilius passim, qui etiam sermones suos de rebus Monasticis vocat* Asceticos.

8 These are they whom the most ancient Fathers call Monks, and the champions of the Church, because their life is to be exercised unceasingly in the arena of the virtues.

> *Hi sunt, quos Monachos vocant antiquissimi Patres, et Ecclesiae pugiles, quia eorum vita est, iugiter in virtutum palaestra exerceri.*

9 *A MONK* however is said from *Monos*, which in Greek means *singular*, as D. Bonav. teaches, *lib. 1. Pharetrae, cap. 32.* from D. Isidore *in ethymol. lib. 7. cap. 13. He concludes* indeed: *Therefore if the word of a Monk is interpreted as solitary, or singular, what does he do in the crowd, who ought to be alone.*

> DICITUR *autem Monachus a* Monos*, quod Graece, et* singularis*, ut docet D. Bonav.* lib. 1. Pharetrae, cap. 32. *ex D. Isidoro* in ethymol. lib. 7. cap. 13. Concludit *vero:* Ergo si solitarius, vel singularis interpretatur vocabulum Monachi, quid facit in turba, qui solus esse debet.

10 *IN ALMOST THE SAME* way speaks D. Hieronym. *epist. ad Heliodorum.* Wherefore Bellarmine does not rightly infer from this *cap. 1.* that the name of Monk, adduced by D. Jerome, suits most properly Hermits; for he elicits only from the etymology that a Monk ought to be separated from the world, saying: *Interpret the word of a Monk, that is, one; what do you do in the crowd, who art solus* (alone)? *It is confirmed*, for D. Jerome himself *in the epistle to Eustochium* says the name of Monk also belonged to the Cenobite, which all the ancients assert, from the time of D. Dionysius, who flourished CCC. or so years before the first Hermit, who was Paul.

> EODEM *fere modo loquitur D. Hieronym.* epist. ad Heliodorum. *Quare non recte Bellarminus hinc colligit* cap. 1. *nomen Monachi a D. Hieronymo afferi convenire propriissime Eremitis; elicit enim solum ex ethymologia, Monachum separatum esse debere a mundo, dicens:* Interpretare vocabulum Monachi, hoc est unum, quid facis in turba, qui solus *ri?* Confirmatur*, nam ipse D. Hieronymus* epistola ad Eustochium *nomen Monachi Caenobitis etiam ait convenisse, quod omnes veteres asserunt a tempore D. Dionysii, qui CCC. fere annis ante primum Eremitam, qui fuit Paulus, floruit.*

11 That this is the genuine sense of D. Jerome S. Bonavent. proves, *libro primo Pharetrae, cap. 31. from the same S. Doctor epist. 13. after the middle: Avoid the company of seculars: what need have you to see those things more often, in whose contempt you began to be a Monk*, and before he exhorted them to imitate the holy sons of the Prophets, who dwelt in fields and solitudes, who dwelt together widely at the same time. Of these he says were the sons of Rechab, *Hierem. 35.* who indeed dwelt together.

> *HUNC esse genuinum D. Hieronymi sensum probat S. Bonavent.* libro primo Pharetrae, cap. 31. ex ipso S. Doctore epist. 13. post medium: Saecularium consortia devita: quid tibi necesse est ea videre saepius, quorum contemptu Monachus esse caepisti*, et ante hortatus est, ut imitentur sanctos filios Prophetarum, qui habitabant in agris, et solitudinibus, qui late simul cohabitabant. De his ait fuisse filios Rechab* Hierem. 35. *qui sane cohabitabant.*

12 D. AUGUSTINE on *Psal. 132. Behold how good, etc. for brethren to dwell in one*, places in holy unity concordant the name and the manner of the Monastic life.

> *D. AUGUSTINUS in* Psal. 132. Ecce quam bonum, etc. habitare fratres in unum*, in sancta unitate concordi nomen, ac vitae Monasticae rationem ponit.*

13 The truest explanation of this name is in Cassian *coll. 18.* and Dionysius *loc. cit.* that Monks are so called, because, having left things divisible, they strive to please *Monadio, that is*, the divinity alone.

> *VERISSIMA explicatio huius nominis est apud Cassianum* coll. 18. *Dionysium* loc. cit. *Monachos appellari, quod rebus divitibilibus relictis* Monadio, idest*, divinitati soli placere contendunt.*

14 *AND THEREFORE* the primitive Monasteries (as S. Bonavent. says, *contra Guilielmum, near the end*) were instituted and built, that living together they might live in a solitary manner, and that each might have care of himself, and dwell with himself; and therefore they were called Monks, not because they were Hermits, but because their end was to be occupied solely with Divine contemplation, as the same S. Bonavent. has, citing for this the testimony of D. Jerome to Rusticus; otherwise, if they had been dwellers in hermits' cells, they would not have dwelt together in Monasteries, but alone in heremuses, after the example of Paul. And so from then on the name of Monk was left to those alone who devote themselves solely to contemplation: these are the Cassinenses, Cistercians, Carthusians, Camaldolese, and others of that kind. Which S. Bonaventure, S. Thomas, and other Doctors understanding, do not call later Dominicans, Franciscans, and others, who do not sweat solely in contemplation but also in action, aiding Bishops and Clerics in sermons, confessions, and administrations of the Sacraments, Monks, but call them *regulars*, or *friars*, as Bellarmine notes *loc. cit. and it is gathered from* D. Bonavent. *loc. cit. and in the exposition of the rule, and lib. 1. Pharetrae, cap. 27. and 28.* Although he sometimes ascribes to them also the name of Monks, as is plain *loc. cit. contra Guilel. and in 4. d. 19. art. 2. quaest. 2. fin.* where he reports the decree of Leo, forbidding Monks: *Let no one dare to preach, unless he be a Priest, and it is held 16. quaest. 1. cap. 19. I add that also*, as D. Bonav. notes.

> *ITAQUE Monasteria primitiva, (ut ait S. Bonavent.* contra Guilielmum, circa finem*) instituta, et fabricata sunt, ut simul viventes solitarie degerent, et unusquisque haberet curam sui, et apud se habitaret; et ideo Monachi dicti sunt, non quia essent Eremitae, sed quia eorum finis erat solum Divinae contemplationi vacare, ut habet idem S. Bonavent. referens ad hoc probandum testimonium D. Hieronymi ad Rusticum; alioqui si fuissent Eremicolae, non cohabitassent in Monasteriis, sed soli in eremis, eodem exemplo Pauli. Itaque iam nomen Monachi illis solis relictum est, qui soli incumbunt contemplationi: hi sunt Cassinenses, Cistercienses, Carthusiani, Camaldulenses, atque alii eiusmodi. Quod*

intelligentes S. Bonaventura, S. Thomas, et alii Doctores, posteriores non vocant Monachos Dominicanos, Franciscanos, et alios, qui non soli insudant contemplationi, sed etiam actioni, iuvantes Episcopos, et Clericos concionibus, confessionibus, et Sacramentorum administrationibus, sed eos vocant regulares*, aut* fratres*, ut notat Bellarminus* loc. cit. et colligitur ex *D. Bonavent.* loc. cit. et in expositione regulae, et lib. 1. Pharetrae, cap. 27. et 28. *Tametsi nomen etiam Monachorum eis nonnunquam adscribat, ut patet* loc. cit. contra Guilel. et in 4. d. 19. art. 2. quaest. 2. fin. *ubi refert decretum Leonis, vetans Monachis:* Nullus audeat praedicare, nisi Sacerdos, et habetur 16. quaest. 1. cap. 19. Adiicimus illud etiam*, ut notat D. Bonav.*

15 ONLY two kinds of Religious, who are so called, namely as wholly given to the cult of God, did antiquity recognize. One of Hermits; the other of Cenobites. Thus teach D. Hieronymus *epist. ad Eustochium, de Virginitate*. D. Augustinus *lib. de moribus Ecclesiae, cap. 31.* Cassianus *collat. 18. cap. 4.* and D. Bonav. *loc. cit.* from D. Benedicto *in regula*, reporting two other kinds of corrupt Monks, who were called *Sarabaitae*, intent on the flesh: and *Gyrovagi*, wandering, whom D. Augustinus sharply reprehends *de opere Monachorum*, as related by D. Bonavent. *there*, and D. Hieronymus *ad Rusticum*, and other holy Fathers, whom S. Bonavent. reports, *lib. 1. Pharetrae, cap. 28. et cap. 32.*

DVO tantum genera Religiosorum, qui sic dicuntur, quippe toti sunt in Dei cultu, agnovit antiquitas. Alterum Eremitarum; alterum Caenobitarum. Ita docent D. Hieronymus epist. ad Eustochium, de Virginitate. *D. Augustinus* lib. de moribus Ecclesiae, cap. 31. *Cassianus* collat. 18. cap. 4. *et D. Bonav.* loc. cit. *ex D. Benedicto* in regula *referente duo alia genera corruptorum Monachorum, qui dicebantur* Sarabaitae *intendentes carni: et* Gyrovagi *vagantes, quos acriter reprehendit D. Augustinus* de opere Monachorum*, relatus a D. Bonavent.* ibi*, et D. Hieronymus* ad Rusticum*, aliique sancti Patres, quos refert S. Bonavent.* lib. 1. Pharetrae, cap. 28. et cap. 32.

16 S. HIERONYMUS adds a third kind, as S. Bonavent. reports in *Diaeta tit. 4. cap. 1. near the end*, whom he calls *Remobot*, who dwelt two and three together, as is read *epistola 22. ad Eustoch. after the middle*; these however he reproves: he praises indeed the Cenobites, who in the Egyptian tongue are called *Sauses, that is*, living in common; and the Anchorets, who dwelt alone in the deserts, and are named from that, that they withdrew far from men: as Hermits are so called because they inhabit desert places, whom D. Isidorus distinguishes among themselves, *lib. 2. de Divinis off. cap. 15.* who, I think, lived apart not under obedience to Prelates; and therefore he rightly distinguishes them from Monks, that is, Cenobites, who dwelt in Cenobia, and from Anchorets, who dwelt scattered in solitude, but under obedience to some Prelate. Wherefore it does not seem sufficiently reasonable that Bellarmine reprehend S. Isidore *cap. 3.* because he distinguishes three kinds of Monks.

S. HIERONYMUS addit tertium genus, ut refert S. Bonavent. in Diaeta tit. 4. cap. 1. circa finem*, quos vocat* Remobot*, qui bini, et trini habitabant, ut legitur* epistola 22. ad Eustoch. post medium*, hos autem reprobat: Laudat vero Caenobitas, qui AEgyptia lingua* Sauses, id est*, in communi viventes; et Anachoritas, qui soli habitabant per deserta, et ab eo, quod procul ab hominibus recesserint, nuncupantur: Sicut Eremitae dicantur, quia loca deserta incolunt, quos inter se discernit D. Isidorus* lib. 2. de Divinis off. cap. 15. *qui, ut reor, seorsim non sub obedientia Praelatorum vivebant; et ideo distinguit recte a Monachis, sive Caenobitis, qui in Caenobiis, sive de Anachoritis, qui sparsim in solitudine, sed sub obedientia alicuius Praelati, degebant. Quare non satis rationabiliter videtur Bellarminus S. Isidorum reprehendere* cap. 3. *eo quod tria genera Monachorum distinguat.*

17 We, with D. Bonavent. in *the aforesaid book contra Guilielmum*, with D. Thom. and other scholastics, can better distinguish the friars and the orders of religions from their various ends, because some undertake the contemplative life, others the active, others the mixed. All however are called Religiosi by antonomasia, because they exercise the acts of religion in a singular and excellent manner; or, as S.

Bonav. says, *lib. 1. Pharetrae, cap. 27. from* D. Isidoro *ethymol. lib. 10.* because the Religiosus (says Cicero) is named from *relego*, because he re-examines, and as it were re-elects, those things which pertain to Divine worship.

> *Nos cum D. Bonavent.* lib. allegato contra Guilielmum*, cum D. Thom. et aliis scholasticis satius possumus ex variis finibus fratres, et ordines religionum distinguere, quia alii vitam ineunt contemplativam, alii activam, alii mixtam. Omnes tamen Religiosi dicuntur per antonomasiam, quia actus religionis singulariter, et excellenter exercent, vel, ut ait S. Bonav.* lib. 1. Pharetrae, cap. 27. ex *D. Isidoro* ethymol. lib. 10. *quia Religiosus (ait Cicero) a* relego *est appellatus, eo quod retractat, et tanquam relegit ea, quae ad cultum Divinum pertinent.*

18 *NEXT*, those who follow the contemplative life are various: some Cassinenses, some Cistercians, some Camaldolese: similarly among those who follow the active life, some are the Knights of Jerusalem, some of S. John, some intent on curing the sick, some on burying the dead: of those who profess the mixed life, some fight under D. Augustine, some under D. Francis, some under Saint Dominic.

> *DEINDE qui vitam contemplativam sectantur, varii sunt: alii Cassinenses, alii Cistercienses, alii Camaldulenses: similiter qui vitam activam, alii sunt Equites Hierosolymitani, alii S. Ioannis, alii aegrotis curandis, alii mortuis sepeliendis distenti: ex his, qui vitam mixtam profitentur, alii sub D. Augustino, alii sub D. Francisco, alii sub sancto Domico militant.*

19 But that these orders, instituted now many ages ago, were not the first, nor that Monasticism began only after the third century, and that the first authors were Anthony, Macarius, and the like, as the Magdeburgers bark *centur. 4. cap. 6. col. 464.* Nor that Monasticism began from error, or by chance, as they themselves say, *col. 470. (Monasticism began, they say, partly from the observation of the doctrine of justification and the true worships of God, partly from a wicked emulation of the Essenoi,)* I show more evidently.

> *Hos autem ordines iam multis temporibus institutos, non fuisse primos, patet, neque Monachatum caepisse solum post tertium saeculum, primosque authores fuisse Antonium, Macarium, et similes, ut latrant Magdeburgenses* centur. 4. cap. 6. col. 464. *Neque Monachatum caepisse errore, vel casu, ut ipsi dicunt* col. 470. (Caepit, inquiunt, Monachatus partim ex observatione doctrinae de iustificatione, et veris cultibus Dei, partim ex prava aemulatione Essenorum,) *evidentius ostendo.*

20 PROVED from D. Bonav. *loc. cit.* The sayings from the Scriptures and the Fathers, on which Bellarmine relies *cap. 5.*

> *PROBATUR a D. Bonav.* loc. cit. *Dicta ex Scripturis, et PP. quibus nititur Bellarminus* cap. 5.

21 FIRST indeed Samuel gathered together the company of the Prophets, as is had *1. Reg. 10.* for they met together for the cult of God, and professed justice and holiness. Wherefore, seeing Saul mingled with them, although he was then so good that none was better, as is said *cap. 9.* they marveled, saying: *Is Saul too among the Prophets, psalming, and sounding forth the praises of God, and prophesying?* From this the master of histories asserts the beginning of religious men. See S. Doctorem parte prima *Eccl. Hier.*

> *PRIMO quidem Samuel congregavit coetum Prophetarum, ut habetur* 1. Reg. 10. *hi enim simul conveniebant ad Dei cultum, et iustitiam, ac sanctitatem profitebantur. Quare admixtum cum eis Saulem, tametsi tunc adeo bonum, ut non esset eo melior, ut dicitur* cap. 9. *mirabantur dicentes:* Num Saul inter Prophetas psallens, et laudes Deo

accinens, ac praedicens? *Ex hoc initium religiosorum asserit magister historiarum. Vide S. Doctorem parte prima* Eccl. Hier.

22 AGAIN Elias had disciples gathered, of whom the chief was Eliseus, as is had *4. Reg.* 2. who were very anxious about the rapture of Elias. Similarly *cap. 4.* Eliseus, having gathered disciples, kept them in spiritual exercises, and they wanted neither wives nor riches. Of these D. Hieronymus to Rusticus, epistola 4: *In order the sons of the Prophets (he says) whom we read of as Monks in the old testament, built themselves little huts near the streams of the Jordan; and, having left the crowds of the cities, they lived on polenta and wild herbs.* And epist. 13. to Paulinus, adduced by D. Bonavent., speaking of Monks, says: *Our prince Elias, and our Eliseus, the leaders of the Prophets, who dwelt in fields and solitudes, and made themselves tabernacles near the streams of the Jordan.* He adds the *Nazaraei*, consecrated by vows, instituted by God *Amos* 2. whom, as S. Doctor argues, parte prima Eccl. Hier.

RURSUS Elias habuit congregatos discipulos, ex quibus praecipuus erat Elisaeus, ut habetur 4. Reg. 2. *qui de raptu Eliae solliciti admodum fuerunt. Similiter* cap. 4. *Elisaeus congregatis discipulis continebat in spiritualibus exercitiis, nec uxores, nec divitias volebant. De his D. Hieronymus ad Rusticum, epistola 4:* Ordine filii Prophetarum (inquit) quos Monachos in veteri testamento legimus, aedificabant sibi casulas prope fluenta Iordanis; et turbis urbium derelictis, polenta, et herbis agrestibus victitabant. *Et epist 13. ad Paulinum, adducta a D. Bonavent. de Monachis loquens, ait:* Noster princeps Elias, nam Elisaeus noster, duces Prophetarum, qui habitabant in agris, et solitudinibus, et faciebant sibi tabernacula prope fluenta Iordanis. *Addit* Nazaraeos *votis sacratos, a Deo institutos* Amos 2. *quos ut arguit S. Doctor, parte prima Eccl. Hier.*

23 MOREOVER S. Bonau. proclaims John the Baptist the Prince of Monks and Hermits, with almost all the holy Fathers: Nazianzeno in the oration on Basil; Chrysostomo in the first homily on Mark, where he said loftily: *As the Princes of Priests are the Apostles; so the Prince of Monks is John the Baptist.* Hieronymo to Eustachium, epistola 2. *The author of this life Paul, its illuminator Anthony, and, that I may ascend to higher things, its Prince John the Baptist.* (S. Bonavent. uses these words.) The same Cass. collar. 18. cap. 6. teaches; Sozomenus lib. 1. hist. cap. 12. Isid. lib. 2. de off. cap. 15. Bernard. serm. de excell. Ioan. Baptistae.

PRAETEREA Ioannem Baptistam Monacho-rum, et Eremitarum Principem conclamat S. Bonau. cum omnibus fere Sanctis PP. Nazianzeno oratione in Basil. Chrysostomo homilia prima in Marcum, ubi elate dixit: Sicut Sacerdotum Principes sunt Apostoli; sic Monachorum Princeps Ioannes Baptista est. *Hieronymo ad Eustachium, epistola 2.* Huius vitae auctor Paulus, illustrator Antonius, et ut ad superiora conscendam Princeps Ioannes Baptista. *(His verbis utitur S. Bonavent.) Idem docet Cass. collar. 18. cap. 6. Sozomenus lib. 1. hist. cap. 12. Isid. lib. 2. de off. cap. 15. Bernard. serm. de excell. Ioan. Baptistae.*

24 We have also, Hier. 35. the nephews of Rechab, who, leading an austere life, shadowed forth above all the obedience of Religions, as D. Hieron. teaches, epist. ad Paulinum.

Habemus, et Hier. 35. nepotes Rechab, qui austeram ducentes vitam, Religionum maxime obedientiam adumbrarunt, ut docet D. Hieron. epist. ad Paulinum.

25 LET US GO FORWARD to the new testament, and we will show that there were Monks before the years CCC.

VENTAMUS ad novum testamentum, et ostendemus ante annos CCC. fuisse Monachos.

26 ACTORUM cap. 5. where the Apostles instituted the life in which all things were common. There it is proved that the obligation of that life was not of all Christians, from the reprehension made by Peter to Ananias: *While it remained, did it not remain to thee, and being sold, was it not in thy power?* That the Apostles bound themselves by vow to that perfection, D. August. asserts, lib. 17. de Civitate Dei, cap. 4. saying: *The mightiest vowed this vow.*

> *ACTORUM cap. 5. ubi vitam, in qua omnia erant communia, instituerunt Apostoli. Ubi non omnium Christianorum eius vitae obligationem fuisse probatur ex reprehensione Petri, facta Ananiae:* Nonne manens tibi manebat, et venundatum in tua erat potestate? *Quod autem voto ad eam perfectionem se ligarent Apostoli, asserit D. August. lib. 17. de Civitate Dei, cap. 4. dicens:* Hoc votum potentissimi voverunt.

27 THAT Religions took their beginning from the example of the Apostles, Eusebius testifies, lib. 2. hist. cap. 16. Hieronymus de viris illustribus on Philo. Augustinus serm. 2. de vita communi Clericorum. Possidonius in the life of Augustini. Isidorus lib. 2. de offic. cap. 15. Cassianus, collat. 18. cap. 5. *Therefore (he says) the discipline of the Cenobites took its beginning from the time of the Apostolic preaching.*

> *QUOD vero ab Apostolorum exemplo coeperint Religiones, testantur Eusebius lib. 2. hist. cap. 16. Hieronymus de viris illustribus in Philone. Augustinus serm. 2. de vita communi Clericorum. Possidonius in vita Augustini. Isidorus lib. 2. de offic. cap. 15. Cassianus, collat. 18. cap. 5.* Itaque (ait) Coenobitarum disciplina a tempore praedicationis Apostolicae sumpsit exordium.

28 But that which the Magdeburgenses say, Centur. 12., that then there was no vestige of Monks, and they adduce S. Ioan. Chrysostomum homil. 25. on the epistle to the Hebrews, is frivolous; for there the Saint speaks of the Church of Corinth alone; for he expounds those words: *If any brother be named among you*, and says that by the name of brother are understood not Monks but any faithful whatsoever, because then there was not even a vestige of a Monk at Corinth. But that they then were in Palaestina and in AEgypto, the same Saint asserts, lib. 4. contra vituperatores vitae Monasticae, not far from the end, and homil. 11. in Acta, where he says, *that Monks live thus, as once at the beginning of the Church all the faithful lived in Hierusalem.* And homil. 17. to the people he says: *So great is the Philosophy introduced by Christ.*

> *QUOD vero Magdeburgenses Centur. 12. aiunt, tunc non fuisse vestigium Monachorum, et adducunt S. Ioan. Chrysostomum homil. 25. in epistolam ad Heb. frivolum est; nam ibi Sanctus loquitur de Ecclesia sola Corinthi; exponit enim ea verba:* Si quis frater nominatur in vobis, *ac dicit nomine fratris, non intelligi Monachos, sed quoslibet fideles, quia tunc ne vestigium erat Monachi apud Corinthum. Quod vero in Palaestina tunc essent, et in AEgypto, asserit idem Sanctus lib. 4. contra vituperatores vitae Monasticae, non procul a fine, et homil. 11. in Acta, ubi ait,* Monachos sic vivere, ut olim initio Ecclesiae vivebant fideles omnes in Hierusalem. *et homil. 17. ad populum ait:* Tanti est Philosophia a Christo introducta.

29 But that which D. Bonavent. would assert, that Anthony was the illuminator, not the Prince, of the Monastic life: it is proved from Athanasio in the life of D. Antonii, where he asserts that before Anthony there were Monks, who constituted their Monasteries in fields near the cities, and that Anthony went to a certain old man among them, that from his earliest age he might learn the Monastic discipline: from which it follows that Monks were far before B. Antonius. But B. Antonius was before the years CCC; for in the three hundredth year he was forty years old, as is gathered from the Chronicle of D. Hieronymi.

QUOD vero assereret D. Bonavent. Antonium illustratorem esse, non Principem, vitae Monasticae. Probatur ex Athanasio in vita D. Antonii, ubi asserit, ante Antonium Monachos fuisse, qui in agris, civitatibus vicinis Monasteria sua constituebant, et Antonium ad quemdam ex eis senem accessisse, ut ab ineunte aetate Monasticam disceret disciplinam: Ex quo sequitur, multo ante B. Antonium fuisse Monachos. Fuit autem B. Antonius ante annos CCC. anno enim trecentesimo, erat annorum quadraginta, ut colligitur ex Chronico D. Hieronymi.

30 S. DAMASUS in the life of Dionysii Papae writes that he was taken up from being a Monk to the Pontificate. But it is established from the Chronicle of Eusebii that Dionysius sat at Rome in the year 266.

S. DAMASUS in vita Dionysii Papae scribit, hunc ex Monacho ad Pontificatum fuisse assumptum. Constat autem ex Chronico Eusebii, Dionysium Romae sedisse, anno 266.

31 MOREOVER Tertullianus wrote a Book on the veiling of sacred virgins, and Beatus Cyprianus writes on the same argument. These were indeed older than Dionysius Papa.

PRAETEREA de velandis sacris virginibus scripsit Librum Tertullianus, et de eodem argumento scribit Beatus Cyprianus. Hi vero fuere Dionysio Papae antiquiores.

32 MOREOVER D. Dionysius Areopagita writes to Demophilum the Monk. And lib. de Ecclesiastica Hierarchia, cap. 6. he expounds at length the form of the Monastic profession. But in vain do the Centuriators, Erasmus, Valla, Lutherus, and Calvinus deny that Book to be Dionysii's, the disciple of the Apostle Paul; for three ancient Pontiffs allege those works as Dionysii Areopagitae: Martinus I. in C. Romano. Agatho in the epist. to Constantinum IV. Imperatorem. And Nicolaus Papa I., ad Michaelem Imperatorem, cites this epistle to Demophilum. Likewise two General Councils, the fourth, sixth, and seventh, can. 2. Moreover S. Maximus, who wrote annotations on Dionysium; Sophronius Patriarcha Hierosol. in the oration which is had at act. 11. of the sixth Synod; Damascenus lib. 1. de fide, cap. 12. Euthymius in the Panoplia, part. 1. titulo 2. Anastasius Bibliot. epist. ad Carolum Calvum. Hildoin. ep. ad Ludov. Pium, and all other later men. Therefore let Erasmus, Valla, etc. avail nothing.

PRAETEREA D. Dionysius Areopagita scribit ad Demophilum Monachum. Et lib. de Ecclesiastica Hierarchia, cap. 6. prolixe explicat Monasticae professionis formam. Frustra autem Centuriatores, Erasmus, Valla, Lutherus, et Calvinus negant, eum Librum esse Dionysii, Apostoli Pauli discipuli; nam ea opera, ut Dionysii Areopagitae, allegant tres veteres Pontifices, Martinus I. in C. Romano. Agatho epist. ad Constantinum IV. Imperatorem. Et Nicolaus Papa I. ad Michaelem Imperatorem citat epistolam hanc ad Demophilum. Item duo Generalia Concilia, quartum, sextum, ac septimum can. 2. Praeterea S. Maximus, qui annotationes scripsit in Dionysium, Sophronius Patriarcha Hierosol. in oratione, quae habetur act. 11. sextae Synodi Damascenus lib. 1. de fide, cap. 12. Euthymius Panoplia, part. 1. titulo 2. Anastasius Bibliot. epist. ad Carolum Calvum. Hildoin. ep. ad Ludov. Pium, et alii posteriores omnes. Valeant igitur Erasmus, Valla, etc.

33 SPLENDIDLY the Apostle testifies this of the vow also of chastity, in what is added, prima Tim. 5. *Avoid younger widows. For when they have grown wanton in Christ, they will wish to marry: having damnation, because they have broken their first faith.*

PRAECLARE id testatur Apostolus de voto etiam castitatis addito prima Tim. 5. Adolescentiores viduas devita. Cum enim luxuriatae fuerint in Christo, nubere volunt: habentes damnationem, quia primam fidem fregerunt.

34 THAT they broke the faith given by vow, the Councils declare: Conc. Carth. IV. can. 104. which was of 214. Episcoporum. Tol. IV. cap. 55. where there were 70. Episcopi, and so also three Pontifices. Clem. lib. 3. const. cap. 1. Innocent. I. epist. 2. cap. 13. Gelas. I. epist. 1. cap. 23. Add Tertull. de Monog. Basil. lib. de virg. Hieron. lib. 1. in Iovin. cap. 44. Etc. Epiphan. haeres. 48. August. lib. de sancta virg. cap. 23. and lib. de bono vid. cap. 8. and 9. and in Psal. 75. Fulgent. epist. 1. and all the expositors of this place, both the Greeks, Chrysost. Theodoret. Theophylac. Oecum. And the Latins, Ambrof. Primas. Beda, Haymo, Sedul. and Anselm. apud Bellarm. cap. 24.

> *FIDEM voto praestitam fregisse declarant Conc. Carth. IV. can. 104. quod fuit 214. Episcoporum. Tol. IV. cap. 55. ubi 70. Episcopi, sic ut et tres Pontifices. Clem. lib. 3. const. cap. 1. Innocent. I. epist. 2. cap. 13. Gelas. I. epist. 1. cap. 23. Adde Tertull. de Monog. Basil. lib. de virg. Hieron. lib. 1. in Iovin. cap. 44. Ex ab. Epiphan. haeres. 48. August. lib. de sancta virg. cap. 23. et lib. de bono vid. cap. 8. et 9. et in Psal. 75. Fulgent. epist. 1. et omnes huius loci expositores, tum Graeci, Chrysost. Theodoret. Theophylac. Oecum. Tum Latini, Ambrof. Primas. Beda, Haymo, Sedul. et Anselm. apud Bellarm. cap. 24.*

35 But the Apostle inflicts damnation on these, to which the Council of Chalced. subscribed, can. 16. Concilium Turon. II. cap. 16. Gelas. Pap. epist. 1. cap. 21.

> *His autem Apostolus damnationem indicit, cui subscripsit Concilium Chalced. can. 16. Concilium Turon. II. cap. 16. Gelas. Pap. epist. 1. cap. 21.*

36 FURTHERMORE Philo Iudaeus, older than Dionysius, in lib. de vita contemplativa supplicum, describes at very great length the life and manners of the Monks and of the consecrated Virgins, whom S. Marcus Evangelista instituted in AEgypto, where he plainly sets down the profession of poverty, continence, fastings, psalmody, etc.

> *ADHUC autem Philo Iudaeus, Dionysio antiquior lib. de vita contemplativa supplicum, prolixe admodum describit vitam, et mores Monachorum, et factarum Virginum, quos in AEgypto instituit S. Marcus Evangelista, ubi aperte ponit professionem paupertatis, continentiae, ieiuniorum, psalmodiae, etc.*

37 THAT HE spoke of Christians, not of the Essenoi, as the Centuriators feign, is proved: for Eusebius lib. 2. hist. cap. 17. and Epiphanius haeresi 29. assert it. The same D. Hieronymus touches on, de viris illustribus on Philone, where he concludes: *From which it appears that the first Church of those believing in Christ was of such a kind as the Monks now strive and desire to be.* Moreover Cassianus, lib. 2. cap. 5. de Institutis Coenobiorum, asserts that the Egyptian Monks received from S. Marco the first norm of living, which Cassianus could not have learned except from this book of Philonis. The same assert deserte Beda in the prolog. on Marcum, Sozomenus lib. 2. cap. 12. Nicephor. lib. 2. cap. 15.

> *EUM autem de Christianis locutum, non de Essenis, ut fingunt Centuriatores, probatur: nam Eusebius lib. 2. hist. cap. 17. Epiphanius haeresi 29. id asserunt. Idem accinit D. Hieronymus de viris illustribus in Philone, ubi concludit:* Ex quo apparet, talem primam Christo credentium fuisse Ecclesiam, quales nunc Monachi esse nituntur, et cupiunt. *Praeterea Cassianus lib. 2. cap. 5. de Institutis Coenobiorum asserit, a Sancto Marco AEgyptios Monachos accepisse primam vivendi normam, id quod non potest Cassianus didicisse, nisi ex hoc libro Philonis. Idem asserunt deserte Beda prolog. in Marcum, Sozomenus lib. 2. cap. 12. Nicephor. lib. 2. cap. 15.*

38 I ASSERT first that some of the Evangelical counsels are holy, against the heretics, as related by Bellarmino lib. 1. cap. 8. First the counsel of Castity is proved.

> *ASSERO primo, aliqua esse consilia Evangelica sancta contra haereticos, relatos a Bellarmino lib. 1. cap. 8. Primo probatur consilium Castitatis.*

39 THE FIRST place of Scripture is adduced by D. Bonavent. in Diaeta salutis, titulo 6. cap. 2. Matth. 19. *There are Eunuchs, who have made themselves eunuchs for the kingdom of heaven. He that can take it, let him take it*. That these are they who vow continence in religion, S. Epiphanius asserts, haeresi 58. S. Hieronymus on this place; S. Augustinus, lib. de sancta Virginitate, cap. 30. S. Fulgentius, lib. de fide ad Petrum, cap. 3. That here indeed it is not commanded is plain, because above he said, praising matrimony: *What God hath joined together, let no man put asunder*, and it is confirmed by what follows: *He that can take it, let him take it*, as D. Bonavent. notes, serm. 6. de tempore.

> *PRIMUS locus Scripturae afferitur a D. Bonavent. in Diaeta salutis, titulo 6. cap. 2. Matth. 19.* Sunt Eunuchi, qui seipsos castraverunt propter regnum caelorum. Qui potest capere capiat. *Hos autem esse, qui continentiam vovent in religione, asserunt S. Epiphanius haeresi 58. S. Hieronymus ad hunc locum S. Augustinus lib. de sancta Virginitate, cap. 30. S. Fulgentius lib. de fide ad Petrum, cap. 3. hic vero non praecipi patet, quia supra dixit, laudans matrimonium:* Quod Deus coniunxit, homo non separet *et Confirmatur ex sequentibus:* Qui po- *test capere capiat, ut notat D. Bonavent. serm. 6. de tempore.*

40 Pseudomartir, de caelibatu, and others answer, that that is signified significatively "for the kingdom of heaven," on account of preaching the Gospel more expeditiously.

> *RESPONDET Pseudomartir de caelibatu, et alii, illud propter regnum caelorum significate, ob Evangelium expeditius praedicandum.*

41 But against them are all the holy Fathers, expounding with us: Cyprianus, de habitu Virginum. Hilarius on this place. Chrysostomus here. Hieronymus lib. I. in Iovinianum. Augustinus de sancta Virginitate, cap. 24. The same hold Beda, and Anselmus, here.

> *At quidem contra sunt Sancti PP. omnes, nobiscum exponentes, Cyprianus de habitu Virginum. Hilarius in hunc locum. Chrysostomus hic. Hieronymus lib. I. in Iovinianum. Augustinus de sancta Virginitate, cap. 24. Idem habent Beda, et Anselmus hic.*

42 Here he alludes to that of Isaïae cap. 56. *Let not the Eunuch say: Behold I am a dry tree. For thus saith the Lord to the Eunuchs: They that shall keep my sabbaths, and choose the things that please me, and hold fast my covenant: I will give them in my house, and within my walls, a place, and a name better than sons and daughters: I will give them an everlasting name, that shall never perish.*

> *Hic alludit ad illud Isaïae cap. 56.* Non dicat Eunuchus : Ecce ego lignum aridum. Quia haec dicit Dominus Eunuchis : Qui custodierint sabbata mea, et elegerint, quae ego volui, et servaverint foedus meum : Dabo eis in domo mea, et in muris meis locum, et nomen melius a filiis, et filiabus : nomen aeternum dabo eis, quod non peribit.

43 THAT what is here treated of is those continent of their own will, of whom Matth. 19. speaks, not of the maimed, or so born, who are continent of necessity, the Saints teach: Hieronymus, and Cyrillus on this place; Augustinus in the Book de sancta Virginitate, cap. 24. Basil. lib. de vera virginitate. Ambrosius in the exhortation to the Virgins; and Gregorius, 3. part. Pastoralis, cap. 29. And it is plain from the reward, that there is promised to them a greater glory than that of the sons and daughters of God.

> *QUOD hic agatur de continentibus voluntariis, de quibus Matth. 19. non de abscissis, vel sic natis, qui necessario continent, docent Sancti, Hieronymus, et Cyrillus ad hunc locum; Augustinus Libro de sancta Virginitate, cap. 24. Basil. lib. de vera virginitate. Ambrosius in exhortatione ad Virgines; et Gregorius 3. part. Pastoralis, cap. 29. et patet ex praemio, quod eis promittitur maior gloria, quam sit filiorum, et filiarum Dei.*

44 S. Augustinus adds subtly: *If anyone contend that Isaias speaks of true Eunuchs, still our cause is helped; for if to Eunuchs, who are continent of necessity, there is promised a greater glory than to the just who are married; certainly a greater will be given to those continent of their own will.*

> *ADDIT subtiliter S. Augustinus :* Si quis contendat, Isaiam loqui de veris Eunuchis, adhuc iuvari causam nostram; nam si Eunuchis, qui necessario se continent, promittitur maior gloria, quam iustis coniugatis; certe maior dabitur voluntarie continentibus.

45 THAT here continence is not commanded but urged, the aforesaid Fathers teach; S. Hieronymus proves it from those words: *They that shall choose the things that I will.* That the vow of continence is holy is proved, because eternal glory is promised to it. D. Augustinus praises this vow excellently, lib. de sancta Virginitate, cap. 25. as is related at the end from D. Bonaventura.

> *QUOD vero hic continentia non praecipiatur, sed suadeatur, docent praedicti Patres; Probat S. Hieronymus ex illis verbis :* Qui elegerint, quae ego volui. *Quod vero continentiae votum sit sanctum, probatur; quia promittitur ei gloria aeterna. Egregie hoc votum laudat D. Augustinus lib. de sancta Virginitate, cap. 25. ut refertur in fine ex D. Bonaventura.*

46 IT IS PROVED secondly by D. Bonavent. on 3. sapientiae: *Blessed is the barren and unspotted, who hath not known a sinful bed: she shall have fruit in the visitation of holy souls. And the eunuch, who hath not wrought iniquity with his hands, nor thought wicked things against God: for a special gift of faith shall be given him, and a portion in the temple of God. For the fruit of good labours is glorious, and the root of wisdom that never faileth.* That this place is like the former, D. Hieronymus teaches, loco citato.

> *PROBATUR secundo a D. Bonavent. ad 3. sapientiae :* Felix sterilis : et incoinquinata, quae nescivit thorum in delicto, habebit fructum in respectione animarum sanctarum : et spado, qui non operatus est per manus suas iniquitatem, nec cogitavit contra Deum nequissima : Dabitur enim illi fidei donum electum, et sors in Templo Dei. Bonorum enim laborum gloriosus est fructus, et quae non concidat radix sapientiae. *Quem locum similem esse superiori docet D. Hieronymus loco citato.*

47 IT IS PROVED thirdly by D. Bonavent. in 4. d. 38. art. 2. quaest. 1. in corpore; for the Lord compares the Church to the good earth, of which one part rendered fruit a hundredfold, another sixtyfold, another thirtyfold; which place, expounding, Cyprianus, de habitu Virginum; Hieronymus, lib. I. in Iovinianum; Augustinus, de sancta Virginitate, cap. 44. et 45. teach that by that parable is distinguished the merit of chaste marriage, widowhood, and virginity. From which it is plain that Virginity is a greater good and more meritorious than conjugal chastity, and so is a counsel of God.

> *PROBATUR tertio a D. Bonavent. in 4. d. 38. art. 2. quaest. 1. in corpore, nam Dominus comparat Ecclesiam terrae bonae, cuius una pars reddebat fructum centesimum, alia sexagesimum, alia trigesimum, quem locum exponentes Cyprianus de habitu Virginum, Hieronymus lib. I. in Iovinianum. Augustinus de sancta Virginitate, cap. 44. et 45. docent, ea parabola distingui meritum casti coniugii, viduitatis, et virginitatis. Ex quo patet. Virginitatem esse maius bonum, et magis meritorium, quam sit castitas coniugalis, atque adeo esse consilium Dei.*

48 IT IS PROVED fourthly by D. Bonavent. in the exposition of the Missa, at the fraction of the most holy Hostia, and in the serm. de Virginibus, from prima Corinth. 7. where the counsel of continence is proposed in many ways: *It is good for a man not to touch a woman.* Likewise: *It is good for a man so to be.* Likewise: *Art thou loosed from a wife? Seek not a wife.* Similarly: *But I say to the unmarried and to the widows: it is good for them if they so continue, as I also.* Likewise: *I would that you all were, as I myself am.* Likewise: *Concerning Virgins I have no commandment of the Lord, but I give counsel, as having obtained mercy of the Lord, to*

be faithful. Where note that Paul presents himself as a faithful minister of God in giving this counsel. Likewise: *He that joineth his Virgin in marriage doth well: and he that joineth her not doth better. The unmarried and the virgin thinketh on the things of the Lord, that she may be holy in body and in spirit.* Finally of the widow: *She shall be married to whom she will: only in the Lord. But she will be more blessed if she so continue, according to my counsel: and I think that I also have the Spirit of God.* Where thou seest that this counsel is attributed to the Holy Spirit.

> *PROBATUR quarto a D. Bonavent. in expositione Missae, ad sanctissimae Hostiae fractionem, et in serm. de Virginibus, ex prima Corinth. 7. ubi multis modis proponitur consilium continentiae :* Bonum est mulierem non tangere. *Item :* Bonum est homini sic esse. *Pariter :* Solutus es ab uxore? Noli quaerere uxorem. *Similiter :* Dico autem innuptis, et viduis, bonum est si sic permanserint, sicut et ego. *Item :* Volo vos omnes esse, sicut meipsum. *Item :* De Virginibus praeceptum Domini non habeo, consilium autem do, tanquam misericordiam consecutus a Domino, ut sim fidelis. *Ubi nota, Paulum exhibere se ut ministrum Dei fidelem in hoc consilio dando. Item :* Qui matrimonio iungit Virginem suam, bene facit : et qui non iungit melius facit. Inupta, et virgo cogitat quae Domini sunt, ut sit sancta corpore et spiritu. *Denique de vidua :* Cui vult nubat : tantum in Domino. Beatior autem erit si sic permanserit secundum meum consilium : puto autem, quod et ego Spiritum Dei habeam. *Ubi vides, hoc consilium attribui Spiritui Sancto.*

49 Lutherus answers in the epithalamio, that the Apostle indeed indicates that he inclines to continence, but that at last he dissuades from it: *But because of fornication, let every man have his own wife; and let every woman have her own husband.*

> *RESPONDET Lutherus in epithalamio, Apostolum quidem indicare, se inclinare ad continentiam; at eam tandem dissuadere :* Propter fornicationem autem unusquisque suam uxorem habeat; et unaquaque suum virum habeat.

50 Calvinus answers nearly the same in his commentary on this place, namely that he wishes to say: I would urge continence, but because it is impossible, let every man have a wife; just as if anyone should say: It would be good neither to eat nor to drink; but because without these you cannot live, eat ye and drink.

> *IDEM fere respondet Calvinus in commentario huius loci, nempe velle dicere : Ego suaderem continentiam, sed quia est impossibilis, unusquisque uxorem habeat; sicut si quis diceret : Bonum esset nec comedere, nec bibere; at quia sine his non potestis vivere; edite, et bibite.*

51 BUT on the contrary, for the Apostle says: *I would: I give counsel; but I would not command:* And this is the unanimous commentary of the holy Fathers. See Chrysostomum, and others on this place, Ambrosium lib. de viduis, near the end. Hieronymum lib. I. in Iovinianum. Augustinum lib. de sancta Virginitate, cap. 13. who, as if he had foreseen the empty invention of his apostate, namely that the Apostle would deter from continence, himself wrote the contrary in cap. 16.

> *AT contra, nam Apostolus dicit :* Volo : consilium do; non autem darem : *Hoc vero est unanime Sanctorum PP. commentarium. Vide Chrysostomum, et alios ad hunc locum, Ambrosium lib. de viduis prope finem. Hieronymum lib. I. in Iovinianum. Augustinum lib. de sancta Virginitate, cap. 13. qui quasi praevidisset inane commentum apostatae sui, nempe Apostolum deterrere a continentia; ipse scripsit contrarium cap. 16.*

52 In this manner he exhorts to virginity and perpetual continence, that he might also somewhat deter from nuptials.

> *Hoc modo exhortator ad virginitatem, continentiamque perpetuam, ut aliquantulum a nuptiis etiam deterreret.*

53 MOREOVER, if continence is impossible, why does Paul labor so much in giving this counsel? And the absurdity will be plain if the sayings of the Apostle are applied after the example of Calvinus. It would surely be ridiculous for the Apostle to say: It is good not to eat. Likewise: Be without food, seek not food. Likewise: Concerning not eating I have no commandment of the Lord; but I give counsel: that no one should eat. Likewise: he that eateth doth well, and he that eateth not doth better. Likewise: he doth not sin who eateth, but he will be more blessed, if he so continue according to my counsel. From the ridiculous doctrine of Calvinus these absurdities would follow.

> *PRAETEREA, si impossibilis est continentia, cur tantopere laborat Paulus in hoc consilio dando. Et patebit absurditas, si applicentur dicta Apostoli exemplo Calvini. Ridiculum sane esset, Apostolum dicere : Bonum est non comedere. Item : Cares cibo, noli quaerere cibum. Item : De non comedendo praeceptum Domini non habeo; consilium autem do : ut nemo edat. Item : qui comedit, benefacit, et qui non comedit, melius facit. Item : non peccat qui comedit, beatior autem erit, si sic permanserit secundum meum consilium; Ex ridicula Calvini doctrina haec sequerentur absurda.*

54 NOR does he wish all to have necessity of marrying, as Lutherus himself confesses, who excepts those who have the gift of continence, but warns those who are unwilling to be contained to marry, lest they fornicate: *He that containeth not, let him marry.*

> *NEQUE omnes vult necessitatem habere nubendi, ut ipse Lutherus fatetur, qui excipit eos, qui habent donum continentiae, sed monet eos, qui nolunt contineri, ut nubant, ne fornicentur :* Qui non se continet, nubat.

55 Petrus Martyr answers on this place that the sense is: *Let them be continent who have the gift of continence. It is good for a man not to touch a woman,* that is, not to have a wife; but because almost no one can promise himself that he has this gift, let him accept the commandment, or counsel, of God, Genes. 2. *It is not good for man to be alone.*

> *RESPONDET Petrus Martyr ad hunc locum, sensum esse :* Contineant, qui habent donum continentiae. Bonum est homini mulierem non tangere, *idest, non habere uxorem; at quia nulli fere hoc donum, se habere promittere valent; accipiat Dei mandatum, sive consilium, Genes. 2.* Non est bonum hominem esse solum.

56 BUT the answer is empty, for God said this to Adam, who in the state of innocence was adorned with the gift of continence, and he said it for the species to be preserved and for a temporal good; but the Apostle speaks universally on account of the spiritual good of the individual. Wherefore as virginity is a gift of God, so also conjugal continence: *Every one hath his proper gift from God: one indeed after this manner, another after that.* Therefore, as he who marries has need of this gift, and is not on that account removed from marriage, because he can obtain it from God; so also here.

> *AT inanis est responsio, nam Deus hoc dixit Adae, qui in statu innocentiae erat dono continentiae ornatus, et hoc dixit ad speciem conservandam, et bonum temporale; at Apostolus universaliter loquitur ob bonum spirituale individui. Quare sicut est donum Dei virginitas; ita etiam continentia coniugalis :* Unusquisque donum suum habet ex Deo : unus quidem sic, alius vero sic. *Itaque, sicut qui nubit, eget hoc dono, neque ob id removetur a nuptiis, quia potest a Deo obtinere; ita etiam hic.*

57 *They answer* thirdly that Paul praises continence only as useful, either for driving away the molestations of marriage (Lutherus says, in the epithalamio) or for serving God more easily (Melancthon, and P. Martyr say).

> Respondent *tertio, Paulum laudare tantum continentiam, tanquam utilem sive ad molestias coniugii fugandas (ait Lutherus in epithalamio) sive ad Deo facilius serviendum (aiunt Melancthon, et P. Martyr.)*

58 *But* the Apostle asserts that it avails also for pleasing God, as D. Bonavent. notes, loco cit.: *The unmarried woman and the virgin thinketh on the things of the Lord, how she may please God, that she may be holy in body and in spirit.*

> At *vero etiam ad Deo placendum valere asserit Apostolus, ut notat D. Bonavent. loco cit.* Mulier innupta, et virgo cogitat quae Domini sunt, quomodo placeat Deo, ut sit sancta corpore, et spiritu.

59 *It is proved* fifthly from that of Lucae primo: *How shall this be done, because I know not man?* and from prima Timot. 6. *For when they have grown wanton in Christ, they will wish to marry: having damnation, because they have made void their first faith.* I have sufficiently expounded these places in the preceding disputation, quaest. 10. where I showed that vows are pleasing to God.

> Probatur *quinto ex illo Lucae primo:* Quomodo fiet istud, quoniam virum non cognosco? *et ex prima Timot. 6.* Cum enim luxuriatae fuerint in Christo, nubere volunt: habentes damnationem, quia primam fidem irritam fecerunt. *Haec loca satis exposui disputatione praecedenti, quaest. 10. ubi vota esse Deo grata ostendi.*

60 *It is proved* also from the sacred Councils: Ancyrano can. 18. Chalced. generali can. 16. Carthag. tertio cap. 33. and Carthag. quarto cap. ultimo; Toletano quarto cap. 55. Turon. 2. cap. 16. Maguntiensi cap. ultimo, where it brings in the Elibettinum decree 13. and the sixth of Colonia. Romano sub Sylvestro can. 10. and Fotouilicense, where the solemn vow of virginity is enjoined to be most gravely observed.

> Probatur *etiam ex sacris Conciliis Ancyrano can. 18. Chalced. generali can. 16. Carthag. tertio cap. 33. et Carthag. quarto cap. ultimo, Toletano quarto cap. 55. Turon. 2. cap. 16. Maguntiensi cap. ultimo, ubi adducit Elibettinum decreto 13. et sextum Coloniense. Romano sub Sylvestro can. 10. et Fotouilicense, ubi votum virginitatis solenne gravissime observandum iniungitur.*

61 *The same* the SS. Pontifices impose: Clemens lib. 3. *Constit. Apostolicarum*, cap. 1. Cyricius *epist. prima*, cap. 6. Innocentius I. *epist. 2. cap. 12.* Leo I. *epist. ad Rusticum Episcopum Narbonensem, which is 90. cap. 13.* Gelasius *epist. 33.*

> Idem *imponunt SS. Pontifices, Clemens lib. 3.* Constit. Apostolicarum*, cap. 1. Cyricius* epist. prima*, cap. 6. Innocentius I.* epist. 2. cap. 12. *Leo I.* epist. ad Rusticum Episcopum Narbonensem, quae est 90. cap. 13. *Gelasius* epist. 33.

62 *In the same way* Constantinus Magnus Imperator abrogated that law of the Romans, by which the childless, or those bereft of children, were deprived of hereditary succession. The cause of the abrogation Eusebius writes, lib. 4., to have been on account of those who vowed celibacy out of piety, lest the political Law seem to punish piety.

> Itidem *Constantinus Magnus Imperator legem illam Romanorum abrogavit, qua privabantur haereditaria successione steriles, vel orbati liberis. Causam autem abrogationis scribit Eusebius lib. 4. fuisse propter eos, qui caelibatum ex pietate vovebant, ne videretur Lex politica pietatem punire.*

63 *Thus* also Iovinianus Imperator made a Law, that no one should dare to seek a sacred Virgin in marriage, nor look upon her immodestly, as had been done in the time of Julian the Apostate, and he imposed the punishment of death. Lutherus was guilty of this punishment. Sozomenus writes this law, lib. 6. cap. 3. and it still exists in *C. lege si quis, de Episcopis, et Clericis.*

> Sic *et Iovinianus Imperator Legem tulit, ne quis auderet sacram Virginem in sponsam petere, neve impudice aspicere, sicuti tempore Iuliani Apostatae actum fuerat, et poenam capitis imposuit. Huius poenae reus fuit Lutherus. Scribit hanc*

legem Sozomenus lib. 6. cap. 3. et extat adhuc in C. lege si quis, de Episcopis, et Clericis.

64 *It is proved* also by D. Bonavent. both in *Pharetra* lib. 1. cap. 38. and in *4. sent. d. 38. quaest. 9. from the Fathers*, who commend the vow of chastity wonderfully, as most pleasing to God and profitable to salvation.

Probatur *etiam a D. Bonavent. tum in* Pharetra *lib. 1. cap. 38. tum in* 4. sent. d. 38. quaest. 9. ex PP. *qui votum castitatis mirifice commendant, tanquam Deo gratissimum, et saluti proficuum.*

65 *S. Gregorius* lib. 15. *moral. cap. 12.*: *The virginity of the flesh was by no means commanded, but only praised. For if it were commanded, surely marriage would now be turned into a fault.*

S. Gregorius *lib. 15.* moral. cap. 12. Carnis virginitas nequaquam iussa est, sed tantummodo laudata. Nam si illa iuberetur, nimirum iam coniugium in culpam verteretur.

66 *S. Augustinus* lib. de virginitate sancta, *cap. 12. Tom. 6.*: *Assuredly the Virgins will have something great beyond the others in that common immortality of the saints, because they have something already not of the flesh in the flesh. And below, cap. 27.: The Virgins are they, and they follow the Lamb whithersoever he goeth. Whither do we think this Lamb goeth? Certainly whither no one either dareth or is able to follow him, unless you? Where I believe the joys are great, perchance distinguished from all the other joys in that kingdom. The joys of the Virgins are Christ's: of Christ, in Christ, with Christ, after Christ, through Christ, for the sake of Christ.* And cap. 5.: *That birth of one holy Virgin is the glory of all holy Virgins. And those Virgins themselves, with the Virgin Mary, are the Mothers of Christ, because they do the will of his Father.*

S. Augustinus *lib. de virginitate sancta,* cap. 12. Tom. 6. Profecto habebunt magnum aliquid Virgines praeter caeteros in illa sanctorum communi immortalitate, quoniam habent aliquid iam non carnis in carne. Et infra cap. 27. Virgines sunt, et sequuntur Agnum quocunque ierit. Quo ire putamus hunc agnum? Certe quo nemo eum sequi vel audeat, vel valeat, nisi vos? Ubi credo grandia sunt gaudia, a caeterorum omnium gaudiorum in eo regno forte distincta. Gaudia Virginum Christi sunt, de Christo, in Christo, cum Christo, post Christum, per Christum, propter Christum. *Et cap. 5.* Ille unius sanctae Virginis partus, omnium sanctarum Virginum est decus. Et ipsae Virgines cum Maria Virgine Matres Christi sunt, quia patris eius voluntatem faciunt.

67 *S. Cyprianus* de habitu, et disciplina Virginum, cap. 3. Tom. 2.: *If continence followeth Christ, virginity is destined for the kingdom of God.*

S. Cyprianus *de habitu, et disciplina Virginum, cap. 3. Tom. 2.* Si Christum continentia sequitur, virginitas regno Dei destinatur.

68 *D. Ambrosius* lib. 3. de virginitate, Tom. 4.: *They who do not marry, and do not take wives, are as Angels on earth, that they may not feel the tribulation of the flesh, may know not servitude, and that, as it were stripped of the infirmity of the body, they may think not the things of man, but the things of God.*

D. Ambrosius *lib. 3. de virginitate, Tom. 4.* Qui non nubunt, et uxores non ducunt, sicut Angeli in terris sunt, ut tribulationem carnis non sentiant, servitutem ignorent, ut tanquam exuti corporis infirmitatem, non quae hominis sunt, sed quae Dei cogitent.

69 I ASSERT secondly that the vow of poverty is a holy Counsel of God. Thou hast very many arguments and authorities in D. Bonavent. *in Apologia Pauperum, of the third responsio, chapter one.*

Assero secundo, Votum paupertatis esse Sanctum Dei Concilium. Argumenta, authoritatesque plurimas habes in D. Bonavent. in Apologia Pauperum, responsionis tertiae, capite primo.

70 *It is proved* by D. Bonavent. in the first place cited, and in *Diaeta salutis, tit. 4. cap. 1. near the end, and tit. 6. cap. 2.* from that of Matth. 19.: *If thou wilt be perfect: Go, sell all that thou hast, and give to the poor, and thou shalt have treasure in Heaven.* D. Aug. *epist. 89. quaest. 4. and in Psal. 103. concion. 3.* refers this whole place excellently to the Monastic profession.

Probatur *a D. Bonavent. primo loco cit. et in* Diaeta salutis, tit. 4. cap. 1. circa finem, et tit. 6. cap. 2. *ex illo Matth. 19.* Si vis perfectus esse: Vade, vende omnia, quae habes, et da pauperibus, et habebis thesaurum in Caelo. *Egregie D. Aug.* epist. 89. quaest. 4. et in Psal. 103. concion. 3. *totum hunc locum refert ad professionem Monasticam.*

71 *Calvinus answers* lib. 4. *Instit. cap. 13.* § 13. that that young man lied, when he said: *All these things I have kept* (that is, the commandments) *from my youth*, and therefore Christ, mocking him, said to him: *Go, sell, etc.* That he had not fulfilled the commandments he proves, because the great commandment is to love God above all things, and yet he did not love God with his whole heart, because, having heard: *Go, sell all things for love of me*, he went away sad.

Respondet *Calvinus lib. 4.* Instit. cap. 13. *§ 13. adolescentem illum mentitum, cum ait:* Omnia haec custodivi *(id est praecepta)* a iuventute mea*, ideo Christum irridendo ei dixisse:* Vade, vende, etc. *Quod vero non implevisset praecepta, probat, quia magnum praeceptum est diligere Deum super omnia, et tamen ipse non diligebat Deum ex toto corde, quia audito:* Vade, vende, pro mei amore, omnia*, abiit tristis.*

72 *But* Calvinus strikes his foot with the hoe; for if Christ imposed that commandment on that young man, impossible no less than to number the stars of heaven (as he himself says), by what argument is he convicted of sin, because he went away grieving?

At *Calvinus ligone pedem ferit; si enim Christus illi iuveni imposuit illud praeceptum, impossibile non minus, quam stellas caeli numerare (ut ipse ait) qua ratione redarguitur peccati, quia abiit moerens?*

73 *The same* Petrus Martyr answers nearly with Calvinus; therefore both, now reprobate, lie.

Idem *fere Petrus Martyr cum Calvino respondet; ideo iam reprobatus utetque iacet.*

74 *I press* the point, for in 10. Marci it is said: *Christ loved him.* By what argument then do they either convict him of lying, or ironically lead him on to things simply impossible?

Urgeo *nam 10. Marci dicitur:* Christus dilexit eum. *Qua vero ratione, vel mendacem redarguunt, vel ironice ad simpliciter impossibilia inducunt?*

75 *Pseudomartyr insists* that this is a commandment: *If thou wilt be perfect*, for in Matth. 5. we are commanded: *Be ye perfect, as also your Father is perfect.*

Instat *Pseudomartyr, hoc est praeceptum:* Si vis perfectus esse*, nam Matth. 5. praecipimur:* Estote perfecti, sicut et Pater vester perfectus est.

76 *It is answered* that that perfection, like that of the eternal Father, is simply impossible, unless one be some god; therefore only imitation is urged in charity, not is every work commanded.

Respondetur*, eam perfectionem, ut Pater aeternus, esse simpliciter impossibilem, nisi sit aliquis Deus, ideo suadetur sola imitatio in charitate, non omne opus praecipitur.*

77 *Martyr answers* that this commandment was given to this young man alone.

> Respondet *Martyr, hoc praeceptum datum soli huic iuveni.*

78 *But* this is false: for many Saints acknowledged that it was said to them also. Thus D. Antonius, as S. Athanasius testifies in his life, and S. P. Franciscus, as S. Bonaventura notes in his life, where S. Doctor advertises that this counsel was given under this condition: *If thou wilt be perfect*, as if he said: This is the way, and the ladder, to perfection, to which whosoever wills to ascend must leave all things.

> At *hoc falsum ests: Nam multi Sancti id sibi etiam dictum agnoverunt. Sic D. Antonius, ut testatur S. Athanasius in eius vita, et S. P. Franciscus, ut in eius vita notat S. Bonaventura, ubi advertit S. Doctor, hoc consilium datum sub hac conditione:* Si vis perfectus esse*, quasi dicat: Haec est via, et scala ad perfectionem, ad quam quisquis vult ascendere, debet omnia relinquere.*

79 From these the exposition of Osiander falls also, apud Alphonsum Viviesium *Phil. 20.*

> *Ex his ruit etiam expositio Osiandri apud Alphonsum Viviesium* Phil. 20.

80 *It is proved* secondly by D. Bonavent. *in Diaeta, tit. 4. cap. 1. from 4. Actorum: And the multitude of believers had but one heart and one soul: neither did any one say that aught of the things which he possessed was his own, but all things were common unto them.* That they agreed thus by vow, D. Augustinus asserts, *in the first sermon de communi vita clericorum.*

> Probatur *secundo a D. Bonavent.* in Diaeta, tit. 4. cap. 1. ex 4. Actorum: Multitudinis autem credentium erat cor unum, et anima una: nec quisquam eorum, quae possidebat, aliquid suum esse dicebat, sed erant illis omnia communia. *Quod autem voto ita convenirent, asserit D. Augustinus* sermone primo de communi vita clericorum.

81 *It is confirmed*, for Ananias, and Saphira, were therefore punished with death because they retained something of their own; otherwise they would not have deserved so great a punishment.

> Confirmatur*, nam ideo Ananias, et Saphira morte puniti sunt, quia aliquid proprium retinente; alioqui non fuissent tanta digni poena.*

82 *That* they had already vowed it is proved; for it is said: *He defrauded of the price of the field*; but it would not be fraud unless the thing had already been promised; and therefore the Apostle says: *While it remained, did it not remain to thee, and being sold, was it not in thy power?* That that violation was sacrilegious the Apostle testifies: *Ananias, why hath Satan tempted thy heart, to lie to the Holy Ghost? Thou hast not lied to men, but to God.*

> Quod *vero iam vovissent. Probatur, nam dicitur:* Fraudavit de pretio agri*, non esset autem fraus, nisi res esset iam promissa, et ideo Apostolus ait:* Nonne manens tibi manebat, et venundatum in tua erat potestate? *Quod vero violatio illa fuerit sacrilega, testatur Apostolus:* Anania, cur tentavit Sathanas cor tuum, mentiri te Spiritui Sancto? Non es mentitus hominibus, sed Deo.

83 *IT IS CONFIRMED* from the holy Fathers, who acknowledge this breaking of a vow. Thus Chrysostomus *homil. 12. in Acta*. Hieronymus *epistola 8. which is ad Demetriadem*. Augustinus *serm. 27. de verbis Apostoli*, and *sermone 10. de diversis*. Fulgentius *epistola de debito coniugali, cap. 8*. Gregorius *lib. 1. epist. 33*. Arator *lib. 1. in Acta Apostolorum*. Oecumenius, *on this place*. Beda *on this place*.

CONFIRMATUR *ex sanctis PP. qui hanc voti fractionem agnoscunt. Ita Chrysostomus* homil. 12. in Acta. *Hieronymus* epistola 8. quae ad Demetriadem. *Augustinus* serm. 27. de verbis Apostoli, *et* sermone 10. de diversis. *Fulgentius* epistola de debito coniugali, cap. 8. *Gregorius* lib. 1. epist. 33. *Arator* lib. 1. in Acta Apostolorum. *Oecumenius,* ad hunc locum. *Beda* ad hunc locum.

84 *IT IS PROVED* then by D. Bonavent. in his works on Poverty, from the Fathers, especially in the *Apologia, loco citato*, where he reports very many; *lib. indeed 1. Pharetrae, cap. 41.* he brings among others D. Bernardum *epistola 103. and in the first sermon of all the saints*, expounding that of Matth. 5.: *Blessed are the poor in spirit, for theirs is the kingdom of heaven*. Thus also the saints expound: Ambrosius in *6. Lucae*, Nyssenus, Hieronymus, Beda on *5. Matth.* Leo *in the sermon on this Gospel*, Chrysostomus, and Anselmus on that place; Basil. *quaest. 105.* Abulensis, Lyra, Caictanus, Iansenius, who expound of actual voluntary poverty: for the Greek word *πτωχὸς* also sounds of a beggar. It is confirmed, for in *Lucae 6.* the Poor, who are said to be blessed, are opposed not to the proud but to the rich; for he soon adds: *Woe to you, rich*, as Bellarminus notes, *ad eum locum*, where he confirms that the name of poor agrees here with that: *Who when he was rich became needy. 2. Corinth. 8.* whence S. Bonavent. deduces that it speaks of actual voluntary poverty: and below he observes that the woe against the rich is opposed to the Beatitude of the poor.

PROBATUR *deinde a D. Bonavent. in operibus suis de Paupertate, ex Patribus, praecipue in* Apologia, loco citato, *ubi plurimos refert* lib. vero 1. Pharetrae, cap. 41. *affert inter alios D. Bernardum* epistola 103. et sermone primo sanctorum omnium, *exponentem illud Matth. 5.* Beati pauperes spiritu, quoniam ipsorum est regnum caelorum. *Sic etiam exponunt sancti, Ambrosius in* 6. Lucae, *Nyssenus, Hieronymus, Beda in* 5. Matth. *Leo* sermone de hoc Evangelio, *Chrysostomus, et Anselmus ad eum locum, Basil.* quaest. 105. *Abulensis, Lyra, Caictanus, Iansenius, qui de actuali paupertate voluntaria sic exponunt: nam etiam verbum Graecum* πτωχὸς *mendicum sonat. Confirmatur, nam* Lucae 6. *Pauperes, qui beati esse dicuntur, non superbis, sed divitibus opponuntur, sic enim mox subdit:* Vae vobis divitibus, *ut notat Bellarminus* ad eum locum, *ubi confirmat nomen pauperis hoc eum illo:* Qui cum esset dives, egenus factus est. 2. Corinth. 8. *unde deducit S. Bonavent. de voluntaria actuali paupertate loqui: et infra observat, opponi vae divitibus, oppositum Beatitudini pauperum.*

85 *HENCE* therefore S. Bonavent. argues that it is best to vow poverty, *loco citato in Lucam*.

HINC *igitur S. Bonavent. arguit, optimum esse vovere paupertatem* loco citato in Lucam.

86 From this the exposition of Calvinus falls, who by "the poor" expounds "the afflicted."

Hinc ruit expositio Calvini, qui, per pauperes, exponit afflictos.

87 *AGAINST* it, indeed, because, as Bellarminus notes, after D. Bonavent. *ad 6. Lucae*, he distinguishes the poor from those who mourn.

CONTRA *enim, quia ut notat Bellarminus post D. Bonavent.* ad 6. Lucae, *distinguit pauperes a lugentibus.*

88 But S. Bonavent. disputes it deliberately, *opuscul. de paupertate Christi, contra Guillelmum*.

E professo autem id disputat S. Bonavent. opuscul. de paupertate Christi, contra Guillelmum.

89 *FIRST* he shows it from that *Matth. 19.: If thou wilt be perfect: go, sell all that thou hast, and give to the poor; and follow me.*

PRIMO *id ostendit ex illo* Matth. 19. Si vis perfectus esse: vade, vende omnia quae habes, et da pauperibus; et sequere me.

90 *SECONDLY* from that of Peter, who, the promises having been made to the poor, animated, said: *Behold we have left all things, and have followed thee: what therefore shall we have? and Christ promises them: Amen I say to you: that you, who have followed me, shall sit upon twelve seats, judging the twelve tribes of Israël; and every one that hath left house, or brethren, or father, or mother, or wife, or children, or lands, for my name's sake, shall receive an hundredfold, and shall possess life everlasting.*

> SECUNDO *ex illo Petri, qui promissionibus factis pauperibus, animatus ait:* Ecce nos reliquimus omnia, et secuti sumus te; quid ergo erit nobis? et Christus eis promittit: Amen dico vobis: quod vos, qui secuti estis me, sedebitis super sedes duodecim, iudicantes duodecim tribus Israël, et omnis qui reliquerit domum, aut fratres, aut patrem, aut matrem, aut uxorem, aut filios, aut agros propter nomen meum, centuplum accipiet, et vitam aeternam possidebit.

91 But S. Bonavent. *OBSERVES*, with the Glossa, that not a part of the goods, but all, were to be renounced.

> OBSERVAT *autem S. Bonavent. cum Glossa, non partem facultatum, sed omnes fuisse renunciandas.*

92 *THIRDLY* he proves it from that *Marci 12.* where Christ praised the widow, who sent those two mites, necessary to herself, into the Gazophylacium. *But this, of her want, sent all that she had, her whole livelihood.*

> TERTIO *id probat ex illo* Marci 12. *ubi Christus laudavit viduam, quae duo illa minuta sibi necessaria misit in Gazophylacium.* Haec autem de penuria sua, omnia, quae habuit, misit totum victum suum.

93 *FOURTHLY* he proves it from that *Lucae 12.* where, that rich man having been blamed, greedy of gathering, he exhorts to renouncing all things, and to living after the manner of the birds, especially the crows, which, possessing nothing, are fed by the providence of God: *Consider the ravens, for they sow not, neither do they reap; they have neither storehouse nor barn, and God feedeth them*, after that *Psalm. 146.: Who giveth to their beasts their food, and to the young ravens that call upon him.* But S. Bonavent. advertises, ad eum locum *Lucae*, that the crows are put among the other birds, partly because they are of the greatest gluttony, as is intimated *Genes. 8.* of that raven, which went forth and *did not return back;* because it had settled on carcasses. Then because the young of crows are abandoned by their parents, and, naked and unfit to seek food, are fed by God, as is had *Iob 38.: Who will prepare food for the raven, when her young ones cry unto God?* Whence by the crows he understands also the other birds, as is said Matth. 6.: *Behold the birds of the air.*

> QUARTO *id probat ex illo* Lucae 12. *ubi vituperato illo divite, avido congregandi, hortatur ad omnia renuncianda, atque ad vivendum more volucrum, praecipue corvorum, qui nil habentes, a Dei providentia aluntur:* Considerate corvos, qui non seminant, neque metunt, quibus non est cellarium, neque horreum, et Deus pascit illos, *iuxta id* Psalm. 146. Qui dat iumentis escam ipsorum, et pullis corvorum invocantibus eum. *Advertit autem S. Bonavent. ad eum locum* Lucae, *apponi inter caetera volatilia corvos, tum quia sunt maximae edacitatis, ut innuitur* Genes. 8. *de illo corvo, qui egrediebatur, et* non revertebatur*; quia insederat cadaveribus. Tum quia pulli corvorum derelinquuntur a parentibus, et nudi, ineptique cibo quaerendo, aluntur a Deo, ut habetur* Iob 38. Quis praeparabit corvo escam suam, quando pulli eius clamant ad Deum? *Unde per corvos intelligit etiam alia Volatilia, ut dicitur Matth. 6.* Respicite volatilia caeli.

94 *HENCE* Christ elicits the inference: *How much more are you better than they:* For indeed, because someone could argue that it is more fitting for us to be solicitous, because we have need of more things, Christ rebukes: *And which of you, by thinking, can add to his stature one cubit.* Thus therefore he

argues: *He who gives you the growth of the body even to the last hair, will give also the necessaries to the body*; therefore he concludes: *If then ye be not able to do even the least thing, why are you solicitous for the rest?*

> HINC *elicit Christus illationem:* Quanto magis vos pluris estis illis: *Enim vero, quia poterat aliquis argumentari, nobis convenire magis sollicitari, quia pluribus egemus; redarguit Christus:* Quis autem vestrum cogitans adiicere potest ad staturam suam cubitum unum. *Sic igitur arguit:* Qui dat vobis incrementum corporis usque ad capillum ultimum, dabit etiam corpori necessaria*, ideo concludit:* Si ergo neque quod minimum est potestis, quid de caeteris solliciti estis?

95 *HE ADDS* also: *Consider the lilies, how they grow: they labour not, neither do they spin, etc.* From this indeed Christ advances step by step to urging the selling of all things: *Sell what ye possess, and give alms*, where he answers that counsel, *Matth. 19.: If thou wilt be perfect, etc.* as D. Bonavent. notes, *loco cit. in Lucam*, where he also refers the Fathers to this.

> SUBDIT *etiam:* Considerate lilia, quomodo crescunt: non laborant, neque nent, etc. *Hinc vero pedetentim Christus incedit ad suadendam omnium venditionem:* Vendite, quae possidetis, et date eleemosynam*, ubi respondet illi consilio,* Matth. 19. Si vis perfectus esse, etc. *ut notat D. Bonavent.* loco cit. in Lucam*, ubi etiam PP. ad hoc refert.*

96 *FIFTHLY* from that *Lucae 14.: Every one of you that renounceth not all that he possesseth cannot be my disciple*, where he observes from the Gloss that the disciples of Christ, who profess the chief religion, ought to renounce also in effect. Which the same S. Bonavent. observes, *ad 14. Lucae*, from the same Gloss, where he also notes, from D. Bernardo, *loco supra citato declamat* that this is laid as the foundation of edification, as he had said, *Lucae 12.: For which of you having a mind to build a tower, doth not first sit down and think whether he have means to finish it?* and therefore the first beatitude is placed at the beginning for the poor: *Blessed are the poor in spirit, etc.*

> QUINTO *ex illo* Lucae 14. Nisi quis renunciaverit omnibus, quae possidet, non potest meus esse discipulus*, ubi observat ex Glossa, discipulos Christi, qui religionem praecipuam profitentur, debere renunciare etiam effectu. Quod idem observat S. Bonavent.* ad 14. Lucae *ex eadem Glossa, ubi etiam notat ex D. Bernardo* loco supra citato declamat. *hoc poni tanquam fundamentum aedificationis, ut dixerat* Lucae 12. Quis enim ex vobis volens turrim aedificare, non prius sedens cogitat, si habeat sumptus ad perficiendum? *et ideo initio positam primam beatitudinem pauperibus:* Beati pauperes spiritu, etc.

97 But S. Bonavent. *CONFIRMS it* in the *opusculo cited*; whom Bellarminus follows, *loco addicto*: that Christ urged poverty in affection, because he himself was most poor, as is said Matth. 8.: *The foxes have holes, and the birds of the air nests: but the Son of man hath not where to lay his head*, as the Gloss notes. Whence D. Chrysostomus, *homil. 28. in Matth.: Why wouldst thou gather money, following me? Seest thou not that I have not so much as a lodging, not so much as the birds have?*

> CONFIRMAT *autem S. Bonavent.* opusculo citato*; quem sequitur Bellarminus* loco addicto*, Christum suasisse paupertatem affectu, quia ipse pauperrimus fuit, ut dicitur Matth. 8.* Vulpes foveas habent, et volucres caeli nidos: Filius autem hominis non habet, ubi caput suum reclinet*, ut notat Glossa. Unde D. Chrysostomus,* homil. 28. in Matth. Quid pecunias expellas sequens me congregare? Non vides, quia diversorium mihi, neque tantum quantum avibus?

98 *NEXT Matth. 17.* Christ had not a stater to pay the tribute. Whence he says to Peter: *Go thou to the sea, etc.* so the Gloss observes.

DEINDE Matth. 17. *Christus non habuit staterem ad solvendum tributum. Unde ait Petro:* Vade ad mare, etc. *sic observat Glossa.*

99 *IOANNIS C. 14.: The prince of this world cometh, and in me he hath not any thing*, as the Gloss notes, and *secunda Corinth. 8.: For your sakes he became needy, when he was rich*; in this I give counsel. Where D. Bonavent. adds Augustinian words in the original: *He became so needy as not to have what the foxes have; and in this I give counsel*, he subjoins under a breath, *that ye imitate his poverty*. Thus it is expounded also by D. Hieronymo in the Gloss, and Lyrano, and other expositors.

IOANNIS C. 14. Venit Princeps mundi huius, et in me non habet quidquam*, ut notat Glossa, et* secunda Corinth. 8. Propter vos egenus factus est, cum esset dives*; in hoc consilium do. Ubi D. Bonavent. subdit Augustino in originali:* Factus est egenus in tantum, ut non haberet, quod habent Vulpes; et in hoc consilium do*, subauditut,* ut eius paupertatem imitemini. *Sic exponitur etiam a D. Hieronymo in Glossa, et Lyrano, aliisque expositoribus.*

100 *NOW* indeed D. Bonavent. argues thus most strongly against Guillelmum: Christ made his works holy, most worthy of imitation, especially in suffering nakedness, poverty, etc. as is said *prima Petri 2.: Christ suffered for us, leaving you an example that ye should follow his steps:* Therefore to vow poverty is holy.

IAM *vero sic arguit D. Bonavent. validissime contra Guillelmum: Christus opera sua fecit sancta, dignissimae imitatione, maxime in patiendo nuditatem, paupertatem, etc. ut dicitur* prima Petri 2. Christus passus est pro nobis, vobis relinquens exemplum ut sequamini vestigia eius: *Ergo vovere paupertatem, sanctum est.*

101 *HENCE* D. Hieronymus *ad Hedibiam, epist. 150.: Wilt thou be perfect, and stand in the first pinnacle of dignity? Do what the Apostles did: Sell all that thou hast, and give to the poor, and follow the Saviour.* The same he has in *epistola 1. ad Heliodorum, and Matth. 6. on those words: Behold the birds of the air, etc.*

HINC *D. Hieronymus* ad Hedibiam, epist. 150. Vis esse perfecta, et in primo stare fastigio dignitatis? fac quod fecerunt Apostoli: Vende omnia, quae habes, et da pauperibus, et sequere Salvatorem. *Idem habet* epistola 1. ad Heliodorum, et Matth. 6. ad ea verba: Respicite volatilia, etc.

102 *He confirms it* with the testimonies of other holy Fathers. These are Ambrosius *in Lucam lib. 6. cap. 9. Tom. 3. and lib. 2. de offic. Tom. 4. Augustinus lib. de bono coniug. cap. 8. at the end, Tom. 6. de eccl. dogm. cap. 71. Gregorius homil. 20. in Ezech. Bernardus epist. 42. Prosper de vita contemplativa, lib. 2. cap. 9. and it is had in 12. quaest. 1.*

ID *confirmat aliorum sanctorum PP. testimoniis. Hi sunt Ambrosius* in Lucam lib. 6. cap. 9. Tom. 3. et lib. 2. de offic. Tom. 4. Augustinus lib. de bono coniug. cap. 8. in fine, Tom. 6. de eccl. dogm. cap. 71. Gregorius homil. 20. in Ezech. Bernardus epist. 42. Prosper de vita contemplativa, lib. 2. cap. 9. et habetur 12. quaest. 1.

103 *HE PROVES* it then by reasons. The first is: The more one withdraws from the occasion of cupidity, the more one ascends toward the city of God: but by poverty we are wholly separated from the occasion of cupidity: Therefore. The minor is evident. The major is proved, because the more one withdraws from one opposite, the more one approaches the other opposite: but the city of God and the city of the Devil are opposites, because the former has for its foundation the love of eternal things; and the city of the devil, cupidity: Therefore. See the other reasons in D. Bonaventura.

PROBAT *deinde rationibus. Prima est : Quanto magis receditur a cupiditatis occasione, tanto magis ascenditur ad civitatem Dei: sed per paupertatem omnino separamur ab occasione cupiditatis: Ergo. Minor est evidens. Maior*

probatur, quia quanto magis receditur ab uno opposito, tanto ad aliud oppositum acceditur: sed civitas Dei, et civitas Diaboli sunt oppositae, quia illa habet pro fundamento amorem aeternorum; et civitas diaboli cupiditatem: Ergo. Alias rationes vide in D. Bonaventura.

104 But the principal one for proving the sanctity of poverty, even that excluding the common, is: As simple is related to simple, so more to more; but poverty simply is laudable: Therefore greater poverty is more laudable. Such is this: Therefore.

PRAECIPVA vero ad probandam sanctitatem paupertatis, etiam communia excludentis, est: Sicut se habet simpliciter ad simpliciter, ita magis ad magis; sed paupertas simpliciter est laudabilis: Ergo maior paupertas est magis laudabilis. Talis est haec: Ergo.

105 I ASSERT thirdly. The vow also of obedience is a holy counsel of the Lord.

ASSERO tertio. Votum etiam obedientiae est consilium sanctum Domini.

106 *IT IS PROVED* by D. Bonavent. *loco cit. Diaetae, titulo 6. cap. 2. from Matth. 16.: If any man will come after me, let him deny himself, and take up his cross, and follow me,* on which almost alone Bellarminus solidly relies, *lib. 2. cap. 21.*

PROBATUR *a D. Bonavent.* loco cit. Diaetae, titulo 6. cap. 2. ex Matth. 16. Qui vult venire post me, abneget semetipsum, tollat crucem suam, et sequatur me, *quo fere unico solide nititur Bellarminus* lib. 2. cap. 21.

107 *IT IS PROVED* secondly by D. Bonavent. *in Pharetra, lib. 2. cap. 43. from the holy* Fathers, whom Bellarminus also reports.

PROBATUR *secundo a D. Bonavent.* in Pharetra, lib. 2. cap. 43. ex sanctis *PP. quos etiam Bellarminus refert.*

108 FIRST D. Augustinus, de operibus monachorum, cap. 17. Tom. 3.: *The prayer of one obedient man is heard sooner than ten thousand of the scornful.*

PRIMO D. Augustinus de operibus monachorum, cap. 17. Tom. 3. Citius exauditur una obedientis oratio, quam decem millia contemptorum.

109 D. HIERONYMUS, epistola 4. ad Rufinum monachum, after the middle, Tom. 1.: *Serve the brethren, wash the feet of guests, having suffered injuries keep silence, fear the Superior of the monastery as the Lord, love him as a father, believe that whatsoever he shall command is salutary for thee, and judge not the judgment of the greater, whose office it is to obey and to fulfill the things commanded.*

D. HIERONYMUS epistola 4. ad Rufinum monachum, post medium Tom. 1. Servias fratribus, hospitum pedes laves, passus iniurias taceas, Praepositum monasterii timeas ut Dominum, diligas ut patrem, credas tibi salutare quidquid ille praeceperit, nec de maioris sententia iudices, cuius officium est obedire, et implere, quae iussa sunt.

110 D. BERNARDUS *de praecepto, et dispensacione, before the middle: Whatsoever man commandeth in the place of God, which nevertheless is not certain to displease God, must be received altogether no otherwise than if God commanded it.*

D. BERNARDUS de praecepto, et dispensacione, ante medium: Quidquid vice Dei praecipit homo, quod non sit tamen certum displicere Deo, haud secus omnino accipiendum est, quam si praecipiat Deus.

111 THE SAME, epistola 7. ad Adam monachum: *This is to be noted, that some things are pure goods; some pure evils, and in these no obedience is owed by men: because neither are those to be let go, even when they are prohibited; nor these to be committed, when they are commanded. Moreover, between these there are certain middling things, which according to the manner, place, time, or person, can be both evil and good: and in these the law of obedience is laid, as it were in the tree of the knowledge of good and evil, which was in the midst of paradise. In these assuredly it is not lawful to prefer our own sense to the judgment of the masters: in these altogether neither the command nor the prohibition of the prelates is to be despised. O Monk most obedient, who from whatsoever words of the elders lettest not slip one iota, attendest not what sort of thing is commanded, content because it is commanded. And this is obedience without delay.* D. Gregorius Magnus, who was a Monk, has like things, *lib. 35. moral. cap. 10.*

> *IDEM epistola 7. ad Adam monachum*. Hoc advertendum, quod quaedam sunt pura bona; quaedam pura mala, et in his nullam deberi hominibus obedientiam: quoniam nec illa emittenda sunt, etiam cum prohibentur; nec ista, cum iubentur committenda. Porro inter haec sunt media quaedam, quae pro modo, loco, tempore, vel persona, et mala possunt esse et bona: et in his lex posita est obedientiae, tanquam in ligno scientiae boni, et mali, quod erat in medio paradisi. In his profecto fas non est nostrum sensum sententiae praeferre magistrorum: in his omnino praelatorum, nec iussio, nec prohibitio contemnenda. O Monachum obedientissimum, qui ex quibuslibet seniorum verbis ne unum iota praetervelet, non attendit quale sit quod praecipitur, contentus quia praecipitur. Et haec est obedientia sine mora. *Similia habet D. Gregorius Magnus, qui fuit Monachus* lib. 35. moral. cap. 10.

112 THE SAME D. Bernardus, *in the Declamation upon the Gospel: Behold we have left all things; Go then, go to work, thou who disposest to leave all things; remember to count thyself also first among the things to be left; nay, indeed, above all and principally deny thyself, if thou deliberatest to follow him, who emptied himself for thee.*

> *IDEM D. Bernardus* Declamatione super Evangelium: Ecce nos reliquimus omnia, Age, eis age qui relinquere omnia disponis, te quoque primum inter relinquenda numerare memento, imo vero maxime et principaliter abnega te ipsum, si deliberas sequi eum, qui exinanivit propter te semetipsum.

113 THE SAME, *serm. 3. in Adventu Domini: Render reverence, and obedience, to the prelate, of which the one is of the heart, the other of the body.* S. Bonavent. reports many other things, *lib. 1. cap. 11.* S. Bonavent. reports many other things, *lib. 1. cap. 11.*

> *IDEM* serm. 3. in Adventu Domini: Redde reverentiam, et obedientiam praelato, quarum altera cordis, altera corporis est. Alia multa *refert S. Bonavent.* lib. 1. cap. 11.

114 MANY things I have adduced from D. Bernardo, whom Calvinus confesses to be a pious writer.

> *MULTA ex D. Bernardo protuli, quem Calvinus pium scriptorem confitetur.*

115 S. BENEDICTUS, *in Regula, cap. 5.: Obedience then will be acceptable to God, and sweet to men, if what is commanded be done not lukewarmly, nor tardily, nor with murmuring, nor with the answer of one unwilling; because obedience, which is rendered to superiors, is exhibited to God; and cap. 7.: Obedience, a good, is to be exhibited not only to the Abbot by all, but the brethren also should obey one another, knowing that by this way of obedience they are to go to God.*

> *S. BENEDICTUS* in Regula, cap. 5. Obedientia tunc acceptabilis erit Deo, et dulcis hominibus, si quod iubetur, non tepide, non tarde, aut cum murmure, aut responsione nolentis efficiatur; quia obedientia, quae maioribus praebetur, Deo exhibetur, et cap. 7. Obedientia bonum non solum, Abbati exhibendum

est ab omnibus, sed etiam sibi invicem obediant fratres, scientes per hanc obedientiae viam, se ituros ad Deum.

116 S. Bonavent. reports also other testimonies of these Fathers, *lib. 1. Pharetrae, cap. 11. and the twelfth.* Finally S. Doctor shows the whole state of Religion to be holy, *cap. 3. Resp. primae.*

Alia quoque horum Patrum testimonia refert S. Bonavent. lib. 1. Pharetrae, cap. 11. et duodecimo. *Tandem statum Religionis totum sanctum ostendit S. Doctor* cap. 3. Resp. primae.

117 THAT is a holy state which leads swiftly to Charity: Such is the state of Religion: Therefore. The major is plain, because Charity is the end of perfection, *1. Timot. 1. and from* D. Augustino *lib. 1. retr. cap. 6.* The minor is proved; for Christ praised this perfection above ordinary and necessary observance, *Matth. 19. et 16.* Hence D. Chrysostomus, *homil. 17. ad populum*, calls it the Philosophy of Christ. It is confirmed by S. Doctore; for he enjoins works of supererogation, as we saw above, which the SS. adduce as such: Cyprianus *lib. de habitu Virg.* Hieron. *lib. 1. in Iovin.* Ambrosius *lib. de vid.* Gregor. *lib. 15. moral. cap. 9.* Chrysostomus *homil. 8. de Poenit.* Basil. *lib. de Virg.* Nazianzenus *orat. 2. in Iul.*

ILLE est status sanctus, qui ad Charitatem velociter ducit: Talis est status Religionis: Ergo. Maior patet, quia Charitas est finis perfectionis 1. Timot. 1. et ex *D. Augustino* lib. 1. retr. cap. 6. *Minor probatur, nam perfectionem hanc laudavit Christus super observantiam ordinariam, ac necessariam* Matth. 19. et 16. *Hinc D. Chrysostomus* homil. 17. ad populum *vocat eam Philosophiam Christi. Confirmatur a S. Doctore; nam iniungit opera supererogationis, ut supra vidimus, quae talia afferunt SS. Cyprianus* lib. de habitu Virg. *Hieron.* lib. 1. in Iovin. *Ambrosius* lib. de vid. *Gregor.* lib. 15. moral. cap. 9. *Chrysostomus* homil. 8. de Poenit. *Basil.* lib. de Virg. *Nazianzenus* orat. 2. in Iul.

118 WHATEVER Calvinus sees, *lib. 4. cap. 13. sect. 12.* denying works of supererogation, but saying all are commandments: Why then does he cry out that none is necessary to salvation?

QUIDQUID videt Calvinus lib. 4. cap. 13. sect. 12. *negans opera supererogationis, sed omnia dicens praecepta: Cur ergo nulla necessaria ad salutem clamitat?*

119 IT IS PROVED still further by S. Doctore above: That state is holy which removes all incentives to evil: Such is Religion: Therefore. The minor is proved; for: *Whatsoever fault there is in the world is either the concupiscence of the flesh, or the concupiscence of the eyes, or the pride of life,* from D. Ioan. The first, as to occasions, is removed by the vow of Chastity. The second, of Poverty. The third, by the vow of Obedience. In this Evangelical declining consists perfection, as the scriptures, Councils, and Fathers teach, as S. Doctor says there.

PROBATUR adhuc a S. Doctore supra: Ille status est sanctus, qui omnia temovet incentiua ad malum: Talis est Religio: Ergo. Minor Probatur, nam: Quidquid culpae est in mundo, aut est concupiscentia carnis, aut concupiscentia oculorum, aut superbia vitae, *ex D. Ioan. Primum quo ad occasiones removetur voto Castitatis. Secundum, Paupertatis. Tertium, Obedientiae voto. In hac declinatione Evangelica consistit perfectio, ut docent scripturae, Concilia, et Patres, ut ait S. Doctor ibi.*

120 The holy Church indeed has attested this in the Councils: Chalc. *act. 15. cap. 6.* Gangr. *cap. 9.* Ancyr. *c. 18.* Carth. I. *cap. 3.* Carth. 4. *cap. 11. Tol. 4. et 10.* Eliber. *cap. 13.* Tur. 2. *cap. 21.* Constan. *sess. 8.* Trid. *sess. 25.* The acts that are not of Religion are the acts of Religious, as S. Doctor says most beautifully, and with him Valentia.

SANCTA profecto Ecclesia id testata est in Conciliis Chalc. act. 15. cap. 6. *Gangr.* cap. 9. *Ancyr.* c. 18. *Carth. I.* cap. 3. *Carth. 4.* cap. 11. Tol. 4. et 10. *Eliber.* cap. 13. *Tur. 2.* cap. 21. *Constan.* sess. 8. *Trid.* sess. 25. *Actus non Religionis sunt actus Religiosorum, ut perbelle ait S. Doctor, et cum eo Valentia.*

121 THOU OBJECHEST first: Works spontaneous are dearer to God than compelled: But works from vows are necessary: Therefore. The major stands from the scriptures, *Psalm. 5. prima Corinth. 7.* where he protests that he wills not to compel them to the vow, but that they be free: *Not that I cast a snare upon you; secunda Corinth. 3.: Not of sadness, or of necessity:* The same he has ad Philem.

OBIICIES primo: opera spontanea Deo Chariora sunt, quam coacta: At opera ex votis sunt necessaria: Ergo. Maior constat a scripturis Psalm. 5. prima Corinth. 7. *ubi protestatur nolle eos ad votum cogere, sed liberos esse:* Non ut laqueum vobis iniiciam, secunda Corinth. 3. Non ex tristitia, aut necessitate: *Idem habet ad Philem.*

122 IT IS ANSWERED from D. Bonau. *in 4. dist. 38. quaest. 2.* especially in the first argument, second place: that he who vows spontaneously presents himself to the work not owed, and voluntarily submits himself to the obligation and necessity of rendering; which necessity is voluntary, and does not diminish but increases alacrity, because it proceeds from love. Nor does it oppose cheerfulness in rendering, which stands in the proposal of the heart and the serenity of countenance, as D. Bonau. teaches, *in Diaeta, tit. 2. cap. 7. at the end.*

RESPONDETUR ex D. Bonau. in 4. dist. 38. quaest. 2. *praecipue argumento primo secundo loco, voventem spontanee, se operi non debito exhibere, et voluntarie se subdere obligationi, necessitatique reddendi; quae necessitas est voluntaria, nec minuit, sed auget alacritatem, quia ex amore procedit. Neque hilaritati in reddendo repugnat, quae in propositione cordis, et vultus serenitate stat, ut docet D. Bonau.* in Diaeta, tit. 2. cap. 7. ad finem.

123 BUT THAT of *prima Corinth. 7.* where Pseudomartyr cries out that the Apostle exhorts to continence, but does not will that they ensnare themselves by vow: S. Bonau. *answers* that the Apostle wills to say that he does not compel to vowing virginity, as if he reproved marriage; but that he exhorts to vowing it, as more honorable than marriage.

ILLUD vero prima Corinth. 7. *ubi Pseudomartyr clamat, Apostolum hortari ad continentiam, sed non velle, ut voto se illaqueent:* Respondet *S. Bonau. velle Apostolum dicere, se non cogere ad vovendam virginitatem, quasi reprobet coniugium; sed hortari ad eam vovendam, tanquam coniugio honestiorem.*

124 He wills also to indicate that a vow can be a snare holding by force unto ruin, if anyone vow rashly, or compelled; just as also marriages are snares to those marrying unwillingly. Bellarminus brings it in, cap. 29., that Prov. 20.: *It is a ruin to man to devote holy things, and after vows to retract*, where in Hebrew for the word *ruina* there is מוקש, which properly indicates a snare.

Vult autem etiam indicare, votum posse esse laqueum vi detinentem ad ruinam, si aliquis temere voveat, vel coactus; sicuti etiam nuptiae laquei sunt nubentibus invitis. Adducit Bellarminus cap. 29. id Proverb. 20. Ruina est homini devotare sanctos, et post vota retractare*, ubi in Hebraeo pro vocabulo* ruina *est* מוקש *quod proprie laqueum indicat.*

125 *Thou objectest* secondly against the first assertion, that the Apostle, prima Corinth. 7., exhorts to matrimony: *Because of fornication, let every man have his own wife; and let every woman have her own husband; and prima Timot. 5.: I will the younger to marry, and to bear children.*

Obiicies *secundo contra primum assertum, Apostolus prima Corinth. 7. hortatur matrimonium:* Propter fornicationem, unusquisque suam uxorem habeat; et unaquaeque suum virum habeat, et prima Timot. 5.

Volo, iuniores nubere, et filios procreare.

126 S. Bonaventure *answers*, in 4. dist. 31. q. 1., that men are called to matrimony not on account of temptations alone, but on account of fornication, because otherwise the incontinent live. Therefore the Apostle first said: *If they do not contain themselves, let them marry; for it is better to marry than to burn*, that is, than not to be continent; and therefore he also says: *It is good for a man not to touch a woman: but because of fornication let every man have his own wife*, and he subjoins: *But return again to the same, that Satan tempt you not for your incontinency.* Thus S. Bonavent. answers, ad 2., from D. Hieronymo, and after him Bellarminus; they expound that to Timothy in the same way, because certain young women cast themselves after Satan, as the Apostle himself testifies there.

Respondet *S. Bonavent. in 4. dist. 31. q. 1. homines vocari ad matrimonium non ob solas tentationes, sed ob fornicationem, quia alias vivunt incontinentes. Ideo Apostolus prius dixit:* Si non se continent, nubant; melius enim est nubere quam uri*, idest, quam non continere, et ideo etiam dicit:* Bonum est homini mulierem non tangere: propter fornicationem autem unusquisque suam uxorem habeat*, et subdit:* Iterum revertimini in idipsum, ne tentet vos sathanas propter incontinentiam vestram. *Sic ex D. Hieronymo respondet S. Bonavent. ad 2. et post eum Bellarminus, eodem modo explicant id ad Tim. quia aliquae iuvenculae abietant post Sathanam, ut ipse Apostolus testatur ibidem.*

127 Thus indeed S. Hieronymus says, *in the Apologia pro libris, contra Iovinianum: But if they cannot contain themselves, and wish to quench the ardor of lust not so much by continence as by fornication, it is better to marry than to burn*, that is, *it is better to take a husband than to fornicate*. The SS. expound in the same manner: Clemens Alexand. lib. 4. *stromatum*, at the beginning, where he reprehends the exposition of the Basilidian heretics, namely that it is better to marry than to burn, that is, to be tormented with temptations; even if we do not assent to what is the example of Luther in the *Epithalamio*, of Calvin, and of Peter Martyr, on this place. For the innovators have overturned all errors, that they might dig a sewer fouler than the rest.

Sic autem ait S. Hieronymus Apologia pro libris, contra Iovinianum: Si autem se continere non possunt, et ardorem libidinis non tam continentia volunt quam fornicatione restinguere, melius est nubere quam uri*, idest,* melius est maritum ducere, quam fornicari. *Eodem modo exponunt SS. Clemens Alexand. lib. 4.* stromatum *initio, ubi reprehendit expositionem Basilidianorum haereticorum, nempe melius esse nubere, quam uri, idest, tentationibus cruciari; etiamsi non assentiamur, quod est exemplum Lutheri in* Epithalamio*, Calvini, et Petri Martyris ad hunc locum. Novatores enim omnium errores evertrunt, ut cloacam effodiant caeteris spurciorem.*

128 But our exposition is also that of the author on the epistles of D. Paul, who is judged to be Ambrosius; of D. Augustini, lib. *de sancta Virginitate*, cap. 34. and *de bono coniugali*, cap. 10.; of Theodoreti, nay even of Chrysostomi, if it be read attentively, as Bellarminus notes.

Nostra vero expositio est etiam authoris in epistolas D. Pauli, qui censetur Ambrosius, D. Augustini lib. de sancta Virginitate*, cap. 34. et* de bono coniugali*, cap. 10. Theodoreti, imo et Chrysostomi, si attente legatur, ut notat Bellarminus.*

129 But grant that: *If they do not contain themselves, let them marry. It is better to marry than to burn*, be understood as being struck by the keener stings of the flesh; still they gain nothing; for matrimony is not commanded, as Calvinus wills, lib. 4. *Instit.* cap. 13. §. 17., but permitted, which the words of the Apostle plainly show; for as, to remove the burning, he says, *let them marry*; so in a more efficacious manner, namely in the imperative mode of words, he says to the married, if at any time they be

continent: *Again: return to the same, that Satan tempt you not*, and he subjoins: *But this I say according to indulgence, not according to commandment*. Which expressed that matrimony was by him merely permitted, not commanded, as Bellarminus notes, cap. 30., after D. Bonavent. in 4. *dist*. 31. *art*. 2. *quaest*. 2. *in the second argument*.

> *At esto id:* Qui non se continent, nubant. Melius est nubere, quam uri, *intelligat quam acribus carnis stimulis percelli, adhuc nil obtinent; non enim praecipitur matrimonium, ut vult Calvinus lib. 4*. Instit. *cap. 13. §. 17. sed permittitur, quod clare ostendunt verba Apostoli, sicut enim ad removendam ustionem, dicit;* nubant*; ita efficaciori modo, nempe in modo verborum imperativo ait coniugatis, ut si aliquo tempore continent:* Rursus: revertimini in id ipsum, ne tentet vos sathanas, *et subdit:* Hoc autem dico secundum indulgentiam, non secundum imperium. *Quae expressit coniugium esse a se mere permissum, non autem praeceptum, ut notat Bellarminus cap 30. post D. Bonavent. in 4*. dist. *31*. art. *2*. quaest. *2*. argumento secundo.

130 Thus also that is understood: *I will the younger to marry*, for in prima Corinth. 7. he says: *I would that all were as I myself am*. So Chrysostomus, Ambrosius here, Hieronymus *epist*. 11. Augustinus *lib. de bono viduit*. cap. 8.

> *Sic intelligitur etiam id:* Volo iuniores nubere, *nam prima Corinth. 7. ait:* Volo omnes esse sicut me ipsum. *Ita Chrysostomus, Ambrosius hic, Hieronymus* epist. *11*. *Augustinus* lib. de bono viduit. *cap. 8*.

131 Finally these things were said to those not having the vow, but to the free, as the SS. note: Ambrosius *ad virg. lapsam*, c. 5. Hieronymus *lib. 1. in Iouin.* Augustinus *lib. 1. de adulter. coniug. cap. 15*. Gregorius *in Pastorali, part. 3. admonitione 28*. Chrysostomus *lib. de virginitate, cap. 39*. Theodoretius, Theophylactus, Oecumenius, and others on that place.

> *Tandem haec non habentibus votum, sed solutis dicta sunt, ut notant SS. Ambrosius* ad virg. lapsam, *c. 5. Hieronymus* lib. 1. in Iouin. *Augustinus* lib. 1. de adulter. coniug. cap. 15. *Gregorius* in Pastorali, part. 3. admonitione 28. *Chrysostomus* lib. de virginitate, cap. 39. *Theodoretius, Theophylactus, Oecumenius, et alii ad eum locum.*

132 *Thou objectest* thirdly against the first assertion. It is mad to vow what is not in our power: but continence is such, because it is a gift of God, as is had Sap. 8.: *No man can be continent, except God give it*. Matth. 19.: *He that can take it, let him take it*, and prima Corinth. 7.: *But every one hath his proper gift from God; Therefore*, etc. Bellarminus says this argument, cap. 31., is most difficult.

> Obiicies *tertio contra primum assertum. Insanum est vovere, quod non est in nostra potestate: at continentia est talis, quia est donum Dei, ut habetur Sap. 8*. Nemo potest esse continens, nisi Deus det. *Matth. 19*. Qui potest capere capiat, *et prima Corinth. 7*. Sed unusquisque proprium donum habet ex Deo; Ergo, *etc. Hoc argumentum ait Bellarminus cap. 31. esse difficillimum.*

133 D. Bonaventure *answers*, in 2. *dist*. 28. *art*. 2. in corpore, that the gift of continence is indeed from God, in such a way that no one is continent by his own proper powers; nevertheless the help of God is always present, and to us willing it remains entire, with that help, to be continent, so that we can even vow continence. But this is the argument of Pelagius, whom the sectaries imitate, namely that what we cannot attain by the powers of free will alone is not in our power; which is most false, because the assisting grace of God is never wanting; for this is not of those gifts which communicate non-necessary actions, as prophecy; but that celibacy is in our power is certain, by the grace of God at least assisting, which is ready to each one willing.

Respondet *D. Bonavent. in 2.* dist. *28.* art. *2. in corpore, donum continentiae esse quidem a Deo, ita, ut non sit continens aliquis propriis viribus; attamen Dei auxilium semper adest, et nobis volentibus integrum est eo auxilio continere, ita ut possimus etiam vovere continentiam. Hoc autem est argumentum Pelagii, quem sectarii imitantur, nempe, id, quod solis viribus arbitrii non possumus consequi, non esse in nostra potestate, quod falsissimum est, quia gratia Dei adiuvans, nunquam deest; non enim hoc est de illis donis, quae actiones non necessarias communicant, ut prophetia; esse vero caelibatum in nostra potestate certum est, Dei gratia saltem adiuvante, quae cuique volenti presto est.*

134 *It is proved* first by D. Bonavent. in *stimulo diuini amoris*, part. 3. cap. 9. from the same, where he says: *I would that you all were as I myself am: but every one hath his proper gift from God, one indeed after this manner; another after that.*

Probatur *primo a D. Bonavent. in* stimulo diuini amoris*, part. 3. cap. 9. ex eodem, ubi ait:* Volo vos omnes esse sicut me ipsum: sed unusquisque suum donum habet a Deo, unus quidem sic; alius vero sic.

135 *It is proved* secondly from the Fathers. Tertullianus, *lib. de Monogamia*, near the end, says: *Choose what is good; if thou canst not, it is because thou wilt not.* Origenes on that place: *Whoever wills to take the word laid down about chastity, let him ask, and he shall receive.* Hieronymus on the same place: *To these it is given, who have asked, who have willed.* Nazianzenus *oratione 31. on this Gospel: When thou hearest, to whom it is given; add, that it is given to those who will, and consent.* Ambrosius lib. 3. *de Virginibus*, and *lib. de viduis*, where he has: *This is not commanded to all; but it is sought from all.* The same has Chrysostomus on the same place: *To these it is given, who choose it of their own accord; which he said in order to show that we have need of the higher help, which indeed is prepared for all, if we will to come out superior in this struggle.* Augustinus, in Psal. 137.: *He who exhorts thee to vow, himself helps thee to render*, and lib. 6. *confess.* cap. 11.: *Assuredly thou wouldst give continence, if with an internal groan I knocked at thy ears.* S. Augustinus shows the same ex professo, *lib. de adulterinis coniugiis, cap. 10. 13. et 20. and D. Basilius lib. de Virginitate*, beyond the middle.

Probatur *secundo ex PP. Tertullianus* lib. de Monogamia*, prope finem, ait:* Elige quod bonum est, si non potes, est quia non vis. *Origenes in eum locum:* Qui vult capere verbum de castitate positum, petat, et accipiet. *Hieronymus ad eundem locum:* His datum est, qui petierunt, qui voluerunt. *Nazianzenus* oratione 31. in hoc Euangelium: Cum Audis, quibus datum est; adde, datum esse iis, qui volunt, et assentiuntur. *Ambrosius lib. 3.* de Virginibus*, et* lib. de viduis*, ubi habet:* Hoc non omnibus imperatur; sed ab omnibus flagitatur. *Idem habet Chrysostomus ad eundem locum:* His datum est, qui sponte id eligunt; quod ideo dixit, ut ostenderet superiore nobis auxilio opus esse, quod quidem omnibus paratum est, si volumus in hac lucta superiores evadere. *Augustinus in Psal. 137.* Qui te hortatur, ut voveas, ipse adiuvat ut reddas*, et lib. 6.* confess. *cap. 11.* Utique dares nimirum continentiam, si gemitu interno pulsarem aures tuas. *Idem ex professo ostendit S. Augustinus* lib. de adulterinis coniugiis, cap. 10. 13. et 20. et D. Basilius lib. de Virginitate*, ultra medium.*

136 But that place of *sapientiae* 8. about continence must be taken in a general sense. For Salomon, who there speaks, was not a virgin or a widower, but a husband, and therefore he asked marital continence, as Bellarminus notes, after D. Bonavent. *loco cit. and in the commentary on sapientiae.*

Locus vero ille sapientiae *8. de continentia, in genere accipi debet. Salomon enim, qui ibi loquitur, non erat virgo, aut viduus, sed maritus, ac proinde maritalem continentiam petebat, ut notat Bellarminus post D. Bonavent.* loco cit. et in commentario sapientiae.

137 But as to that Matth. 19. *All men take not this, etc.*: it is *Answered* from D. Bonavent. in *Diaeta*, tit. 6. cap. 2. *at the end*, that this is a counsel which is free in our will, and so not all men take it, that is, will

to take it. For it is usually said: This good man does not take the counsel, although he be capable, that is, he could take it; whence he subjoins: *For there are Eunuchs, who have made themselves eunuchs for the kingdom of heaven*, that is, many have received this counsel. Wherefore it does not denote that some are incapable, as the adversaries pretend. But what is said: it is said: *He that can take it, let him take it*, sounds: He who is not thus blinded by the passion of concupiscence, and is illuminated by God, and can perceive how great is the dignity of chastity, let him understand. For it sounds the same *as he that readeth, let him understand.* For it stands in us, with Divine help, to will to attend; as is said in Isaia *cap. 6.*; and on the contrary: *They could not understand*, namely because they would not, being indeed blinded by their passions.

> *Ad id vero Matth. 19* Non omnes capiunt, etc. Respondetur *ex D. Bonavent. in* Diaeta*, tit. 6. cap. 2.* in fine*, hoc esse consilium, quod in nostra est voluntate liberum, atque adeo non omnes capiunt, idest, volunt intelligere. Sic enim solet dici: Non capit consilium hoc bonum, licet sit capax, idest, posset capere, unde subdit:* Sunt enim Eunuchi, qui seipsos castraverunt propter regnum caelorum*, idest, multi id consilium acceperunt. Quare non denotat, aliquos esse incapaces, ut adversarii praetendunt. Quod vero dicitur: dicitur :* Qui potest capere capiat, sonat : Qui ita est a passione concupiscentiae non obcaecatus, ac a Deo illuminatus, ac potest percipere, quanta sit dignitas castitatis, intelligat. *Idem enim sonat,* ac qui legit, intelligat. *Stat enim in nobis velle attendere Divino auxilio ; sicuti dicitur in Isaia* cap. 6. *e contra :* Non poterant intelligere*, nempe quia nolebant, passionibus quippe obcaecati.*

138 But the third place, prima *Corinth. 7.*, indicates the gift of virginal and marital continence, which are in our power.

> *Tertius vero locus prima* Corinth. 7. *indicat donum continentiae virginalis, et matitalis, quae in nostra potestate sunt.*

139 *THOU OBJECHEST* fourthly against the first assertion: The inconveniences which follow from celibacy. The first is, because the world would be ended if all were celibates. The second, that diseases arise from celibacy.

> OBIICIES *quarto contra primum assert. Incommoda, quae ex caelibatu sequuntur. Primum est, quia finitetur mundus, si omnes essent caelibes. Secundum, morbi ex caelibatu oriuntur.*

140 Bellarminus *ANSWERS, cap. 32.*, after D. Bonavent. *in 4. dist. 38. art. 2. quaest. 3. ad 2.*, from D. Hieronymo *lib. in Iovin.*, that there is no danger that all die, or that all vow; nor are the diseases such that they cannot be cured otherwise. As we saw with Medina, *lib. 4. de continentia, cap. 11.* And if there were a certain holiness from a lethal disease, still continence must be prized more, which is the hundredth fruit, as I said above.

> RESPONDET *Bellarminus* cap. 32. *post D. Bonavent.* in 4. dist. 38. art. 2. quaest. 3. ad 2. *ex D. Hieronymo* lib. in Iovin. *non esse periculum, omnes mori, vel omnes vovere, neque morbos esse, qui aliter curari nequeant. Ut vidimus cum Medina* lib. 4. de continentia, cap. 11. *Quod si esset sanctitas certa a morbo lethali, adhuc pluris facienda est continentia, quae est fructus centesimus, ut supra dixi.*

141 *OTHER* things the heretics object, namely that by the vow of chastity the generation of men is impeded; the forces of the Republic are diminished for expelling the barbarians; the inclination to begetting, which is a good, is impeded; finally that the tree is better which renders fruits than if flowers only, etc.

> ALIA *obiiciunt haeretici, nempe voto castitatis impediri generationem hominum ; minui vires Reipublicae ad expugnandos barbaros, impediri inclinationem ad gigendum, quae est bona, tandem meliorem esse arborem, quae fructus*

reddit, quam si flores solos, etc.

142 *IT IS ANSWERED* that these men have spoken petulantly and carnally; but truly if thou read through those who savor of heavenly and true goods, thou wilt understand that things are otherwise. To all these S. Bonavent. answers, *in Diaeta, Tit. 4. cap. 4.*, where he has a panegyric of chastity; that this vow is preeminent above the others springing from marriage, and therefore in the parable to bear the fruits of the earth a hundredfold; but marriage thirtyfold. See S. Bonaventuram. Therefore D. Augustinus, lib. de sancta Virginitate, *cap. 8.: Therefore (he says) no fecundity of the flesh can be compared to the holy virginity of the flesh.* D. Hieronymus shows the same at length, *ad Demetriadem, et epist. 22. ad Eustochium*, and the same D. Augustinum *loco cit. capite 10.*, where he refutes that which Erasmus says, *in the dialogue of the Suitor and the Maiden*, namely that Virgins are born from the conjugal act. But he answers that virgins are born from the conjugal act, not as is honorable, who are born even from adultery. So let it be that a virgin be born even of a rape: but a virgin once made is not born even from marriage.

RESPONDETUR, *hos petulanter, et carnaliter locutos ; at vero si eos perlegas, qui caelestia, veraque bona sapiunt, intelliges tes alio modo se habere. His omnibus respondet S. Bonavent.* in Diaeta, Tit. 4. cap. 4. *ubi castitatis habet panegyricum ; praeclarum esse hoc votum prae caeteris, e coniugio manantibus, ideoque in parobola fructuum terrae centum ferre ; coniugium vero triginta. Vide S. Bonaventuram. Ideo D. Augustinus lib. de sancta Virginitate,* cap. 8. Nulla ergo (ait) carnis foecunditas sanctae virginitati etiam carnis comparari potest. *Idem late ostendit D. Hieronymus* ad Demetriadem, et epist. 22. ad Eustochium*, et eundem D. Augustinum* loco cit. capite 10. *ubi refellit id, quod ait Erasmus* in dialogo Proci et Puellae*, nempe ex concubitu nasci Virgines. Respondet autem, ex concubitu, non ut honestum est, nasci virgines, quae etiam ex adulterio nascuntur. Ita sit ut virgo nascatur etiam de stupro : facta autem virgo nec etiam de coniugio nascitur.*

143 *THOU OBJECHEST* fifthly, the Councils: Ancyr. *can. 19.* where he puts the violators of the solemn vow of chastity among bigamists: but bigamy is not a sin: Therefore.

OBIICIES *quinto Consilia, Ancyr.* can. 19. *ubi violatores voti solemnis castitatis inter bigamos ponit : sed bigamia non est peccatum : Ergo.*

144 *IT IS ANSWERED* that in this they are likened to bigamists, in that they are irregular and unfit for the priesthood.

RESPONDETUR, *in hoc assimilari bigamis, quod sint irregulares, et inhabiles ad sacerdotium.*

145 Other Councils also they bring, which bring only this, that marriages are not to be blamed.

Alia etiam Concilia afferunt, quae solum afferunt, non esse nuptias vituperandas.

146 *THOU OBJECHEST* sixthly the Fathers: first because from D. Ambrosio, all the Apostles, except Paul, and John, had wives.

OBIICIES *sexto PP. primo quia ex D. Ambrosio, omnes Apostoli, exceptis Paulo, et Ioanne, habuerunt uxores.*

147 *IT IS ANSWERED* that the Apostles were continent after their vocation. Therefore Matth. 19.: *Behold we have left all things*, and Christ answers: *Every one that hath left wife, etc.*

RESPONDETUR, *Apostolos post vocationem continentes fuisse. Ideo Matth. 19.* Ecce nos reliquimus omnia*, et Christus respondet :* Omnis, qui reliquerit uxorem, etc.

148 *SECONDLY* they bring Tertullianum, *lib. de monogamia*, where treating of that prima Tim. 6. *I will the younger to marry*, where he seems to exhort to marriage those who had broken the first faith of the vow, as I said in the assertion.

> SECUNDO *referunt Tertullianum* lib. de monogamia*, ubi tractans illud prima Tim. 6.* Volo iuniores nubere*, ubi videtur eas hortari ad nuptias, quae primam fidem voti fregerant, ut dixi in assertione.*

149 *IT IS ANSWERED* that Tertullianus speaks of widows who had not yet vowed; for he says: *On account of which he wills them to marry, that they afterward rescind not the first faith of widowhood; for if he spoke of those already fallen from the vow*, how could he warn that they rescind not the first faith, when it had already been rescinded? More cautious therefore, having been made cautious by the fall of others, he wills others to marry, who are not willing to contain themselves.

> RESPONDETUR*, Tertullianum loqui de viduis, quae nondum voverunt ; ait enim :* Propter quod vult, eas nubere, ne primam fidem viduitatis postea rescindant ; nam si de iam lapsis a voto loqueretur*, quomodo posset cavere, ne primam fidem rescindant, cum iam rescissa fuerit ? Cautior igitur factus a lapsu aliarum, vult alias nubere, quae non se volunt continere.*

150 *THIRDLY* they oppose D. Cyprianum, *lib. 1. epist. 11.*, where he writes of certain virgins who, after they had dedicated themselves to God, were found to lie with men: *But if from faith they have publicly dedicated themselves to Christ; and chastely, without any fable, let them persevere thus strong and stable, and await the reward of virginity; but if they are unwilling, or unable, to persevere, it is better that they marry than fall into the fire with their delights.* Petrus Martyr, Calvinus, Brentius, and others press this place.

> TERTIO *opponunt D. Cyprianum* lib. 1. epist. 11. *ubi scribit de quibusdam virginibus, quae postquam se Deo dicaverunt, cum masculis cubare repertae sunt :* Quod si ex fide se Christo dicaverunt publice ; et caste sine ulla fabula, perseverent ita fortes, et stabiles, praemium virginitatis expectent ; si autem perseverare nolunt, vel non possunt, melius est ut nubant, quam in ignem deliciis suis cadant. *Hunc locum urgent Petrus Martyr, Calvinus, Brentius, et alii.*

151 Bellarminus *answers* that in that epistle he presses that those who had fallen should be separated from their suitors, otherwise he threatens excommunication; therefore he exhorts to marry those who had not yet vowed, lest they fall as the former.

> RESPONDET *Bellarminus, urgere in ea epistola, ut quae lapsae erant separarentur a procis, alioqui minatur excommunicationem ; eas igitur hortatur ut nubant, quae nondum voverunt, ne, sicut priores, labantur.*

152 I indeed exhibit an easier answer, that S. Cyprianus does not speak of those who had vowed to Christ, etc. For he seems to speak of the same who had dedicated themselves, and who could marry. Therefore he exhorts them, with the Apostle, to rendering the vow; but if they are unwilling, or unable, that is, judge that they cannot, let them marry. For it is a manner of speaking: whether thou wouldst not, or couldst not, contain.

> *Ego quidem faciliorem responsionem exhibeo, ut non loquatur S. Cyprianus de iis, quae voverunt Christo, etc. Videtur enim de eisdem loqui, quae se dicaverunt, et quae nubere possent. Itaque eas cum Apostolo ad votum edendum hortatur, quod si nolint, vel non possint, idest existiment, se non posse, nubant. Est enim modus dicendi, sive nolis, sive non possis continere.*

153 *Martyr PRESSES* Hilarium *in cap. 19. Matth.* where he says: *Christ, about the Eunuchs, admonishes, if we are able*, where he objects that he did not say: *if we would.*

URGET *Martyr Hilarium* in cap. 19. Matth. *ubi ait :* Christus circa Eunuchos, si possimus, admonet, *ubi obiicit, non dixit :* si velimus.

154 *IT IS ANSWERED* that Hilarius adds nothing to the Gospel, but admonishes that we consider the powers of our will, whether with Divine help it can take this counsel.

RESPONDETUR *nil addere Hilarium Evangelio, sed monere, ut consideremus vires voluntatis nostrae, an Divino auxilio capiat hoc consilium.*

155 *They object* also many *others*, who either praise marriages only, as Ignatius ad Philadelphios, Nazianzenus, Chrysostomus, etc.

ALIOS *etiam plures obiiciunt, qui vel solum nuptias laudant, ut Ignatius ad Philadelphios, Nazianzenus, Chrysostomus, etc.*

156 Or they exaggerate against those who have the vow and keep it not, and cry out not indeed that it is better, but that it would have been future, that they should be married, as Basilius *lib. de Virginitate*, Epiphanius *haeresi 61*.

Vel exagerant contra eas, quae votum habent, et non servant, atque clamant non quidem melius esse, sed futurum fuisse, ut nuptae essent, ut Basilius lib. de Virginitate, *Epiphanius* haeresi 61.

157 Or that continence profits outside the Church, as Hilarius *in Psalm. 64*.

Vel continentiam, vel prodesse extra Ecclesiam, ut Hilarius in Psalm. 64.

158 But the *REMAINING* Papists they cry out are weak, mad, and deceived.

RELIQUOS *vero Papistas fracidos, insanos, et deceptos conclamant.*

159 Petrus Martyr *INSISTS*, because D. Augustinus, although deceived, asserts that those marrying sin after the vow; nevertheless validly to marry.

INSTAT *Petrus Martyr, quia D. Augustinus licet deceptus asserat, peccare nubentes, post votum, tamen valide nubere.*

160 *IT IS ANSWERED*, with D. Bonavent., that D. Augustinus spoke of the simple vow, not of the solemn, which by Divine natural law makes marriage invalid.

RESPONDETUR *cum D. Bonavent. D. Augustinum de voto simplici locutum, non de solemni, quod iure Divino naturali invalidat matrimonium.*

161 *HE OBJECTS* against the second assertion, because Monks are made by absorbing alms, which is against the Apostle, *Ephes. 4. prima Thessal. 4. et secunda Thessal. 3. and* D. Augustinum *lib. de opere Monach. cap. 17.*

OBIICIT *contra secundum assertum, quia eleemosynis absorbendis fiunt monachi, quod est contra Apostolum* Ephes. 4. prima Thessal. 4. et secunda Thessal. 3. et *D. Augustinum* lib. de opere Monach. cap. 17.

162 Bellarminus *answers, cap. 42.*, from D. Bonavent. *in the questions on the rule of S. Francisci, q. 11. and in the Apologetic book against a certain unnamed man, near the end, and de paupertate Christi, contra Guilelmum, art. 2. ad 9. and in the Apologia Pauperum, and* D. Thom. *opus. 19. et 22. quaest. 187. art. 3. ad,* that Religious are not bound to seek their food by the labor of their hands, as is said *Actorum 6.: It is not reason that we should leave the word of God and serve tables.* But the Apostle writes to certain idle seculars, as is plain to the reader. He exhorts (grant it) even Religious, as S. Franciscus exhorts his own, to do

some work for avoiding idleness, yet so that he weaken not the spirit of prayer and devotion. Say the same as to D. Augustino, who obliges only those who, before they became Religious, lived by the labor of their hands, and who now can do the same without impediment to a greater good, and yet will not, out of idleness and sloth. For in *cap. 21.* he excepts the Religious who exercise Ecclesiastical ministries, such as all mendicants are at this time. For thus he says: *If they are Evangelists, if ministers of the Altar, if dispensers of the Sacraments, they do not arrogate well to themselves, but plainly claim the power, namely of living from the means of the people.* So S. Bonavent., who adds also D. Hieronymum, *in the prologue on Iob.*

> RESPONDET *Bellarminus* cap. 42. *ex D. Bonavent.* in quaestionibus circa regulam S. Francisci, q. 11. et in lib. Apologetico contra quendam innominatum, circa finem et de paupertate Christi, contra Guilelmum, art. 2. ad 9. et in Apologia Pauperum, et *D. Thom.* opus. 19. et 22. quaest. 187. art. 3. ad *victum manuum labore quaerendum non teneri religiosos, ut dicitur* Actorum 6. Non est bonum nos relinquere verbum, et ministrare mensis. *Apostolus vero scribit saecularibus quibusdam otiosis, ut patet legenti. Hortatur (esto) etiam religiosos, sicut hortatur suos S. Franciscus ad aliquid operandum pro fugiendo otio, ita tamen, ut non infringat spiritum orationis, et devotionis. Idem dic ad D. Augustinum, qui solum obligat eos, qui antequam religiosi fierent, ex labore manuum vivebant, et nunc idem facere possunt absque impedimento maioris boni, et tamen ex otio, et pigritia nolunt. Nam* cap. 21. *excipit religiosos, qui Ecclesiastica ministeria exercent, quales sunt hoc tempore omnes mendicantes. Sic enim ait:* Si Euangelista sunt, si ministri Altaris, si dispensatores Sacramentorum, bene sibi istam non arrogant, sed plane vendicant potestatem, nimirum vivendi ex facultatibus populi. *Ita S. Bonavent. qui addit etiam D. Hieronymum* prologo in Iob.

163 Brentius objects secondly, in the *confess. Vuirtemberg.*: Either he vowing poverty is poor, and then he has nothing that he might leave; or rich, and then either he puts all things in common, and provides more surely for himself; or he gives to the poor, and so renders himself troublesome to his neighbor by his begging, and so against Charity.

> *Obiicit secundo Brentius in* confess. Vuirtemberg. *Vel vovens paupertatem est pauper, et tunc non habet quid relinquat; vel dives, et tunc vel ponit omnia in commune, et certius sibi providet; vel dat pauperibus, et sic se reddit molestum sua mendicatione proximi, atque adeo contra Charitatem.*

164 Bellarminus *answers, cap. 20.: Even the poor man to leave what he may acquire,* from D. Augustino *epistola 89. quaest. 4. But if a rich man,* by putting into common he leaves the dominion, after the example of the Apostles, *Actorum 4.* Nor is it against Charity, because they give the rich an occasion of buying heaven; otherwise Christ would praise a thing against Charity. So also D. Bonav. *in the places adduced.*

> Respondet *Bellarminus* cap. 20. Etiam pauperem relinquere, quod acquirete potest *ex D. Augustino* epistola 89. quaest. 4. Quod si Dives, *ponendo in communi relinquit dominium exemplo Apostolorum* Actorum 4. *Neque est contra Charitatem, quia ansam divitibus dant emendi caelum, alioqui Christus laudaret rem contra Charitatem. Ita etiam D. Bonav.* locis adductis.

Question IV: Whether the three vows of poverty, chastity, and obedience are essential to the religious state

1 I ASSERT first, that these are required for the state of religion.

> An tria Paupertatis, Castitatis, et Obedientiae vota, sint Religioni essentialia.

Assero primo, haec requiri ad statum religionis.

2 *It is proved* by D. Bonavent. in *Apol. Pauperum, cap. 3. of the first answer*, because for perfection it is required that man be withdrawn from those things that gravely impede Charity and draw away toward harmful things: but these three are the concupiscence of the flesh, the concupiscence of the eyes, and the pride of life, which draw away from God toward harmful things most of all; and these are cut away by the vows: the first indeed by the vow of Chastity, the second of Poverty, the third of Obedience: Therefore. See this argument in *the preceding question.*

Probatur *a D. Bonavent. in* Apol. Pauperum, cap. 3. prima responsionis*, quia ad perfectionem requiritur ut homo abstrahatur ab his, quae graviter impediunt Charitatem, et abstrahunt ad noxia: sed haec tria sunt Concupiscentia carnis, Concupiscentia oculorum, et superbia vitae, quae maxime abstrahunt a Deo ad noxia; et haec reciduntur votis: primum quidem voto Castitatis, secundum Paupertatis, Tertium Obedientiae: Ergo. Hoc argumentum vide* quaest. praecedenti.

3 *It is confirmed*, for by these vows all our goods are offered to God, which are the exterior goods of the body and of the soul, as Aristotle teaches, *1. Eth. cap. 8. and lib. 17. cap. 13.* Hence D. Gregory, *homil. 20. super Ezech.*, calls this a *Holocaust*.

Confirmatur*, nam his votis omnia bona nostra Deo offeruntur, quae sunt exteriora corporis, et animae, ut docet Aristoteles* 1. Eth. cap. 8. et lib. 17. cap. 13. *Hinc D. Gregorius* homil. 20. super Ezech. *vocat hoc* Holocaustum.

4 That these ought to be ratified by vows is proved, for the state requires immobility, and that one not easily look back, as is said *Lucae 9.*; but this is ratified by vows: Therefore. So also D. Thom. here, and Valentia *disp. 10. q. 4. puncto 2.* See also Alphonsus Rodriguez *de Votis.*

Quod vero haec per vota debeant firmari probatur, nam ad statum exigitur immobilitas, et ut non facile quis retro aspiciat, ut dicitur Lucae 9. *sed hoc firmatur per vota: Ergo. Ita etiam D. Thom. hic et Valentia* disp. 10. quaest. 4. puncto 2. *Vide et Alphonsum Rodriquez* de Votis.

5 I ASSERT secondly; that among these, the Vow of obedience is the chief.

Assero secundo; inter haec, Votum obedientiae est praecipuum.

6 *It is proved* by D. Bonavent. *in the place cited*, and in *cap. 1. of the rule*, and D. Thom. *art. 8.*, because we offer to God the more excellent good, namely the will, which precedes the goods of the body and of fortune.

Probatur *a D. Bonavent.* loco citato*, et in* cap. 1. regulae*, et D. Thom.* art. 8. *quia offerimus Deo praestantius bonum, scilicet voluntatem, quae praecedit bonis corporis, et fortunae.*

7 *St. Doctor observes*, moreover, that clerics also promise obedience to the Bishop, as is said *12. q. 1. cap. Non dicatis*; nevertheless the obedience of Monks is the loftier, as is said *extra. de officio ordinary, cap. 5.* The reason is, because clerics promise to obey with the stability of their place reserved, and not in all things, but in certain spiritual ones. But Religious expose themselves to obedience, so that the prelate may send them wherever he will, and they are subject in all things that pertain to the rule.

Observat *autem S. Doctor etiam clericos promittere Episcopo obedientiam, ut dicitur* 12. quaest. 1. cap. Non dicatis*; attamen sublimiorem esse obedientiam Monachorum, ut dicitur* extra. de officio ordinary, cap. 5. *Ratio est,*

quia clerici promittunt obedire, salva stabilitate loci, et non in omnibus, sed in quibusdam spiritualibus. At Religiosi se exponunt obedientiae, ut quaqua voluerit praelatus eos mittat, et in omnibus subiiciuntur, quae ad regulam spectant.

8 I ASSERT thirdly, that these three vows suffice to constitute one in the state of religion.

Assero tertio, haec tria vota satis esse ad constituendum in statu religionis.

9 The reason of D. Bonavent. is, because by these we are sufficiently dedicated to God immovably.

Ratio D. Bonavent. est, quia per haec satis dedicamur immobiliter Deo.

10 *Note*, however, that in the Society of Jesus the emission of simple vows after the Novitiate constitutes them religious. So declare Paul III, Julius III, Gregory XIII, who imposed penalties of excommunication latae sententiae and of incapacity for all offices and benefices, to be incurred by that very fact without declaration, upon gainsayers. See Valentia. This privilege was confirmed to them by the holy Council of Trent, *sess. 26. cap. 16. de reform.*

Nota *vero, emissionem votorum simplicium in Societate Iesu, post Nativitatem, constituere eos religiosos. Sic declarant Paulus III. Iulius III. Gregorius XIII. qui poenas excommunicationis latae sententiae, et inhabilitatis ad omnia officia, et beneficia, eo ipso absque declaratione, incurrenda indixit contradicentibus. Vide Valentiam. Hoc privilegium confirmatum est illis a sancto Concilio Trident.* sess. 26. cap. 16. de reform.

11 I ASSERT fourthly, that the Vow of religious poverty ordinarily imposes two things: one, not to have anything as one's own: the other, not to have superfluities.

Assero quarto, Votum ordinarie paupertatis religiosae duo imponere; alterum non habere aliquid proprium: alterum non habere superflua.

12 *The former* part all teach with D. Th. *art. 3.*, and it is clear from *cap. cum ad monasterium de statu monachorum.* The latter part is clear from *Clement. 1. de statu monach.* and is handed down by Nauarro, *cap. Non dicatis, num. 17.* Sylvester verb. *Religio, 6. q. 7.* Lessio *lib. 2. cap. 41. dub. 9.* Valentia *disp. 10. q. 4. puncto 3.* Tannero *disp. 6. q. 3. dub. 4.*, and others.

Priorem *partem docent omnes cum D. Th.* art. 3. *et patet ex* cap. cum ad monasterium de statu monachorum. *Posterior pars patet ex* Clement. 1. de statu monach. *et traditur a Nauarro* cap. Non dicatis, num. 17. *Sylvester verb.* Religio, 6. quaest. 7. *Lessio* lib. 2. cap. 41. dub. 9. *Valentia* disp. 10. quaest. 4. puncto 3. *Tannero* disp. 6. quaest. 3. dub. 4. *et aliis.*

13 *It must be noted*, however, that this suffices for those who vow only particular Poverty, yet have goods in common, such as all religious are, except the Capuchins and those of the Observance, as the Council of Trent declares, *sess. 25. cap. 3.*

Notandum *tamen haec sufficere iis, qui Paupertatem tantum vovent particularem, habent tamen in communi, quales sunt omnes religiosi, exceptis Capucinis, et de observantia, ut declarat Concil. Tridentinum* sess. 25. cap. 3.

14 *Certain* things are objected that have no weight.

Aliqua *obiiciuntur nullius ponderis.*

15 Since all orders agree in essence, resting upon the vows, it follows that they are not distinguished essentially; but only as to the ends of each, as I said in *q. 2.*, and as D. Bonavent. *loco cit.* D. Thom. *q. 188. 189.* Sylvester there, Lessius *lib. 2. cap. 41. dub. 2.* Laym. *lib. 4. tract. 5. cap. 3.* Faust. *in thef. lib. 5. q. 17.* Bassaeus V. *Religio 1. num. 10.* teach.

Cum *omnes ordines in essentia votis nixa conveniant, sequitur, eos non distingui essentialiter; sed solum quo ad fines cuiusque, ut dixi* quaest. 2. *et ut docent D. Bonavent.* loco cit. *D. Thom.* quaest. 188. 189. *Sylvester ibi, Lessius* lib. 2. cap. 41. dub. 2. *Laym.* lib. 4. tract. 5. cap. 3. *Faust.* in thef. lib. 5. quaest. 17. *Bassaeus V.* Religio 1. num. 10.

Question V: Whether the Pontiff can dispense in solemn vows

1 With these things supposed, which I defined in *disput. 1. quaest. 28.*, this question is easily solved, by admitting a juridical declaration.

An Pontifex valeat in Votis solemnibus dispensare.

Suppositis his, quae definivi disp. 1. quaest. 28. *facile haec quaestio solvitur, admittendo iuridicam declarationem.*

2 *The chief* controversy is over the solemn vow of chastity.

Praecipva *controversia est de voto solemni castitatis.*

3 *The first*, and celebrated, opinion is that the Pontiff can dispense in the solemn vow of chastity, and they assert the same concerning the other solemn vows. Thus a hundred and ten Doctors, related by Sanchez *book 8. on marriage, disput. 8.* The only one among them whom I have seen except the vow of poverty is Nauar. *commentary 2. on regulars, num. 17.* Others too are cited by Tannerus *disput. 5. quaest. 4. num. 122.* Platus *on the good state of Religion book 2. chapter 16. and 27.* Vasquez *prima secundae, disput. 165.* Add Bassaeus *V. Votum 7. num. 28.* who says it is common among the Canonists and almost all the Theologians.

Prima, *eaque celebris opinio est, posse Pontificem in voto solemni castitatis dispensare, atque idem de votis caeteris solemnibus astruunt. Ita centum ac decem Doctores relati a Sanchez* libro 8. de matrimonio, disput. 8. *Solus ex his, quem viderim Nauar.* commentar. 2. de regularibus, num. 17. *excipit votum paupertatis. Alios etiam refert Tannerus* disput. 5. quaest. 4. num. 122. *Platus* de bono statu Relig. libro 2. capite 16. et 27. *Vasquez* prima secundae, disput. 165. *Adde Bassaeum* V. Votum 7. num. 28. *qui ait esse communem Canonistarum, et fere Theologorum.*

4 *The second* opinion denies that the Pontiff has power to dispense in solemn vows. Thus D. Thom. *2. 2. quaest. 88. art. 11.* together with twenty-two others, whom Sanchez relates *in the place cited, num. 5.* where for this opinion he brings forward D. Bonaventure, who, as we said *in the first question*, does not dare to condemn this opinion: yet he does not presume to prefer it to the opposite, but says he does not know which is better.

Secvnda *sententia negat, Pontificem valere in votis solemnibus dispensare. Ita D. Thom.* 2. 2. quaest. 88. art. 11. *cum aliis viginti duobus, quos refert Sanchez* loco citato, num. 5. *ubi pro hac adducit D. Bonaventuram, qui, ut diximus* quaestione prima, *hanc sententiam non audet reprobare: eam vero oppositae praeferre non praesumit, sed ait, se nescire utra sit melior.*

5 I ASSERT first that this second opinion is probable. Thus Sanchez admits, with almost innumerable Doctors cited for the opposite opinion.

ASSERO primo probabilem esse hanc secundam sententiam. Ita fatetur Sanchez citatis innumeris fere Doctoribus pro opposita sententia.

6 It is PROVED first from the *chapter cum ad monasterium, where it is said: The custody of chastity is so closely bound to the monastic rule, that against it not even the supreme Pontiff can grant a dispensation.*

> *PROBATUR primo ex* cap. cum ad monasterium, ubi dicitur: Custodia castitatis adeo est adnixa regulae monasticae, ut contra eam, nec summus Pontifex possit licentiam indulgere.

7 SEE the responses cited in the *first question.* This decree is that of Innocent III. The Thomists press this text strongly, above all Peter Labata *Tom. 7. tract. 3. disp. 6. dub. 8.*

> *VIDE responsiones recitatas* quaest. prima. *Est autem Innocentii III. hoc decretum. Hunc textum graviter urgent Thomistae, praesertim vero Petrus Labata* Tom. 7. tract. 3. disp. 6. dub. 8.

8 Mastrius answers, speaking for all, in *4. dist. 7. num. 512.* that the sense is that the Pontiff cannot dispense in the composite sense, so that one exempted from the vows should still remain a Religious; for the vows are of the essence of Religion. Thus also answer the twin eminent writers on the sacrament of matrimony, Sanchez and Pontius.

> *RESPONDET ore omnium Mastrius in* 4. dist. 7. num. 512. *sensum esse, Pontificem non posse dispensare in sensu composito, ita ut a votis exemptus maneat adhuc Religiosus; vota enim sunt de essentia Religionis. Ita respondent etiam gemini de sacramento matrimonii eximii scriptores, Sanchez, et Pontius.*

9 Labata INSISTS, for there the Pontiff infers that an Abbot cannot dispense his subjects in the vow of chastity, because not even the supreme Pontiff himself has that power: but if, according to the aforesaid response, the supreme Pontiff could dispense by extracting a monk from the Religious state, he would not satisfy the question.

> *INSTAT Labata, nam ibi Pontifex infert, non posse Abbatem dispensare subditos in voto castitatis, quia nec ipse summus Pontifex id valet: at si iuxta praedictam responsionem posset summus Pontifex dispensare extrahendo monachum a statu Religioso, non satisfaciet quaestioni.*

10 Mastrius ANSWERS that this author infers with no foundation that, if the Pontiff had power to call a Monk away from the Religious state, anyone could deduce that an Abbot also has the same power.

> *RESPONDET Mastrius, hunc authorem nullo fundamento inferre, quod si Pontifex valeret Monachum a statu Religioso avocare, posset aliquis deducere, idipsum valere etiam Abbatem.*

11 Yet Mastrius does not seem to answer him rightly; for this is not the point on which Labata presses, nor does he pretend to infer that, but he argues thus: Far be it that an Abbot think he can dispense with his Religious in solemn vows, because the vows are so intrinsic to Religion that against them not even the Supreme Pontiff can grant a dispensation. Now to answer that the Pontiff can dispense by calling one away from Religion seems ridiculous, because the Pontiff supposes the contrary in his reasoning; namely that one cannot dispense in the vows of Religion, because they are intrinsic to Religion irrevocably; or because one cannot go back on promises made in Religion and on Religion itself, and the vows are intrinsic to Religion. And so I marvel that this response has been embraced by so many men: Soto, Richard, Durand, Paludanus, Cajetan, Palacio, Azor, and Valencia, as in Sanchez *lib. 8. disp. 8. num. 7. and 12.*

> *EUM tamen non recte visus est retundere Mastrius; non enim est hoc, in quo Labata vim facit, nec id inferre praetendit, sed ita arguit: Absit, ut Abbas existimet, se posse in votis solemnibus cum Religiosis suis dispensare, quia vota sunt*

Religioni adeo intrinseca, ut contra ea nec Summus Pontifex possit licentiam indulgere. Iam vero respondere Pontificem posse dispensare avocando a Religione, videtur ludticum, quia Pontifex supponit in sua ratione contrarium; nempe non posse dispensari in votis Religionis, quia Religioni irrevocabili sunt intrinseca; seu quia non potest a promissis in Religione et ab ipsa Religione retrocedere, et Religioni sunt vota intrinseca. Itaque miror, hoc responsum a tot viris amplexum, Sotino, Richardo, Durando, Paludano Caietano, Palacio, Azorio, et Valentia apud Sanchez lib. 8. disp. 8. num. 7. et 12.

12 I PRESS further on the side of Labata; for the reasoning of the Pontiff seems to suppose that Divine law, *Luke 9. No one putting his hand to the plough and looking back is fit for the kingdom of God*, as S. P. Francis indicates *chapter 2.* of the *Rule*, and there D. Bonaventure, and likewise *Levit. last chapter. The animal that has been vowed to God shall be holy, and cannot be changed.* These inferences rest on that foundation. Since one legitimately professed in the Religious state is irrevocable, and Religion essentially includes these vows, it follows not only that dispensation by an Abbot is impossible, but that to say it is absurd; since not even the Pope can do it.

URGEO adhuc pro Labata; nam ratio Pontificis videtur ius illud Divinum supponere, Lucae 9. Nemo mittens manum ad aratrum, et respiciens retro, aptus est regno Dei*, ut indicat S. P. Franciscus* c. 2. Regulae*, et ibi D. Bonaventura, et id* Levit. ult. Animal, quod Deo devovit, sanctum erit, nec mutari poterit. *Haec autem supposito fundamento inferte. Cum irrevocabilis sit legitime a statu Religioso, et Religio essentialiter includat haec vota, sequitur, nedum ab Abbate posse dispensari, sed absurdum esse hoc dicere; cum neque Papa id facere queat.*

13 To ME the obvious sense seems to be that of one upbraiding the Abbot for thinking that it is within his power to give leave, or a lawful concession, for retaining something of property, when very many deny this even of the Pontiff himself with probability; although for the gravest cause it has sometimes been granted, the Pontiff ought to employ that supreme authority and fullness of power which he exercises in the whole world for a change of state for the sake of the universal good, a power and superior understanding which an Abbot does not enjoy. Thus indeed the Divine law permitted in those cases. That such a case has often occurred, Cajetan relates *tract. 1. opus. tit. 27. and others in Sanchez.* Thus Alexander III dispensed with Nicholas Justinian, a Monk, at the urgent plea of the Most Serene Doge, lest the most illustrious offspring of the Justiniani perish: he took Anna as wife, by whom he had six sons and three daughters, and both entered religion and became famous for miracles. So it is related by Sutio in the life of B. Laurence Justinian, and in Azor *lib. 11. Instit. cap. 7.*

MIHI videtur sensus obvius esse exprobrantis Abbati existimanti, sibi integrum esse dare licentiam, seu licitam concessionem retinendi aliquid proprium, cum et de ipso Pontifice plurimi negent probabiliter; etsi gravissima de causa id aliquando concessum est, debuisse Pontificem adhibere supremam authoritatem, et plenitudinem potestatis, qua fungitur in toto orbe ad status mutationem ob bonum universale, qua potestate, et superintelligentia Abbas non gaudet. Ita vero ius divinum in illis casibus permisisse. Multoties vero casum evenisse referunt Caietanus tract. 1. opus. tit. 27. et alii apud Sanchez. *Ita Alexander III. dispensavit cum Nicolao Iustiniano Monacho, instante Serenissimo Duce, ne Iustiniana praeclarissima soboles periret: Hic sumpsit Annam, ex qua sex filiis masculis acceptis, et tribus foemellis, ambo religionem adiere, ac claruere miraculis. Ita refertur a Sutio in vita B. Laurentii Iustiniani, et apud Azor* lib. 11. Instit. cap. 7.

14 RAMIRUS, King of the Aragonese, having become a Monk, since his father had died without issue, was dispensed by the Pontiff; and he took a wife and begat a daughter.

RAMIRUS Aragoniorum Rex, Monachus factus, cum eius Pater sine prole obiisset, dispensatum est cum eo a Pontifice; et uxorem duxit, atque filiam genuit.

15 CASIMIR, the first of that name, King of Poland and a Monk, being dispensed, begat sons. Constance, daughter of Roger, released from monastic profession, married Henry VI. Others too are related.

> *CASIMIRUS huius nominis primus, Poloniae Rex et Monachus, dispensatus filios genuit. Constantia Rogerii filia Monachali professione dispensata Henrico VI. nupsit. Alios etiam referunt.*

16 Azorius however OBSERVES that these men had been professed. Which he rightly shows from the histories, and thereby refutes the responses of Soto and Sylvester.

> *OBSERVAT autem Azorius, hos fuisse professos. Quod ex historiis recte ostendit, atque redarguit Soti, et Sylvestri responsa.*

17 But to condemn this practice would be impious, as Peter a S. Ioseph Fuliensis warns *lib. 4. de Relig. cap. 4.*

> *HANC vero praxim damnare nefas est, ut monet Petrus a S. Ioseph Fuliensis* lib. 4. de Relig. cap. 4.

18 It is PROVED secondly by D. Bonavent., because for a dispensation to be valid a preponderant cause is necessary; but no such cause can exist for dispensing in the vow of chastity, because *No weighing is worthy of the soul of the continent, as is said Ecclesiasticus 26. Therefore.*

> *PROBATUR secundo a D. Bonavent. quia ut valida sit dispensatio, necessaria est causa praeponderans; at nulla talis causa potest esse ad dispensandum in voto castitatis, quia* Omnis ponderatio non est digna animae continentis, ut dicitur Ecclesiastici 26. Ergo.

19 Sanchez ANSWERS *num. 7. and almost all the others*, that there can be a preponderant good, for instance the peace of a whole kingdom, the life of a King, which is most necessary for preserving the kingdom, and other things of this weight, which indeed outweigh when weighed against the spiritual good of one monk. This response is taken from D. Bonav. *in the place cited.* who yet warns that they not be deceived by positing such causes unless they are morally certain to obtain their effect; then indeed the holy Doctor gives his hand.

> *RESPONDET Sanchez* num. 7. et alii fere omnes*, posse dare bonum praeponderans, puta totius regni pacem, vitam Regis, quae maxime sit regno conservando necessaria, aliaque huius ponderis, quae sane cum bono spirituali unius monachi librata praeponderant. Haec responsio sumpta est ex D. Bonav.* loco cit. *qui tamen advertit, ne decipiantur, ponendo has causas, nisi sint certae moraliter effectum consecuturae; tunc vero S. Doctor dat dexteram.*

20 Sanchez ADDS that that argument of the incomparable goodness of continence can apply even to the simple vow, and yet it is certain that the Pontiff can dispense in this.

> *ADDIT Sanchez rationem illam bonitatis continentiae incompensabilis etiam voto simplici adaptari posse, et tamen certum esse in hoc posse Pontificem dispensare.*

21 BUT D. Bonaventure, with others, cites that passage for the solemn vow, which teaches that it perfectly subjects the soul together with the body to the Divine dominion, and therefore, I judge, the Holy Spirit said: *there is no weighing of the soul of the continent*, in the place cited above.

> *AT D. Bonavent. cum aliis eum locum afferunt pro voto solemni, quod tradit perfecte animam simul cum corpore Divino mancipio, atque ob id arbitror, Spiritum Sanctum dixisse:* non est ponderatio animae continentis*, loco supra cit.*

22 HENCE another argument is taken from D. Bonaventure. What has been wholly given over to God cannot be taken from Him by any inferior: But by solemn vows there is made an entire giving over of man to God, and so by Divine law he remains wholly devoted to God, as I showed in *quaest. 1. Therefore.*

> *HINC sumitur alia ratio a D. Bonavent. Id quod est penitus Deo traditum, non potest ab eo auferri a quoquam inferiori: Sed per vota solemnia fit omnimoda traditio hominis Deo, atque adeo iure Divino remanet omnino Deo devotus, ut ostendi* quaest. 1. Ergo.

23 Sanchez ANSWERS *num. 120.* from D. Bonavent. *in the place cited.* that for the sake of the common good something given over to God can be taken away, because God, since He always wills what is better, considers Himself sufficiently compensated. On this *quaest. 1. disp. 1.*

> *RESPONDET Sanchez* num. 120. *ex D. Bonavent.* loco cit. *gratia communis boni posse rem Deo traditam auferri, quia Deus cum velit semper, quod melius est, satis compensatum se existimat. De hoc* quaest. 1. disp. 1.

24 It is PROVED fourthly by D. Bonavent. *in the cited dist. art. 2. quaest. 1.* What is of natural Divine law is indispensable by the Church: But the solemn vow of chastity is of natural Divine law, in this respect, that it renders marriage invalid: Therefore. The major is the axiom of all, as I said in *quaest. 1.* The minor was proved there as to the first part. That it renders marriage invalid by natural Divine law is proved from Pope Siricius *epistola 1. cap. 6.* and is related in *cap. si quis sacro, §. si quis sacra, §. velatae, 27. quaest. 1.* where he says: *those contracting after a solemn vow are to be separated by the word of the Lord, and by Canonical authority.* Therefore that marriage is invalid not by ecclesiastical law alone, but by Divine law also.

> *PROBATUR quarto a D. Bonavent.* dist. citata, art. 2. quaest. 1. *Id, quod est iuris Divini naturalis est indispensabile ab Ecclesia: Sed votum solemne castitatis est iuris Divini naturalis, hoc pacto irritans matrimonium: Ergo. Maior est axioma omnium, ut dixi* quaest. 1. *Minor ibi probata est quo ad priorem partem. Quod vero iure Divino naturali irriret matrimonium. Probatur ex Syricio Papa* epistola 1. cap. 6. *et refertur* cap. si quis sacro, §. si quis sacra, §. velatae, 27. quaest. 1. *ubi ait:* contrahentes post votum solemne separandos esse verbo Domini, et authoritate Canonica. *Ergo non solo iure Ecclesiastico, sed etiam Divino illud matrimonium irritum est.*

25 It is CONFIRMED by D. Bonavent. *quaest. 3.* A thing given over to one is invalidly given over to another by the law of nature.

> *CONFIRMATUR a D. Bonavent.* quaest. 3. *Res uni tradita, invalide traditur alii ex iure naturae.*

26 For no one can transfer to another what he does not have, by the rule of the chapter *Quod autem de iure patron.* But by the solemn vow of Religion the dominion of the person is transferred to God, so that he no longer has the use of his body for the acts of matrimony: Therefore. It is confirmed, for on this account a spouse cannot marry another, and although the Church may assist as accepting the consent, yet not by ecclesiastical law alone is a spouse bound to one spouse and not to marry another, but by the law of nature.

> *Nemo enim transferte valet in alium id, quod non habet, ex regula cap.* Quod autem de iure patron. *At per votum solemne Religionis transfertur dominium personae in Deum, ita ut non habeat amplius usum sui corporis ad actus matrimonii: Ergo. Confirmatur, nam ob hanc rationem coniux non potest alteri nubere, et licet Ecclesia ut acceptans consensum assistat, non tamen solo iure Ecclesiastico coniux uni coniugi tenetur, et alteri non nubere, sed iure naturae.*

27 *Sanchez responds in the place cited,* from what was said in *disput. 6. num. 2.* that dispensation is possible over natural Divine law, which he acknowledges to arise from human will, such as vows and oaths, although not always in absolute natural Divine law; although some, among whom is D. Bonavent. in 4. *dist. 38. art. 2. quaest. 3.* deny that a relaxation is made, but only a declaration in that prior law, in the mode explained in *disput. 1. quaest. 1.*

> Respondet Sanchez loco citato, *ex dictis* disput. 6. num. 2. *posse dispensari super iure Divino naturali, quod a voluntate humana ortum agnovit, qualia sunt vota, et iuramenta, licet non semper in iure Divino naturali absoluto; quamvis aliqui, inter quos est D. Bonavent. in 4.* dist. 38. art. 2. quaest. 3. *negent fieri relaxationem, sed tantum declarationem in illo priori iure, modo explicito* disput. 1. quaest. 1.

28 These things therefore are not so firm that they do not lie overthrown by the preceding disputation, *quaest. 1.* and here *quaest. 1.*: that if in every law depending on our will dispensation is possible, it will be lawful to dispense also in polygamy; for such is the obligation of spouses.

> *Haec itaque non sunt adeo firma, ut non iaceant elisa disputatione praecedenti,* quaest. 1. *et hic* quaest. 1. *quod si in omni iure pendente a nostra voluntate potest dispensari, licebit etiam dispensari in polygamia; obligatio enim coniugum est talis.*

29 Finally it is proved, because, as Abdias relates, S. Matthew refused to dispense so that Iphigenia, a monastic virgin, might marry the King, who offered himself and his whole kingdom to be baptized.

> *Tandem probatur, quia, ut refert Abdias, S. Matthaeus noluit dispensare, ut Iphigenia monachalis nuberet Regi, qui se, totumque regnum Baptismo factandum offerebat.*

30 *Sanchez responds* from Cajetan, that it was done because it did not befit the beginning of the nascent Church that religion be propagated with those things relaxed which pertain greatly to it, and with so eager a contempt of religion.

> Respondet *Sanchez ex Caietano, id factum, quia non decebat initio nascentis Ecclesiae religionem propagari, relaxatis iis, quae ad eandem valde pertinent, et tam appetenti religionis despectu.*

31 But (with all respect to them) who does not know that at the beginning some things were tolerated, lest scandal be laid upon the increase of religion? So also D. Gregory the Pope wrote to S. Augustine in England. So the Ecclesiastical Annals testify that many things were tolerated at that time, which afterwards were restricted when the forces of the Church were strengthened.

> *At (pace eorum) quis ignorat, initio aliqua tolerata, ne scandalum incremento religionis apponeretur? sic etiam D. Gregorius Papa scripsit S. Augustino in Angliam. Sic annalia Ecclesiastica testantur, multa tunc temporum tolerata; quae postea roboratis Ecclesiae viribus sunt restricta.*

32 I assert secondly; It is also probable that it is within the Pontiff's power to dispense in solemn vows; I suppose in *Tract. de matrim. disput. 7. quaest. 6.* that it is probable that the solemnity of Vows is from Ecclesiastical Law.

> *Assero secundo; Probabile etiam est, integrum esse Pontifici in votis solemnibus dispensare suppono* Tract. de matrim. disput. 7. quaest. 6. *probabile esse Votorum solemnitatem esse e Iure Ecclesiastico.*

33 *It is proved first by D. Bonaventure.* Nothing is to be denied to Pontifical authority which conduces to the governance of the Church, unless some implication or inconvenience follows: but a dispensation in solemn vows is profitable to the Church, as, for instance, if it were for the peace of some kingdom,

or the life of a King, things profitable to the Church, it would be fitting; nor does any implication follow: Therefore.

> Probatur primo a D. Bonavent. *Nihil authoritati Pontificiae denegandum, quod gubernationi Ecclesiae convenit, nisi sequatur aliquod implicans, vel inconveniens: at dispensatio in votis solemnibus est proficua Ecclesiae, ut si ad pacem regni alicuius, vel salutem Regis, Ecclesiae proficui, conveniret; Neque sequitur implicantia: Ergo.*

34 *But the extreme part of the Minor is proved.* Either it is repugnant, because it is done of Divine law; and not so, because with all doubt removed dispensation is granted in the simple vow, which is of Divine Law. Or it is repugnant from the matter of continence, to which no good can be equal; nor so; as we saw, because the good of a whole kingdom preponderates: Or it is repugnant from the solemnity; nor so; for in solemnity is not placed the reason of the vow. Or finally it is repugnant on the part of the giving over; nor this, because for the public good what has been given over can justly be recalled.

> Probatur vero extrema pars Minoris. *Vel repugnat, quia fit de iure Divino; et hoc non, quia dubio omni procul dispensatur in voto simplici, quod est de Iure Divino. Vel repugnat ex materia continentiae, cui nullum bonum aequari valeat; et hoc neque; ut vidimus, quia bonum regni integri praeponderat: Vel repugnat ex solemnitate; et hoc neque; nam in solemnitate non est posita ratio voti. Vel tandem repugnat ex parte traditionis; et neque hoc, quia ob bonum publicum potest iuste traditum revocari.*

35 Yet this argument can be weakened from what has been said, by denying the Minor on the reasons brought forward in *quaest. 1. and in the preceding disputation, question 1. with* D. Bonaventure. Yet very many acclaim it, as in Mastrius *num. 510.*

> *Haec tamen ratio ex dictis infirmari potest, negando Minorem ob rationes allatas* quaest. 1. et disputatione praecedenti, quaestione 1. cum *D. Bonaventura. Eam tamen plurimi acclamant apud Mastrium* num. 510.

36 *It is proved secondly by the argument brought by D. Bonaventure at the beginning of his corpus.* The will of man, insofar as he is political and ordered to the common good of the Republic, is subordinated to the head in those things which pertain to the political common good: Therefore in the will of a religious, binding himself by the bond of a vow, there is included the condition, unless the Head of the community, that is, the Pontiff, for the sake of the common good, relax these bonds. And it is confirmed, for if for the sake of the household it is conceded to a father to invalidate the vows of his sons, and to a husband those of his wife, why should it be denied to the supreme Father and Prince of all, for the public utility of the whole Church?

> Probatur secundo ratione allata a D. Bonavent. initio corporis. *Voluntas hominis quatenus politici, et ad commune Reipublicae bonum ordinati, subordinatur capiti in iis, quae ad bonum commune politicum spectant: Ergo in voluntate religiosi, vinculo se voti astringentis, includitur conditio, nisi Caput communitatis, idest, Pontifex communis boni gratia relaxet haec vincula. Et confirmatur, nam si ob oeconomiam conceditur Patri irritare vota filiorum, et marito uxoris, cur id negetur summo omnium Parenti, et Principi ob publicam totius Ecclesiae utilitatem?*

37 Yet this argument, which Sanchez trumpets as principal, is not very Seraphically proved, because since these vows are most pleasing to God, and His counsels, it does not seem probable that they should be made under a condition, while it does not remain fully proved that some good prevails.

> *Haec tamen ratio, quam Sanchez principalem iactat, non admodum Seraphico probatur, quia cum vota haec sint Deo gratissima, eiusque consilia, non videtur probabile ea esse facienda sub conditione, cum non omnino probatum remaneat bonum aliquod praevalere.*

38 *The last argument of D. Bonavent.* which is found in *the cited dist. art. 2. quaest. 1.* and which I value greatly, and on which Sanchez relies, is this. In doubt, one must presume in favor of the acts of the Pontiff, since he is directed by the Holy Spirit in a special manner in the governance of the Church; but it is established from the histories related by Cajetan *Tom. 1. opusc. Tit. 27.* on the dispensation of matrimony, in the western Church, a single question, and by others. This argument indeed prevails over the others, and by it the Seraphic Doctor was deterred from the opposite opinion. Add that Pontiffs have very often truly dispensed, as Sanchez relates: but the unworthy response of Sylvester, V. *Votum*, Peter Mastrius rejects, and justly.

> Ultima ratio D. Bonavent. *quae habetur* dist. citata, art. 2. quaest. 1. *quam magni facio, quaque nititur Sanchez, ea est. In dubio pro Pontificis gestis praesumendum est, quippe a Spiritu Sancto in gubernatione Ecclesiae speciali ratione dirigitur; at constat ex historiis relatis a Caietano* Tom. 1. opusc. Tit. 27. *de dispensatione matrimonii, in occidentali Ecclesia quaest. unica, et aliis. Haec sane ratio caeteris praevalet, eaque Seraphicum ab opposita sententia deterruit. Adde Pontifices vere saepe dispensasse refert Sanchez: Indignum vero responsum Sylvestri V.* Votum *explodit Petrus Mastrius et iuste.*

39 Hence it follows that the same must be said also of the other vows: for the reason is parallel, as Sanchez indicates *lib. 5. Decal. cap. 2. num. 9.* the more so, because one who has married cannot keep religious poverty. Thus Rebaden. *de Instituto Societatis Iesu, cap. 18.* Azor, *lib. 12. Instit. moral. cap. 7. quaestio 2.* Vasquez *prima secundae, disp. 165. cap. 9. num. 104.*

> *Hinc vero sequitur, idem dicendum etiam de aliis votis: est enim par ratio, ut indicat Sanchez* lib. 5. Decal. cap. 2. num. 9. *eo magis, quia non potest coniugatus paupertatem religiosam servare. Ita Rebaden.* de Instituto Societatis Iesu, cap. 18. *Azor,* lib. 12. Instit. moral. cap. 7. quaestio 2. *Vasquez* prima secundae, disp. 165. cap. 9. num. 104.

40 The same argument is pressed also concerning the vow of obedience, for one who has married ought to be the ruling head.

> *Idem etiam de voto obedientiae argumentum urget, debet enim coniugatus esse caput dominans.*

41 Hence it follows much more that the Pope can dispense in the vow annexed to sacred orders; for it is not so solemn, nor of itself; but annexed to sacred orders, and so on this there is the least controversy, since this is annexed by ecclesiastical law.

> *Hinc vero sequitur multo magis posse Papam dispensare in voto adnexo sacris ordinibus; non est enim adeo solemne, nec per se; sed adnexum sacris, et ita de hoc est minima controversia, cum hoc sit ex iure Ecclesiastico adnexum.*

Question VI: Who are to be received into religion

1 I suppose that the individual Orders have some particular statutes on this matter. Since however there are four principal Rules, namely of Basil, Augustine, Benedict, and Francis, yet the individual Orders differ in their statutes, much more those alien to them, as the Carthusians and the Jesuits.

> Qui recipiendi sint ad Religionem.
>
> *Suppono, Ordines singulos habere aliqua de hoc statuta peculiaria. Cum autem quatuor sint Regulae praecipuae, scil. Basilii, Augustini, Benedicti, et Francisci, tamen et singuli Ordines statutis differunt, multo magis alieni, ut Carthusiani, et Iesuitae.*

2 I shall say in this matter what is more or less common, and meets each case.

> *Dicam vero in hac re, quae fere communia sunt, et cuique obviant.*

3 First, Bishops, bound by oath to the most holy Pope, cannot be received without his leave. *Thus D. Thom. question 189. article 7. from the chapter Nisi cum pridem de renunc.*

> *Primo, Episcopi iureiurando Papae sanctissimo adstricti, nequeunt absque eius licentia recipi.* Ita D. Thom. quaest. 189. art. 7. ex cap. Nisi cum pridem de renunc.

4 Secondly, nor spouses with marriage consummated *chapter Quidam, and the chapter Placet de convers. coniugat.* Yet by mutual consent *chapter Cum sis, chapter Uxoratus, chapter Ad Apost. de convers. coniugat.* they can enter; but the woman, if she is young, or such that incontinence on her part might be feared if she remain in the world, is bound to enter a monastery, the husband entering too. Otherwise it is enough if she vow continence into the hands of the Bishop.

> *Secundo, nec coniuges matrimonio consummato* cap. Quidam, et cap. Placet de convers. coniugat. *Possunt tamen mutuo consensu* cap. Cum sis, cap. Uxoratus, cap. Ad Apost. de convers. coniugat. *mulier vero, si iuvenis, vel talis sit ut timeri de eius incontinentia possit, si maneat in saeculo, tenetur monasterium ingredi, marito intrante. Aliter vero sat est, si voveat continentiam in manu Episcopi.*

5 The judgment must be made from the person's state, health, and past life, as Poncius says *de matrim. lib. IX. cap. 12.* Whether there is danger, the Bishop will judge *chapter si vir, et uxor, 27. quaest. 2. chapter Quia Agatho, chapter scripsisti nobis, 27. quaest. 2.* as S. Bonaventure observes *on chapter 2. of the Rule,* where S. Father Francis provided for this.

> *Erit autem iudicandum e personae statu, valetudine, vita anteacta, ut ait Poncius* de matrim. lib. IX. cap. 12. *An vero periculum sit, Episcopus iudicabit* cap. si vir, et uxor, 27. quaest. 2. cap. Quia Agatho, cap. scripsisti nobis, 27. quaest. 2. *ut observat S. Bonavent.* ad cap. 2. Regulae, *ubi S. Pater Franciscus id providit.*

6 S. Doctor notes that the age due for this, so that the wife may remain in the world without suspicion, with the husband entering Religion, is to be measured more by stability of virtue than by the course of years; for it is said *Sap. 4. The senses of a man are grey hairs, and a spotless life is the age of old age.* Poncius consents *in the place cited,* as does Bassaeus *V. Religio 2. num. 2.* Therefore he does not determine that she be fifty years old, as Sanchez would have it *de matrim. lib. VII. disp. 32. num. 15.* Gutierrez *de matrim. cap. 95.* Bonacina *quaest. 3. puncto 3. num. 12.* Filliucius *tract. 10. part. 2. num. 133.* Nor does he decree that she be sixty, with Faustus *in theol. relig. lib. V. quaest 55.* Azor *tract. 1. lib. XII. cap. 1. quaestio 6.*

> *Notat vero S. Doctor, aetatem ad hoc debitam, ut uxor possit manere in saeculo absque suspicione, intrante viro Religionem, mensurandam magis stabilitate virtutis, quam tractu annorum; nam dicitur* Sap. 4. Cani sunt sensus hominis, et aetas senectutis vita immaculata. *Consentit Poncius* loco citato, *Bassaeus* V. Religio 2. num. 2. *Ideo non determinat, ut sit quinquagenaria, ut vellent Sanchez* de matrim. lib. VII. disp. 32. num. 15. *Gutierrez* de matrim. cap. 95. *Bonacina* quaest. 3. puncto 3. num. 12. *Filliucius* tract. 10. part. 2. num. 133. *Neque statuit, ut sit sexagenaria cum Fausto* in theol. relig. lib. V. quaest 55. *Azor* tract. 1. lib. XII. cap. 1. quaestio 6.

7 Yet in a ratified marriage, one can enter religion against the spouse's will, *chapter verum, chapter ex publico, de convers. coniug.* Or if the man has consummated within a two-month period, Diana *de sacr. resol. 242. part. 3.* Or if one commits adultery *chapter Agathosa 27. quaest. 2. chapter Portio de divort.* but not if he has forgiven it. Or if the spouse falls into heresy *dist. 32. quaest. 1. cap. 1.*

> *In matrimonio tamen rato, potest invito coniuge religionem ingredi,* cap. verum, cap. ex publico, de convers. coniug. *Vel si intra bimestre vi consummaverit vir, Diana* de sacr. resol. 242. part. 3. *Vel si alter adulteret* cap. Agathosa 27. quaest. 2. cap. Portio de divort. *non tamen si condonavit. Vel si coniux incidat in haeresim* dist. 32. quaest. 1. cap. 1.

[8] Thirdly, one who has deflowered a virgin under promise of marriage. See Diana *part. 3. de sacrament. Resol. 203.*

> *Tertio, quia virginem sub spe matrimonii defloravit. Vide Dianam* part. 3. de sacrament. Resol. 203.

[9] Fourthly, a slave against his master's will *chapter si quis 17. quaest. 2.*

> *Quarto, servus invito domino* cap. si quis 17. quaest. 2.

[10] Fifthly, one who is a debtor; thus D. Thom. *2. 2. q. ult. art. 6.* I say a debtor by contract or by wrong, as I said *de Rest.* Yet the profession will be valid, though illicit *from the Clementine S. In suprema,* where the Bull of Sixtus V is moderated.

> *Quinto, qui est debitor; ita D. Thom.* 2. 2. q. ult. art. 6. *debitor inquam e contractu, vel delicto, ut dixi* de Rest. *Erit tamen valida professio, etsi illicita* ex Clement. S. In suprema, *ubi moderatur Bullam Sixti V.*

[11] Sixthly, those bound to render accounts *from Sixtus V. Cum de omnibus.*

> *Sexto, reddendis ratiociniis obligati* ex Sixto V. Cum de omnibus.

[12] Seventhly, sons whose parents lie in grave poverty: or conversely.

> *Septimo, filii, quorum parentes in gravi iacent egestate: vel e contra.*

[13] Eighthly, minors without the leave of parents or guardians, D. Thom. *1. 2. quaest. 88. art. 9. et q. 101. art. 4. et quaest. ult. art. 5.*

> *Octavo, impuberes absque licentia parentum, vel tutorum, D. Thom.* 1. 2. quaest. 88. art. 9. et q. 101. art. 4. et quaest. ult. art. 5.

[14] Ninthly, an illegitimate one whose father, still living, has professed in that religion. But by their own statutes some orders exclude homicides, the infamous, and those born of Jews, Saracens, or heretics.

> *Nono, illegitimus, cuius Pater superstes in ea religione professus sit. Propriis vero statutis aliqui ordines excludunt homicidas, infames, et natos e Iudaeis, Saracenis, vel haereticis.*

[15] Eleventhly, those disfigured in body; for these are barred from the altar, *c. De corp. vitiato, and chapter 2. de cler. aegrot.*

> *Undecimo vitiati corpore; nam hi ab altari arcentur,* c. De corp. vitiato, et cap. 2. de cler. aegrot.

[16] Twelfthly, the infamous. Add from the *Constitution* of Sixtus V. criminals. These are they who have perpetrated shameful deeds, and these are notorious. Likewise exclude those gravely suspected.

> *Duodecimo, Infames. Adde e* Const. *Sixti V. criminosos. Hi sunt, qui facinora turpia patrarunt, et haec sunt nota. Item graviter suspectos exclude.*

[17] Twelfthly, Bigami cannot be Clerics.

> *Duodecimo, Bigami nequeunt esse Clerici.*

18 The Prelate is indeed bound to be informed; and if through his fault a criminal, or one bound by accounts, etc., is received, he incurs the penalties of deprivation of voice, of incapacity for all offices, honors, etc. See Tamburinus *tract. 3. de iure Abbat. disp. 6. quaest. 4.* Portel. *dub. Reg. v. Novitii informat.* Rodriquez *tract. 3. gg. regul. quaest. 10.* Miranda *tract. 1. quaest. 17. 18. 19.* Peyrinus *tract. 2. de Praelat. quaest. 3. cap. 1. §. 1.* Vecch. *in prax. disp. 6. dub. 7.* Bassaeus *V. Religio 2. who warns*, that the one received is bound to disclose his grave impediment.

> *Tenetur vero Praelatus informari; et si eius culpa recipiatur criminosus, ratiociniis obligatus, etc. incurrit poenas privationis vocis, inhabilitatis ad omnia officia, honores, etc. Vide Tamburinum* tract. 3. de iure Abbat. disp. 6. quaest. 4. *Portel.* dub. Reg. v. Novitii informat. *Rodriquez* tract. 3. gg. regul. quaest. 10. *Mirandam* tract. 1. quaest. 17. 18. 19. *Peyrinum* tract. 2. de Praelat. quaest. 3. cap. 1. §. 1. *Vecch.* in prax. disp. 6. dub. 7. *Bassaeum* V. Religio 2. qui monet, *teneri recipiendum pandere suum impedimentum grave.*

19 Therefore those are to be received who are fit to serve Religion. Wherefore those who receive the unfit or the worthless are guilty of deadly fault.

> *Recipiendi sunt igitur, qui apti sint Religioni inservire. Quare lethali culpa damnantur recipientes damnosos, vel ineptos.*

Question VII: On novices

1 D. Bonaventure appends a *third* mirror, in which his Novices fashion their conduct exactly to it, and the Fathers destined to admit candidates to profession anatomically examine the life of the novices. A work indeed heavenly.

> *Speculum apponit D. Bonavent.* tersum, *in quo adamussim Novitii suos mores componant, et Patres admittendis ad professionem destinati, novitiorum vitam anatomice examinent. Opusculum quidem caeleste.*

2 He appends another similar work. On the Institution of Novices; a work truly golden. But he gathers all things more fully discussed in the Rule of Novices.

> *Aliud opus simile apponit. De Institutione Novitiorum; opus sane aureum. Omnia vero latius disserta colligit in Regula Novitiorum.*

3 Again, he appends another little work for nuns, on the perfection of life.

> *Rursus, Opusculum aliud apponit pro monialibus de perfectione vitae.*

4 The holy Council of Trent decrees *session 25. chapter 15.* that the profession is not valid if the novice has not completed 16 years, and has not completed a full year of probation; and this our Rule observes, as S. Bonav. *on chapter 2.*

> *Decernit sanctum Trident. Concil.* sess. 25. cap. 15. *non esse validam professionem, si novitius 16. annos non compleuit, et integrum annum probationis non peregit, et hoc in nostra Regula observat S. Bonau.* ad cap. 2.

5 The year must be completed in the civil manner, so that if it be a bissextile year, two days count as one.

> *Annus debet politice ad morem impleri, ut si bissextus sit, duo dies unum constituant.*

6 If a dying novice is admitted to profession by privilege, the parents succeed ab intestato, whatever Diana says with others *part. 3. de dub. reg. resol. 17. and part. 5. tract. 5. resol. 139.* The reason is, because it is granted only for spiritual solace, therefore it cannot in the external forum prejudice the

legitimate heirs, and devolve the inheritance upon the monastery, where there is no right; and equally no debt.

> *Si e privilegio moriturus novitius ad professionem admittatur, succedunt parentes ab intestato, quidquid dicat cum aliis Diana* part. 3. de dub. reg. resol. 17. et part. 5. tract. 5. resol. 139. *Ratio est, quia in solum spirituale solatium conceditur, ideo nequit in foro externo praeiudicare legitimis heredibus, et devolvere hereditatem ad monasterium, ubi nullum ius est; nullum pariter debitum.*

[7] The year must be whole and continuous, not interrupted; Rodriquez *tomo 2. cap. 8. et tomo 3. qq. quaest. 15. art. 8.* Sa *V. Religio n. 9.* Azor *tract. 1. lib. XII. cap. 2. quaestio 8.* Bonacina *de claus. quaest. 2. puncto 10. diff. 2.* Nauar. *de reg. consil. 32. et 33.* Henriquez *lib. XIII. de excomm. cap. 40.* Syluester *V. religio 5. q. 4.* D. Anton. *3. part. tit. 16. cap. 3. §. 2.* Faust. *in th. f. lib. V. quaest. 163. et 164.* Sanchez *lib. 5. cap. 4.* Bassaeus *V. Religio 3. num. 5.*

> *Debet annus integer continuatus esse, non interpolatus; Rodriquez* tomo 2. cap. 8. et tomo 3. qq. quaest. 15. art. 8. *Sa* V. Religio n. 9. *Azor* tract. 1. lib. XII. cap. 2. quaestio 8. *Bonacina* de claus. quaest. 2. puncto 10. diff. 2. *Nauar.* de reg. consil. 32. et 33. *Henriquez* lib. XIII. de excomm. cap. 40. *Syluester* V. religio 5. q. 4. *D. Anton.* 3. part. tit. 16. cap. 3. §. 2. *Faust.* in th. f. lib. V. quaest. 163. et 164. *Sanchez* lib. 5. cap. 4. *Bassaeus* V. Religio 3. num. 5.

[8] If a novice runs away for two hours with the habit, and returns, the year is interrupted, according to the decision of the Cardinals in Barbosa *de iur. can. lib. 1. c. 42. n. 139.* Vecch. *disp. 11. dub. 3. num. 6. et 15.*

> *Si novitius aufugiat ad duas horas cum habitu, et redeat, interruptus est annus, iuxta decisionem Cardinalium apud Barbosam* de iur. can. lib. 1. c. 42. n. 139. *Vecch.* disp. 11. dub. 3. num. 6. et 15.

[9] The year must be completed with the habit of Religion, as Sylvester teaches *V. Religio 5. quaest. 5.* Angel. *V. novitius*, Vecchius *disp. 11. dub. 7. and* others in Bassaeus *num. 7.*

> *Debet annus compleri cum habitu Religionis, ut docent Sylvester* V. Religio 5. quaest. 5. *Angel.* V. novitius, *Vecchius* disp. 11. dub. 7. et *alii apud Bassaeum* num. 7.

[10] If the novitiate was null, it must be repeated, because there is no cause, and there is no potency toward the past. Thus Nauar. and Rodriquez in Bassaeus *num. 9.*

> *Si nouitiatus fuit irritus, est iterandus, quia non est causa, nec ad praeteritum est potentia. Ita Nauar. et Rodriquez apud Bassaeum* num. 9.

[11] Those receiving candidates to profession among the Mendicants, before the year is complete, are excommunicated, and suspended ipso facto from the faculty of admitting to profession *chapter Non solum de reg. in 6.* the same censure binds those who throughout that whole year impede the novice from freely passing to another order, unless he has made profession being over 16 years of age. In other Orders, however, they sin gravely against the precept of the Council of Trent *session 25. de regul. cap. 15.*

> *Recipientes ad professionem inter Mendicantes, ante annum completum, excommunicantur, et suspenduntur ipso facto a facultate admittendi ad professionem* cap. Non solum de reg. in 6. *eadem censura nodantur, qui toto illo anno impediunt, ne libere transeat novitius ad alium ordinem, nisi maior 16. annis professionem emiserit. In aliis autem Ordinibus graviter peccant contra praeceptum Concilii Trident.* sess. 25. de regul. cap. 15.

12 Superiors can for a cause prolong the profession, by the old law, from which the Tridentine Synod in this does not derogate. It is conceded indeed by Pius V, in Rodriquez *in the place cited*, and Bassaeus *num. 10.* provided that within six months he may be hoped to become fit.

> *Possunt superiores ex causa prolongare professionem, ex iure veteri, cui in hoc Tridentina Synodus non derogat. Conceditur vero a Pio V. apud Rodriquez* loco citato*, et Bassaeum* num. 10. *dummodo intra sex menses ille speretur futurus habilis.*

13 NOVICES are not bound by the statutes of Religion, since they are not yet members. See Bassaeus *n. 11. and 13.*

> *NOVITII non tenentur statutis Religionis cum non adhuc sint membra. Vide Bassaeum* n. 11. et 13.

14 They enjoy the privilege of Canon and Forum, *Sanchez lib. IV. cap. 39. num. 17. et lib. VI. cap. 10. Layman lib. IV. tract. 5. cap. 4. Diana de dub. regular. Resol. 73.*

> *Gaudent privilegio Canonis, et Fori,* Sanchez lib. IV. cap. 39. num. 17. et lib. VI. cap. 10. Layman lib. IV. tract. 5. cap. 4. Diana de dub. regular. Resol. 73.

15 ONE RETURNING to the world does not fall back into the censures or irregularities from which he was absolved in Religion by force of the privileges which *Vecch. disp. 9. dub. 25.* brings forward. See *Suarez tract. 5. in 3. part. disp. 7. sect. 5. num. 35. Diana cit. resol. 44. Bonacina de leg. disp. IV. quaest. 2. puncto 7. §. 4. num. 28.* This is the more probable opinion, says *Bassaeus num. 16.*

> *REDIENS ad saeculum non reincidit in censuras, aut irregularitates, a quibus in Religione fuit absolutus vigore privilegiorum, quae adducit* Vecch. disp. 9. dub. 25. *Vide* Suarez tract. 5. in 3. part. disp. 7. sect. 5. num. 35. Dianam cit. resol. 44. Bonacina de leg. disp. IV. quaest. 2. puncto 7. §. 4. num. 28. *Id probabilius ait* Bassaeus num. 16.

Question VIII: What is required for profession in religion

1 PROFESSION of this kind is one thing when expressed, another when tacit.

> Quae requirantur ad professionem in Religione.
>
> *PROFESSIO haec alia est expressa, alia tacita.*

2 ¶ Profession is expressed when it is made in express words, in writing, or by signs: it is tacit, however, when it is presumed to have been made: first, if upon completing the year of probation you wear the habit of the professed, distinct indeed from the habit of novices, for three days. *cap. ad Nostram de regul.* Secondly, if, having received such a habit, before the three days you also do something proper to the professed, for instance cast a vote in the chapter elections. Thirdly, if you wear the habit of the professed for a whole year, once the year has passed you are presumed to have professed. *Clement. eos, de Regul.* See *Manuel treat. 2. sum. cap. 8. num. 13. Azor. lib. XII. cap. 4. question 2. Sanchez lib. V. cap. 3. Miranda treat. 1. quest. 24. art. 1. Layman lib. IV. tract. 5. cap. 5. Lessius lib. II. cap. 41. num. 57. Vecchi disp. 13. dub. 8. Bassaeus V. Religio 4. num. 1.* Thus by any one of these modes you will have professed tacitly.

> *¶ Expressa editur expressis verbis, scripto, vel nutibus: Tacita vero praesumitur facta, primo si peracto probationis anno, habitum professorum, distinctum quidem a novitiorum habitu, triduo gestes* cap. ad Nostram de regul. *Secundo in tali suscepto habitu facias etiam ante triduum aliquid proprium professorum, puta praebere suffragium in comitiis.*

Tertio, si anno integro habitum professorum gestes, transacto anno praesumeris professus. Clement. eos, de Regul. *Vide* Manuelem tract. 2. sum. cap. 8. num. 13. Azor. lib. XII. cap. 4. quaestio 2. Sanchez lib. V. cap. 3. Mirandam tract. 1. quaest. 24. art. 1. Layman lib. IV. tract. 5. cap. 5. Lessius lib. II. cap. 41. num. 57. Vecch. disp. 13. dub. 8. Bassaeum V. Religio 4. num. 1. *Ita uno ex his modis erit tacite professus.*

3 The Council of Trent notes, in truth, that it neither changed nor took away these modes, but only added them, so that the year of probation may be completed, and a full sixteen years of age, complete to the point. The reception also of Sacred Orders from such an order induces profession, as the *Sacred Congregation declared in 1619, in Tamburini de iure, Abbot disp. 6. quest. 13. num. 12.*

NOTANT vero Tridentinnm Concil. id non immutasse, aut abstulisse, hos modos, sed solum addere, ut compleatur sit annus probationis, et aetatis annorum 16. integre ad punctum. Susceptio etiam Sacrorum Ordinum ab huiusmodi inducit professionem, ut declaravit Sacra Congreg. 1619. apud Tamburin. de iure, Abb. disp. 6. quaest. 13. num. 12.

4 Note also that profession, according to the constitutions, *cap. fin. quest. 3.*, must be signed in writing by the one professing, if he knows how to write.

NOTA etiam, professionem e constitut. cap. fin. quaest. 3. *esse scripto a profitente, si scribere norit, consignandam.*

5 BESIDES the conditions related from the Council of Trent as necessary, wherever the Council is received, others are required.

PRAETER conditiones relatas e Concilio Tridentino necessarias, ubi Concilium receptum est, aliae requiruntur.

6 THE FIRST, that it be made in a monastery of one's own sex. Thus a hermaphrodite, being equally of both sexes, professes nowhere. *Portela V. Professio,* who says that a woman professed, if she bursts forth into a male, is bound to pass over to the religion of men. But this does not please me; for precisely her profession is that of Nuns. See *Diana part. 5. tract. 14. Resol. 49.*

PRIMA, ut in monasterio sui sexus fiat. Ita hermaphroditus aeque utriusque sexus nullibi profitetur. Portel. V. Professio, *qui ait, foeminam professam, si in marem erumpat, teneri ad religionem virorum transire. Sed non placet; nam praecise eius professio est Monialium. Vide* Dianam part. 5. tract. 14. Resol. 49.

7 The SECOND condition is, that one be received by a power that has authority. These are the General, the Provincial, and the immediate Prelate of the place with his family: for without the consent of the greater part of the family the Prelates cannot admit anyone, nor can the family, if the Prelate resists; *Rodriguez tract. 5. qq. 17. art. 7. Vecchi disp. 12. dub. 1. and Sanchez lib. V. 14. from num. 62. with Bassaeus num. 3.* Moreover the reception belongs properly to the Prelates, as it is commended to the more prudent, and the consent of prudent brethren is added to the reception, as the *Holy Doctor says on cap. 2 of the Rule of the Minors.* Wherefore the General, or Provincial, can command the superior of the Novitiate not to admit anyone without his license, under a declaration of nullity, *Navarro lib. II. conf. reg. 62. Rodriguez tract. 3. qq. quest. 17. art. 7.* for his power is eminently in the greater Prelate.

SECUNDA conditio est, ut recipiatur a potestate habente. Hi sunt Generalis, Provincialis, et immediatus loci cum familia Praelatus: sine consensu enim maioris partis familiae nequeunt Praelati ullum admittere, nec familia, renitente Praelato; Rodriguez tract. 5. qq. 17. art. 7. Vecch. disp. 12. dub. 1. et Sanchez lib. V. 14. a num. 62. cum Bassaeo num. 3. *Provide autem receptio Praelatis, ut prudentioribus commendatur, et additur prudentium fratrum consensus ad receptionem, ut ait* S. Doctor ad cap. 2. Regulae Minorum. *Quare potest Generalis, seu Provincialis*

praecipere superiori Novitiatus, ne aliquem absque sua licentia admittat sub declaratione nullitatis, Navar. lib. II. conf. reg. 62. Rodriquez tract. 3. qq. quaest. 17. art. 7. *nam eius potestas est eminenter in Praelato maiori.*

8 All are bound, in truth, not to exclude a suitable candidate, *Suarez tract. 3. de relig. lib. IV. cap. 3. num. 7. Vecchi disp. 12. dub. 1. Portela V. Novitius, num. 55. and in the addition num. 17. Miranda treat. 1. quest. 25. art. 1. and 2. Diana part. 7. tract. 11. resol. 26. Bassaeus V. Religio, 4. num. 3.* And the *Holy Doctor indicates this on cap. 2 of the Rule of the Minors.*

TENENTUR vero omnes, idoneum non excludere, Suarez tract. 3. de relig. lib. IV. cap. 3. num. 7. Vecch. disp. 12. dub. 1. Portel. V. Novitius, num. 55. et in addit. num. 17. Mirand. tract. 1. quaest. 25. art. 1. et 2. Diana part. 7. tract. 11. resol. 26. Bassaeus V. Religio, 4. num. 3. *Et indicat* S. Doctor ad cap. 2. Reg. minorum.

9 The REASON is, because a great evil is inflicted upon him, while he is deprived of so great a good; just as a grave evil is inflicted upon the Religion, whether suitable men are driven out, or the guilty and unfit are admitted. For this reason it is entrusted to them that, endowed with the fishing art, they cast good fish into vessels, sending the bad and unfit outside, as the *Holy Doctor discusses.*

RATIO est, quia malum grande infertur illi, dum tanto privatur bono; sicuti malum grave Religioni infertur, sive idonei pellantur, sive noxii, et inepti admittantur. Ideo enim eis demandatur, ut arte praediti piscatoria, bonos in vasa mittant, malis non idoneis foras missis, ut disserit S. Doctor.

10 But if, even after vows are given, the Fathers of the convent find or uncover some grave fault in the novice, they can still expel him: for the year is given for approval, *cap. ad Apostolicam.* And as it is permitted in a ratified marriage, so also in the spiritual marriage, *cap. Inter corporalia, de transf. Episcop.* So *Bassaeus num. 3. Vecchi disp. 12. dub. 7.* who in *disp. 5.* says that private persons by voice cannot give a vote.

QUOD si, etiam datis votis, aliquod grave in novitio offendant, vel detegant, possunt adhuc Patres conventus eum eiicere: Annus enim datur in approbationem cap. ad Apostolicam. *Et sicut licet in matrimonio rato; ita in spirituali* cap. Inter corporalia, de transf. Episcop. *Ita* Bassaeus num. 3. Vecch. disp. 12. dub. 7. *qui* disp. 5. *ait privatos voce, non posse suffragium dare.*

11 THIRDLY, a mind free from violence, grave fear, or importunate pleadings, and from the displeasure of parents, etc. is required in the one professing. *cap. Perlatum de his, quae vi. Sanchez de matrim. lib. IV. disp. 6. num. 18. and disp. 7. num. 7. Coninck disp. 28. dub. 2. num. 35. Lessius lib. II. cap. 17. num. 35. Vecchi disp. 13. dub. 12. Bassaeus num. 5.* But in doubt as to whether the fear was grave, judgment must be given in favor of the profession itself that holds possession, thus *Sanchez lib. IV. moral. cap. 3. Bonacina de leg. disp. IV. quest. 2. puncto 3. §. 1. num. 11.*

TERTIO exigitur animus profitentis liber a vi, metu gravi, vel importunis precibus, et offensione parentum, etc. cap. Perlatum de his, quae vi. Sanchez de matrim. lib. IV. disp. 6. num. 18. et disp. 7. num. 7. Coninch. disp. 28. dub. 2. num. 35. Lessius lib. II. cap. 17. num. 35. Vecch. disp. 13. dub. 12. Bassaeus num. 5. *In dubio autem: an metus fuerit gravis, iudicandum pro ipsa professione, quae possidet, ita* Sanchez lib. IV. moral. cap. 3. Bonacina de leg. disp. IV. quaest. 2. puncto. 3. §. 1. num. 11.

12 An invalid profession can be ratified, unless it was made in a Religion not approved. See *Bassaeus.*

PROFESSIO irrita potest ratificari, nisi facta sit in Religione non approbata. Vide Bassaeum.

13 The Council of Trent, *sess. 25. de reg. cap. 19.*, grants that one who presumes he has professed invalidly may protest only within a period of five years, unless he was impeded within that time. But let him bring his causes for protesting before his own superior.

> *CONCILIUM Trident.* sess. 25. de reg. cap. 19. *concedit, ut qui praesumit invalide se professum, reclamare possit solum intra quinquennium, nisi tamen intra fuerit impeditus. Adducat vero causas reclamandi coram superiore suo.*

14 Note, however, that if the profession was invalid, it is not ratified once the five years have elapsed, for what does not subsist by law from the beginning is not strengthened by the lapse of time; thus *Diana part. 6. tract. 7. Resol. 56.*

> *NOTA vero, si irrita fuit professio, non ratificari elapso quinquennio, quia non firmatur tractu temporis, quod de iure ab initio non subsistit; ita* Diana part. 6. tract. 7. Resol. 56.

15 For the causes of protesting see the rest in *Bonacina de claus. quest. 2. puncto 10. Sanchez de matrim. lib. VII. disp. 37. Suarez de relig. tract. 3. lib. VII. cap. 3.*

> *CAUSAS reclamandi vide cum reliquis in* Bonacina de claus. quaest. 2. puncto 10. Sanchez de matrim. lib. VII. disp. 37. Suarez de relig. tract. 3. lib. VII. cap. 3.

16 I shall enumerate the effects of the obligation when I treat of each of the vows.

> *EFFECTUS obligationis recensebo, cum de singulis votis agam.*

17 But it brings many goods. The first good that it carries with it is the restoration of baptismal innocence: Thus *D. Thom. q. 189. art. 5. Navarro tract. 2. de reg. num. 60. Peyrino tract. 2. de prael. quest. 3. cap. 1. num. 154. Sà V. religio, num. 17. Layman lib. IV. tract. 5. cap. 10. Villalobos tom. 2. tract. 35. diff. 26.*

> *MULTA vero bona affert. Primum bonum, quod circumfertur, est Restitutio Baptismalis innocentiae: Ita* D. Thom. q. 189. art. 5. Nauar. tract. 2. de reg. num. 60. Peyrin. tract. 2. de prael. quaest. 3. cap. 1. num. 154. Sà V. religio, num. 17. Layman lib. IV. tract. 5. cap. 10. Villalobos tom. 2. tract. 35. diff. 26.

18 Some add that he who has placed an obstacle in the profession, if he repents, recovers innocence; But I do not see from where they prove this from the work wrought, where such a promise is found, as *Cajetan notes on the cited place of D. Thom. art. 3. ad 3. Azor tract. 1. lib. XII. cap. 5. quest. 11. Navarro de indulg. not. 20. num. 17.*

> *ALIQUI addunt eum, qui in professione obicem posuerit, si resipiscat, recipere innocentiam; Sed non video, unde id probent ex opere operato, ubi haec promissio reperiatur, ut notat* Caietanus ad locum citatum D. Thom. art. 3. ad 3. Azor tract. 1. lib. XII. cap. 5. quaestio 11. Nauar. de indulg. not. 20. num. 17.

19 Next, profession removes the irregularity arising from defect of birth with respect to orders and simple benefices, *cap. 1. de filiis Presbyt.*

> *DEINDE professio tollit irregularitatem, quae ex defectu natalium ad ordines, et beneficia simplicia* cap. 1. de filiis Presbyt.

20 As for stains affecting temporal acts, from *Ambrose de monach. collat. 1.*

> *MACULAS quod ad actus temporales ex* Amb. de monach. collat. 1.

21 Moreover, one is freed from the power of his country with respect to burdens. See *Sanchez number 29.* Finally, a profession made before the death of a parent wipes out the mark of ingratitude, on

account of which he could have been disinherited. See Layman *lib. 4. tract. 5. cap. 10.*

> *Insuper a patria liberatur potestate quo ad gravamina. Vide* Sanchez numero 29. *Tandem professio emissa ante parentis mortem, abolet ingrati notam, ob quam exhaeredari poterat. Vide Layman* lib. 4. tract. 5. cap. 10.

22 The Holy Doctor enumerates many reasons, *quest. 10. in Reg. why not all are to be received into Religion.*

> *MULTAS rationes recenset S. Doctor* quaest. 10. in Reg. cur non sint omnes ad Religionem recipiendi.

23 He heaps up very many motives why suitable men are to be received into religion, *quest. 15. in Regulam,* But those reasons, like these motives, since they are evident of themselves from common practice, I pass over here.

> *PLURIMA congerit motiva, ob quae recipiendi sint ad religionem idonei* quaest. 15. in Regulam, *Illas autem rationes, sicut et haec motiva, cum ex communi praxi per se pateant, hic praetermitto.*

Question IX: Whether, and how, religious are bound to perfection

1 THAT a Religious is bound to perfection, not indeed to have it in act, but to pursue it, the Doctors commonly grant with D. Bonaventure *lib. 1. de professio religiosi, cap. 1. and in the questions on the Rule, quest. 16. and p. p. de Eccl. Hierarch. cap. 2. 3. and 4. and part. 4. cap. 4.* Thus D. Thom. 2. 2. *quest. 184. art. 5. ad 2. and quest. 186. art. 2. and 9.* and there Cajetan, *Abul. quest. 144. on cap. 9 of Matthew: Astensis sum. 2. part. tit. 47. art. 1. quest. 3.* Carthus. *de reform. claustr. lib. 1. art. 1.* D. Antonin. *3. part. tit. 16. cap. 1. §. 1.* Angelus *verb. Religiosus, num. 27.* Sylvester *ibi 1. quest. 3.* Armilla *n. 5.* Tabiena *quest. 4.* Navarro *com. 1. de Regular. num. 10. disto 10.* Corduba *in reg. S. Francisci, cap. 1. quest. 3. disto 2.* Viguer. *lib. Instit. cap. 7. §. 1.* Azor *lib. 11. tract. 1. Instit. cap. ult. question 11.* Valentia *disp. 10. quest. 4. puncto 4.* Bannes *prima secundae, quest. 33. art. 3. dub. 3.* Manuel *qq. regul. tract. 3. quest. 48. art. 1.* Beltram. *tract. de voto paupert. cap. 3.* Sanchez *in Decal. Tom. 2. lib. 6. cap. 5.* The reason of D. Bonaventure is, because this is the School of virtues. Therefore Christ says, *Matth. 19. If you will, etc.* This opinion is terrible to many Religious, as Balleus says *V. obed. num. 17. with Navarro com. 1. de Reg. num. 10.*

> ***An, et qualiter teneantur Religiosi ad perfectionem.***
>
> *RELIGIOSUM teneri ad perfectionem non quidem actu habendam, sed procurandam, communiter concedunt Doctores cum D. Bonavent.* lib. 1. de professio religiosi, cap. 1. et in qq. super Regulam, quaest. 16. et p. p. de Eccl. Hierarch. cap. 2. 3. et 4. et part. 4. cap. 4. *Ita D. Thom. 2. 2.* quaest. 184. art. 5. ad 2. et quaest. 186. art. 2. et 9. *et ibi Caietanus,* Abul. quaest. 144. in cap. 9. Matthaei: Astensis sum. 2. part. tit. 47. art. 1. quaest. 3. *Carthus.* de reform. claustr. lib. 1. art. 1. *D. Antonin.* 3. part. tit. 16. cap. 1. §. 1. *Angelus* verb. Religiosus, num. 27. *Sylvester* ibi 1. quaest. 3. *Armilla* n. 5. *Tabiena* quaest. 4. *Navar.* com. 1. de Regular. num. 10. disto 10. *Corduba* in reg. S. Francisci, cap. 1. quaest. 3. disto 2. *Viguer.* lib. Instit. cap. 7. §. 1. *Azor* lib. 11. tract. 1. Instit. cap. ult. quaestio 11. *Valentia* disp. 10. quaest. 4. puncto 4. *Bannes* prima secundae, quaest. 33. art. 3. dub. 3. *Manuel* qq. regul. tract. 3. quaest. 48. art. 1. *Beltram.* tract. de voto paupert. cap. 3. *Sanchez* in Decal. Tom. 2. lib. 6. cap. 5. *Ratio D. Bonavent. est, quia haec est Schola virtutum. Ideo Christus ait,* Matth. 19. Si vis, etc. *Haec sententia multis Religiosis est terribilis, ut ait Balleus* V. obed. num. 17. cum Navar. com. 1. de Reg. num. 10.

2 Yet all are not bound to pursue every perfection, but according to the condition of their rule. Thus D. Bonaventure *in the epistle to the Provincials, and Custodes, and in the places adduced, and* D. Thom. *quest. 186. art. 2. and the rest with the Holy Doctors.*

NON tamen ad omnem perfectionem sectandam tenentur cuncti, sed iuxta regulae suae conditionem. Ita D. Bonavent. in epistola ad Provinciales, et Custodes, et locis allatis, et *D. Thom.* quaest. 186. art. 2. et reliqui cum SS. DD.

3 The REASON of D. Bonaventure, in the places adduced, is, because religions are instituted by the mind of their Founder, and with the confirmation of the Apostolic See, like ranks arrayed for attaining some end by the use of certain means: Therefore one must insist only on these; otherwise there will never be a firm exercise of virtues in any religious.

RATIO D. Bonaventurae locis adductis, est, quia religiones ex Institutoris mente, et sedis Apostolicae confirmatione institutae sunt, sicut acies ordinatae ad finem aliquem assequendum adhibitis certis mediis: Ergo illis tantum insistendum; alioqui non erit unquam alicuius religiosi firmum exercitium virtutum.

4 But there is a difficulty: Whether this is enjoined upon us by a particular precept.

EST autem difficultas: An hoc sit peculiari praecepto nobis iniunctum.

5 I ASSERT that it is not a particular precept. This is the opinion of D. Bonaventure, *who in the places cited,* and everywhere enjoins and declares perfection through the observance of the rule. Therefore Cajetan also *quest. 186. art. 6.* Corduba *cap. 1. of the Rule, quest. 3. dict. 3.* — who seem to assert that it is a particular precept — conclude that contempt of the rule, and of this obligation of tending to perfection, are inseparable.

ASSERO, non esse peculiare praeceptum. Est sententia D. Bonavent. qui locis citatis, *et ubique perfectionem per observantiam regulae iniungit, atque declarat. Ideo et Caietanus* quaest. 186. art. 6. *Corduba* cap. 1. Regulae, quaest. 3. dict. 3. *qui videntur asserere, esse peculiare praeceptum, concludunt, contemptum regulae, et huius obligationis tendendi ad perfectionem, esse inseparabiles.*

6 It is proven first by D. Bonav. *de profess. relig. cap. 1. for Apoc. 2.* Christ, rebuking that Prelate who had already become tepid, says: *I have a few things against you: because you have left your first charity: wherefore do penance, and do the first works.*

PROBATUR primo a D. Bonav. de profess. relig. cap. 1. nam Apoc. 2. *Christus increpans illum Praelatum, qui tepidor iam factus erat, ait:* Habeo adversus te pauca: quia charitatem primam reliquisti: quapropter poenitentiam age, et prima opera fac.

7 There nothing else is enjoined than that he resume the first works of virtue, especially charity, and retrace the interrupted way through the byways: Therefore those works of charity suffice for attaining the end. For thus also it is said in *Eccles. 9.: Whatsoever your hand is able to do, work it earnestly;* and this is said even to seculars, to whom nevertheless no one would say that perfection has been enjoined by a distinct precept: Otherwise all mortal sins would have to be doubled, which not even the most fearful would say. Thus also a religious, as often as he violates the vows or precepts, would commit twin mortal sins, which is unheard of, nor are sins to be so multiplied without cause, as Sanchez warns, *num 5.*

Ibi nil aliud iniungitur, nisi ut prima opera virtutum, praecipue charitatis, resumat, et viam interruptam per auia recalculet: Ergo sufficit ea opera charitatis ad finem facere. Sic enim et Eccles. 9. *dicitur:* Quodcunque potest manus tua, instanter operare; et *hoc dicitur etiam saecularibus, quibus tamen nullus dicet, iniunctum esse distincto praecepto perfectionem: Alioqui oporteret omnia peccata mortalia esse duplicata, quod nullus etiam timoratus dicet. Sic*

etiam religiosus quoties vota, aut praecepta violat, gemina mortalia patraret, quod est inauditum, neque sunt peccata adeo multiplicanda sine causa, ut monet Sanchez num 5.

8 But the question is, when exactly is one at fault against this obligation?

Quaestio autem est, quandonam peccetur contra hanc obligationem?

9 D. Thomas *quest. 186. art. 2. and 9.* and Cajetan *on that art. 2. and 9.* D. Antoninus, Angelus, Armilla, Valentia, adduced *num. 1.* say that one contravenes it when there is contempt of the counsels, by which perfection is attained; and Valentia *disp. 10. quest. 4. puncto 5. col. penult.* with Cajetan explain this contempt to be when a Religious transgresses the rules because he is unwilling to subject himself to them. But Cajetan speaks of religious and seculars, as Azor notes, *tract. 1. lib. 11. cap. ult. question 11.*

D. Thomas quaest. 186. art. 2. et 9. *et Caietanus* eo art. 2. et 9. *D. Antoninus, Angelus, Armilla, Valentia, adducti* num. 1. *dicunt, tunc contravenire, quando est contemptus consiliorum, quibus pervenitur ad perfectionem, et Valentia* disp. 10. quaest. 4. puncto 5. col. penult. *cum Caietano explicant, hunc contemptum esse, quando Religiosus ideo regulas transgreditur, quod nolit illis subiici. Loquitur autem Caietanus de religiosis, et saecularibus, ut notat Azor* tract. 1. lib. 11. cap. ult. quaestio 11.

10 BUT Sylvester *verb. religio 1. quest. 3.* Tabien. *quest. 4.* Corduba *in Reg. cap. 1. quest. 3. dicto 3.* say that to despise is not to esteem; and therefore that religious despises perfection who has no intention of tending toward it; Even if such a one does not sin out of contempt, but out of negligence, or cupidity. In the same manner speak D. Antoninus, Angel. and Sylvest. *n. 1.* adduced, with D. Thom. *quest. 184. art. 5. ad 2.*, that religious are liars as often as they turn their mind away from the perfection they profess. Where Cajetan at the end, and Navarro *Commentar. 1. de regular. num. 10.* judge that D. Thomas *in this place* holds this to be a mortal sin; otherwise there would be no difference between religious and seculars; for these too sin mortally by despising the counsels, and thus the question about the obligation of the Religious by reason of his state, which is the school of perfection, would be empty.

AT Sylvester verb. religio 1. quaest. 3. *Tabien.* quaest. 4. *Corduba* in Reg. cap. 1. quaest. 3. dicto 3. *dicunt, contemnere, esse non aestimare, itaque eum religiosum contemnere perfectionem, qui non habet intentionem tendendi ad illam; Etsi talis non peccet ex contemptu, sed ex negligentia, vel cupiditate. Eodem modo loquuntur D. Antoninus, Angel. et Sylvest.* n. 1. *allegati cum D. Thom.* quaest. 184. art. 5. ad 2. *religiosos esse mendaces, quoties a perfectione, quam profitentur, animum revocant. Ubi Caietanus in fine, et Navar.* Commentar. 1. de regular. num. 10. *censent, D. Thomam* hoc in loco, *sentire, hoc esse peccatum mortale; alioqui nullum esset discrimen inter religiosos, et saeculares; nam et hi peccant mortaliter contemnentes consilia, et ita inanis esset quaestio de obligatione Religiosi, ratione sui status, qui est schola perfectionis.*

1. D. BONAVENTURE *in Compend. Theol. verit. lib. 5. cap. 6.* says that a Religious is bound to perfection, because all things are renounced: but seculars to the precepts, without which Charity is not had. He has nearly the same *in Apolog. Paup. cap. 3. resp. prima,* where he says that the perfection of a religious consists in the observance of the counsels of the Gospel. And he explains this thus: as perfection, necessary to all, is the observance of the commandments, so the Gospel perfection of a religious consists in avoiding also those things which are occasions of sins, which are enumerated by D. John, *epist. 1. cap. 2. Whatever is in the world is either the concupiscence of the flesh, or the concupiscence of the eyes, or the pride of life.* But the incentives of the

concupiscence of the flesh are avoided by the Vow of chastity, *Matth. 19. There are Eunuchs, etc.* The incentives of the concupiscence of the eyes, by the counsel of Christ, *Matth. 19. If you will be perfect, etc.* The pride of life, by the counsel of the same Christ, *Matth. 16. Whoever wills to come after me, let him deny himself, etc.* By the Vow of obedience, which is not extended to all the objects of the will, as I showed at length with D. Bonav. *Tract. de voto, disp. 2. sect. 2. quest. 2.* And in this threefold declination from evil, and from its origin, the first part of Gospel perfection consists, as Sacred Scripture intimates and the Holy Fathers, Founders of Religions, affirm.

> *1. D. BONAVENTURA* in Compend. Theol. verit. lib. 5. cap. 6. *ait, Religiosum teneri ad perfectionem, quia omnia renunciantur: saeculares vero ad praecepta, sine quibus non habetur Charitas. Eadem fere habet* in Apolog. Paup. cap. 3. resp. prima, *ubi ait, perfectionem religiosi esse in observantia consiliorum Evangelii. Hanc autem sic explicat, ut sicuti perfectio, omnibus necessaria, est observatio mandatorum; ita perfectio Evangelica religiosi sit evitare etiam ea, quae sunt occasiones peccatorum, quae numerantur a D. Ioanne* epist. 1. cap. 2. Quidquid est in mundo, aut est concupiscentia carnis, aut concupiscentia oculorum, aut superbia vitae. *Vitantur autem incentiva concupiscentiae carnis Voto castitatis,* Matth. 19. Sunt Eunuchi, etc. *Incentiva concupiscentiae oculorum, consilio Christi,* Matth. 19. Si vis perfectus esse, etc. *Vitae superbia, consilio eiusdem Christi,* Matth. 16. Qui vult venire post me, abneget semetipsum, etc. *Voto obedientiae, quod non extenditur ad omnia voluntatis obiecta, ut late ostendi cum D. Bonav.* Tract. de voto, disp. 2. sect. 2. quaest. 2. et *in hac triplici declinatione a malo, et origine eius, primam partem Evangelicae perfectionis consistere, et Sacra Scriptura insinuat et SS. Patres Religionum Institutores affirmant.*

12 THEREFORE in these declinations from evil, and from its occasions, he places the first part of Gospel perfection.

> *IGITUR in his declinationibus a malo, et occasionibus eius primam partem Evangelicae perfectionis collocat.*

13 The SECOND, however, consists in the supererogatory pursuit of good through the active and contemplative life toward God; through vehement charity toward one's neighbor, through great beneficence toward enemies, concerning which Matth. 5. *Do good to those who hate you, Be you perfect, etc.*

> *SECUNDA vero stat in prosecutione boni supererogativa per vitam activam, et contemplativam ad Deum; per vehementem charitatem ad proximum, per grandem beneficentiam erga inimicos, de qua Matth. 5.* Benefacite his, qui oderunt vos, Estote perfecti, etc.

14 The THIRD in the supererogation of undergoing adversities, by bearing them with a joyful mind, as it is said in James 1. *Count it all joy, when you fall into various temptations.*

> *TERTIA in supererogatione perpessione adversitatum, ex laeto animo eas tolerando, ut dicitur Iacobi 1.* Omne gaudium existimate, cum in varias tentationes incideritis.

15 He says that indeed the first three fall under vow. Therefore the Holy Father Francis hands down the rule: *The rule of the Friars Minor is this: to observe the holy Gospel of our Lord, living in obedience, without property, and in chastity.*

> *Illa quidem prima tria cadere sub voto ait. Ideo S. P. Franciscus regulam tradit:* Regula fratrum minorum haec est, sanctum Domini nostri Evangelium observare, vivendo in obedientia, sine proprio, et in castitate.

16 BUT he places the other three as things to be desired admonishingly, commending them: *Let the brothers attend that above all they ought to desire to have the spirit of the Lord and His holy operation, to pray*

always to God with a pure heart, and to have humility and patience in infirmity and tribulation, and to love those who persecute us.

> *ALIA vero tria ponit admonitorie desideranda, commendans:* Attendant fratres, quod super omnia desiderare debent habere spiritum Domini, et sanctam eius operationem, orare semper ad Deum puro corde, et habere humilitatem, et patientiam in infirmitate, et tribulatione, et diligere eos, qui nos persequuntur.

17 He SUBJOINS, however, that religious are bound to perfection by vow, and some by reason of state, that is, Bishops, who are bound to the acts of perfection.

> *SUBINFERT vero, ad perfectionem obligari ex voto religiosos, et aliquos ratione status, idest Episcopos, qui ad perfectionis actus est astrictus.*

18 And he places this perfection in the observance of the vows and precepts of the rule, and concludes: From all these it clearly appears that the vow of religion places one in the state of perfection.

> *Hanc autem perfectionem in votorum, et praeceptorum regulae observantia ponit, concluditque: Ex his omnibus aperte clarescit, quod religionis votum in statu perfectionis collocat.*

19 From these I deduce those two assertions which follow.

> *Ex his deduco duo illa asserta, quae sequuntur.*

20 FIRST I assert that perfection, sufficient for Christians, is to keep the Precepts.

> *PRIMUM assero, perfectionem, Christianis sufficientem, esse servare Praecepta.*

21 It is proven from the Holy Doctor, 1. from Matth. 19. *If you will enter into life, keep the commandments.* The Holy Doctor says this is the ladder, on the *Graduale of the Mass.*

> *PROBATUR a S. Doctore, 1. ex Matth. 19.* Si vis ad vitam ingredi, serva mandata. *Hanc esse scalam ait S. Doctor ad* Graduale Missae.

22 Then he proves it *in the cited place* from D. Prospero de vita contemplativa, lib. 1. cap. 15. *They are perfect, who, willing what God wills, sin in no way by which God is offended, acquiesce.*

> *DEINDE id probat* loco cit. *ex D. Prospero de vita contemplativa, lib. 1. cap. 15.* Perfecti sunt, qui volendo, quod Deus vult, nullis peccant, quod Deus offenditur, acquiescunt.

23 He brings the same testimony from the Seven Itineraries, *itinere 4. dist 4. art. 3.*

> *Idem testimonium affert de septem Itineribus,* itinere 4. dist 4. art. 3.

24 He adds that passage of Deuter. 18. *You shall be perfect, and without spot before the Lord your God,* where the Gloss has *without criminal spot.*

> *ADDIT illud Deuter. 18.* Perfectus eris, et absque macula coram Domino tuo, *ubi Glossa* absque macula criminali.

25 Yet if he proposes that not to carry out the counsels is only venial, assert Sanchez *lib. 6. cap 5. num. 8.* with Cajetan *quest. 186. art. 2.* Corduba *ad Reg. cap. 1. quest. 3. disp. ult.* Valentia *disp. 10. quest. 4. puncto 4.* Azor *lib. 11. Instit. cap. ult. quaesito 11.*

> *Si tamen proponat, non exequi consilia, solum esse veniale asserunt Sanchez* lib. 6. cap 5. num. 8. *cum Caietano* quaest. 186. art. 2. *Corduba* ad Reg. cap. 1. quaest. 3. disp. ult. *Valentia* disp. 10. quaest. 4. puncto 4. *Azor* lib. 11. Instit. cap. ult. quaesito 11.

26 As to Religious.

> *Quoad Religiosos.*

27 I SUPPOSE, from D. Bonavent. *lib. 5. Compend. Theol. verit. cap. 69. and 70.* that this perfection adds the observance of the counsels, which differ from the precepts by their nature, because a counsel is a persuasion of a better good of supererogation.

> *SUP PONO ex D. Bonavent.* lib. 5. Compend. Theol. verit. cap. 69. et 70. *Perfectionem hanc addere observantiam consiliorum, quae a praeceptis differunt ex natura sua, quia consilium est persuasio melioris boni supererogationis.*

28 But the Holy Doctor finds TWELVE Counsels in the Gospel.

> *DVODECIM autem Consilia in Evangelio S. Doctor reperit.*

29 The FIRST is of poverty, Matth. 19. *If you will be perfect, etc.* Luke 14. *Whoever does not renounce all, etc.*

> *PRIMUM est paupertatis, Matth. 19.* Si vis perfectus esse, etc. *Lucae 14.* Qui non renunciat omnibus, etc.

30 The SECOND of obedience, Matth. 23. *Upon the chair of Moses, etc. all things whatsoever they shall say, etc.*

> *SECUNDUM obedientiae, Matth. 23.* Super cathedram Moysi, etc. omnia, quae dixerint, etc.

31 The THIRD of chastity, Matth. 19. *There are Eunuchs, who have castrated themselves.*

> *TERTIUM castitatis, Matth. 19.* Sunt Eunuchi, qui se ipsos castraverunt.

32 The FOURTH of beneficence toward enemies beyond necessity, Matth. 5. *Do good, etc.*

> *QUARTUM beneficentiae in inimicos extra necessitatem, Matth. 5.* Benefacite, etc.

33 The FIFTH of meekness, Matth. 5. *If anyone strike you on one cheek, offer him the other also: and he who will contend with you in judgment, and would take your tunic, do not forbid him.*

> *QUINTUM mansuetudinis Matth. 5.* Si quis te percusserit in maxilla una, praebe illi et alteram: et qui vult tecum in iudicio contendere, et tunicam noli prohibere.

34 The SIXTH is of mercy of supererogation, Luke 6. *Give to everyone who asks you.*

> *SEXTUM est misericordiae supererogationis, Lucae 6.* Omni petenti te, tribue.

35 The SEVENTH, of simplicity of words, Matth. 5. *Let your speech be, yes, yes; no, no.*

> *SEPTIMUM, simplicitatis verborum, Matth. 5.* Sit sermo vester, est, est; non, non.

36 The EIGHTH, of avoiding the remote occasions of sin, Matth. 5. and 18. *If your eye, etc.*

> *OCTAUUM vitandi occasiones remotas peccati, Matth. 5. et 18.* Si oculus tuus, etc.

37 The NINTH, of the perfect intention of the end, Matth. 5. *Let your light shine, etc.*

> *NONUM, finis perfecta intentio, Matth. 5.* Luceat lux vestra, etc.

38 The TENTH, perfect conformity to doctrine, Matth. 23. *For they bind heavy burdens.*

> *DECIMUM, conformitas perfecta ad doctrinam, Matth. 23.* Alligant enim onera.

39 The ELEVENTH, of avoiding solicitude, 1. Cor. 7. Rom. 12. Luke 10.

> *UNDECIMUM vitandae sollicitudinis 1. Cor. 7. Rom. 12. Lucae 10.*

40 The TWELFTH, of reproving even venial faults, for as regards mortal sins correction is a precept, and its manner. Of these counsels some are promised under vow; others are urged by admonitions.

> *DVODECIMUM corripiendi etiam de venialibus, nam quod ad mortalia est praecepta correctio, et ordo eius. Ex his consiliis aliqua sunt promissa votis; alia admonitionibus suadentur.*

41 I assert, therefore, that the perfection necessary for a Religious is that which consists in the vows and precepts of the rule, and above all in the Constitutions: But I would say that a Religious willing to omit the remaining counsels and admonitions does not straightway sin mortally; Thus also Bassaeus *V. obed. 17.* Sanchez *lib. 6. cap. 5.* and Azor *tract. 1. lib. 1. cap. 11. quaesito 11.*

> *Assero ergo, Religioso necessariam perfectionem esse eam, quae in votis, et praeceptis regulae, ac supertotum Constitutionibus consistit: Consilia vero, et admonitiones reliquas omittere volentem Religiosum, non illico peccare mortaliter dicerem; Ita et Bassaeus* V. obed. 17. *Sanchez* lib. 6. cap. 5. *et Azor* tract. 1. lib. 1. cap. 11. quaesito 11.

42 It is proven by the reason drawn from D. Bonaventure, *in the places cited.* To the state of perfection that is necessary which is necessarily expressed in the rule; but the others, since they are simple admonitions, do not induce mortal sin: *For I had not known sin, but by the law.* Therefore it will be mortal only out of grave contempt, as Cajetan gathers *ad art. 2. quest. 186.* from D. Thom. And the same judge Azor *tom. 1. lib. 11. cap. ult. quaesito 11.* Sanchez *lib. 6. cap. 5. num. 9.* Therefore, if the contempt be light, the fault will be only venial.

> *PROBATUR ratione ducta e D. Bonavent.* locis citatis. *Status perfectionis necessaria est ille, qui in regula necessario exprimitur; caeterae vero, cum simplices sint admonitiones, non inducunt mortale:* Non enim novi peccatum, nisi per legem. *Itaque solum erit mortale ex gravi contemptu, ut colligit Caietanus* ad art. 2. quaest. 186. *ex D. Thom. Et idem censent Azor* tom. 1. lib. 11. cap. ult. quaesito 11. *Sanchez* lib. 6. cap. 5. num. 9. *Itaque si contemptus sit levis, culpa tantum venialis erit.*

43 Yet I ADD, with Sanchez *lib. 6. cap 4. num. 18. and cap. 5. num. 9.* from D. Bonaventure, in the epistle to a certain Provincial, and in the other to the ministers, and Custodes, that that resolve would be deadly, because of the danger of transgressing even the precepts and vows, and because of the scandals, which will bring molestations and disquietudes upon them (for example, if he were unwilling to keep the prayers, silence, and solitude, and the other holy monitions of the rule). Bassaeus subscribes, *cit.*

> *ADDO tamen cum Sanchez* lib. 6. cap 4. num. 18. et cap. 5. num. 9. *ex D. Bonavent. in epistola ad quemdam Provincialem, et in altera ad ministros, et Custodes, fore mortiferum illud propositum ob periculum transgrediendi etiam praecepta, et vota, et ob scandala, quae inducent molestias, inquietudines, quas invehent (exempli gratia, si nolit orationes, silentium, et solitudinem servare, aliaque regulae monita sancta. Subscribit Bassaeus* cit.

44 Sanchez ADDS, *num. 10.*, that a religious sins lethally against this precept if, while keeping the rule and the vows, he intends not to attain the perfection of the religious life, nor the end intended

through it.

> *ADDIT Sanchez* num. 10. *peccare lethaliter religiosum contra hoc praeceptum, si servans regulam, et vota, intendat non attingere perfectionem vitae religiosae, neque finem per illam intentum.*

45 It is proven because he has an intention contrary to attaining the promised end, and this the Holy Doctor willed, saying that for the perfection of supererogation it is necessary at least to have the desire, namely, that there not be at least a contrary intention. Corduba judges the same, *in cap. 1. of the Rule, quest. 3.*

> *PROBATUR quia habet intentum contrarium attingendi finem promissum, et hoc voluit S. Doctor, dicens, ad perfectionem supererogationis necessarium esse saltem habere desiderium, scilicet, ut non habeatur ad minus contraria intentio. Idem censet Corduba* in cap. 1. Regulae, quaest. 3.

Question X: Whence the greater perfection of a religious order is to be judged

1 According to the commonly received doctrine of St. Dionysius, cap. 7. *de div. nom.* which he reports and follows, St. Thomas, Paludanus 4. *dist. 38. quaest. 3. art. 1.* St. Antoninus 3. *part. tit. 16. cap. 4. §. 4.* and many others cited at length, Manuel *qq. regul. tom. 3. quaest. 48. art. 1.* Tanner *disp. 6. quaest. 3. dub. 2. num. 34.* Valentia *disp. 16. quaest. 6. puncto 2.* who accordingly teach that the greater excellence of a Religious Order over others lies in that which pursues either a better end, or more ends of those that are better; as to the means, it is praised not for austerities, or the quantity of works, but for the proportion of the means to the end.

> *EX doctrina D. Dionysii communiter recepta cap. 7.* de div. nom. *quam refert, et sequitur D. Thom. Paludanus 4.* dist. 38. quaest. 3. art. 1. *D. Antonin. 3.* part. tit. 16. cap. 4. §. 4. *latissime aliis citatis Manuel* qq. regul. tom. 3. quaest. 48. art. 1. *Tanner.* disp. 6. quaest. 3. dub. 2. num. 34. *Valentia* disp. 16. quaest. 6. puncto 2. *qui proinde docent praestantiam maiorem Religionis prae aliis esse eam, quae vel meliorem finem, vel plures e melioribus prosequitur, quoad media, quae non ab austeritatibus, seu ex quantitate operum, sed ex proportione mediorum ad finem laudatur.*

2 I SUPPOSE first, with St. Bonaventure in Apol. cap. 3. resp. primae, and quaest. 18. ad Regulam S. Francisci, that religious orders agree in many things. First, they agree in the end of CHARITY, which they set before themselves not only by keeping the commandments, by which sins against Charity are removed, but also by warding off the occasions of evil and the impediments to good. Such are the vows; for by the observance of the law there is warded off whatever is in the world, whether the concupiscence of the flesh, or the concupiscence of the eyes, or the pride of life, which are the three chief heads of sins, from which the others are derived. But by the vows we are separated even from those things which furnish an occasion for sins. Thus by the vow of Chastity whatever fosters the concupiscence of the flesh is removed; by the vow of poverty, whatever fosters the concupiscence of the eyes; and by the vow of obedience, that which fosters the pride of life.

> *SUPPONO primo cum D. Bonavent. in Apol. cap. 3. resp. primae, et quaest. 18. ad Regulam S. Francisci, religiones in multis convenire. Primo enim conveniunt in fine Charitatis, quem sibi praestituunt non modo praecepta servando, quibus peccata contra Charitatem removentur, sed etiam arcentur occasiones ad malum, et impedimenta ad bonum. Talia sunt vota; per observantiam enim legis arcetur quidquid est in mundo, sive concupiscentia carnis, sive concupiscentia oculorum; sive superbia vitae, quae sunt tria capita peccatorum maxima, unde alia diramantur. Per vota autem separamur etiam ab his, quae ansam praebent peccatis. Sic per votum Castitatis removetur quidquid fovet*

concupiscentiam carnis: Per votum paupertatis, Quidquid fovet concupiscentiam oculorum: et per votum obedientiae, id quod fovet superbiam vitae.

3 THEN they agree because all Religious Orders establish for themselves some particular work of CHARITY, or even some things as it were an immediate end, by which they finally arrive at the end of Charity, and they add besides particular exercises and observances, whereby they may more easily keep the vows and attain the immediate and the ultimate end; such are vigils, penances, etc.

DEINDE conveniunt, quia omnes Religiones sibi constituunt peculiare opus aliquod Charitatis, vel etiam aliqua tanquam finem immediatum, per quem demum ad finem Charitatis perveniant, et addunt insuper peculiaria exercitia, et observantias, quo facilius vota servent, et immediatum, atque ultimum finem consequantur, tales sunt vigiliae, poenitentiae, etc.

4 ALL must also be approved by the Apostolic See. This Valentia also has, puncto 1. and others.

DEBENT etiam omnes ab Apostolica sede esse approbatae. Haec habet etiam Valentia puncto 1. et alii.

5 The Saintly Doctor observes further, serm. 22. Hexaemeron, and in the places cited, that the variety of religions makes for the ornament of the Church, with which the Church is clothed and shines, *in vestitu deaurato circumdata varietate.* Psalm. 44. For some devote themselves to contemplation alone, whom the Saintly Doctor compares to the Thrones. Such, he says, are the Monks. Others apply themselves to contemplation and also to instructing the people, teaching them by sermons, and leading peoples to salvation; and such, he says, are the Preachers, whom he compares to the Cherubim. Others insist above all on Divine love, with every manner of separation from worldly things, withdrawn from the world, with the most perfect poverty excluding even common possession, and renouncing other comforts; with the most perfect chastity guarding even against companionships and other incentives removed; by the most sublime obedience, obeying in all things where there is no offense of God; and this he calls the Seraphic religion, which contains the Seraphim; since it is destined also for the purifying, illuminating, and perfecting of others, as he pursues at length in the book on the Ecclesiastical Hierarchy.

OBSERVAT deinde S. Doctor serm. 22. Hexcëmer. et locis adductis, ad Ecclesiae ornamentum facere religionum varietatem, quibus induta Ecclesia fulget, in vestitu deaurato circumdata varietate. *Psalm. 44. Aliquae enim soli contemplationi vacant, quos comparat S. D. Thronis. Tales ait esse Monachos. Alii intendunt contemplationi, et erudiendae etiam plebi, edocendaeque concionibus, et ad salutem ducendis populis; et tales ait Praedicatores, quos comparat Cherubim. Alii maxime insistunt Divino amori separatione omnimoda a rebus mundanis, sequestrati a mundo, perfectissima paupertate etiam communem possessionem excludente; et alia commoda abiiciente: Perfectissima castitate cavente etiam a consortiis, et aliis fomitibus amotem. Per altissimam obedientiam, obediendo in omnibus, ubi non est Dei offensa, et hanc dicit esse religionem Seraphicam, quae Seraphim continet; dum etiam aliis purgandis, illuminandis, et perficiendis destinatur, ut late prosequitur etiam p. p. Ecclesiasticae Hierarchiae.*

6 THEREFORE, establishing the assumption, I say that that religion is better which more fully attains the end, and those means are better which are more ordered in a direct line; for the nobility and preeminence of religions must be taken with respect to the end of CHARITY, and their austerities insofar as they are ordered to a greater separation from the world and approach to God; for the more one recedes from one extreme, the more one approaches the other opposite.

ITAQUE sistendo in assumpto, Dico illam religionem esse meliorem, quae magis finem attingit, et ea media meliora, quae sunt magis ad lineam ordinata; ad finem enim Charitatis sumenda est nobilitas, et praecellentia religionum, et ex

austeritatibus, quatenus ordinant ad maiorem separationem a mundo, et accessum ad Deum; quanto enim ab uno extremo receditur, tanto ad aliud oppositum acceditur.

7 In this, however, some Recent writers assume something false, saying that no greater perfection of a religion is to be taken from the frequentation of the choir, because it can happen that it does not conduce to the intended end of CHARITY, and indeed impedes greater goods, namely the exercises of teaching and preaching; and that if ever a Choir has been introduced into an order of this kind, it was destined only for those unfit for spiritual exercises of the salvation of souls. Whence they conclude that there can be most perfect religions making no use at all of the Choir, all the more since they are held to exclude from it those unfit for their institute of preaching and teaching.

IN hoc autem nonnulli Recentiores assumunt falsum, dicentes, non esse sumendam aliquam perfectionem religionis maiorem ex chori frequentatione, eo quod potest esse, ut non conducat ad finem intentum Charitatis, imo impediat maiora bona, nempe exercitia docendi, concionandi, et si quando in ordine huiusmodi Chorus invectus est, eum destinatum esse solis ineptis ad spiritualia exercitia salutis animarum. Unde concludunt, esse posse religiones perfectissimas, nullatenus Choro utentes, eo magis, quo tenentur ineptos ad suum institutum concionandi, et docendi excludere.

8 Truly, however, the Choir is acclaimed by the Holy Fathers as most useful for the end of elevation in God, and for the contemplative life, which surpasses the active. Nor does anyone rightly pursue the active life alone, but he must with Christ ascend from the crowds to the mountain of contemplation, and thus they will enter upon the most perfect mixed life. On the most holy institution of the Choir see our Bouerius in the first Tome of the Annals.

PROFECTO vero Chorus a SS. Patribus acclamatur utilissimus ad finem elevationis in Deum, ac vitae contemplativae, quae activae praevalet. Neque vero aliquis activam recte prosequitur solam, sed debet cum Christo a turbis ascendere ad montem contemplationis, et sic vitam mixtam perfectissimam inibunt. De sanctissimo Chori instituto vide Bouerium nostrum Tomo primo Annalium.

9 The Saintly Doctor hands down many signs, quaest. 18. concerning the rule of St. Francis, from which a greater perfection of a religion is gathered.

MULTA signa tradit S. Doctor quaest. 18. circa regulam S. Francisci, e quibus maior religionis perfectio colligitur.

10 The FIRST is a more fervent study of the virtues, especially of separation from worldly things and of union with God through CHARITY.

PRIMUM est studium ferventius virtutum, maxime separationis a rebus mundanis, et unionis cum Deo per Charitatem.

11 The SECOND is, if they strive to uproot all vices and to sow virtues, to cut off the occasions of evils, and to show zeal for greater purity.

SECUNDUM est, si omnia vitia extirpare, et virtutes serere, occasiones amputare malorum, et munditiem zelentur maiorem.

12 The THIRD, if they love the just, hate the wicked, that only the upright be taken up for the governance of souls, and by them the order be governed, and even small corruptions be eliminated: *For he that despiseth small things shall fall by little and little,* Ecclus. 19.

TERTIUM, si iustos diligant, pravos odio habeant, soli recti assumantur ad regimen animarum, et ab his regitur ordo, et modicae etiam corruptelae eliminentur: Qui enim spernit modica, paulatim decidit, *Eccl. 19.*

13 The FOURTH, if they withdraw themselves from the company of seculars, flee honors, do not covet riches, and are ashamed to be conformed to this world.

> *QUARTUM, si a saecularium frequentia se subtrahant, honores fugiant, divitias non ambiant, et conformari huic saeculo erubescant.*

14 The FIFTH, if they willingly endure injuries and persecutions: *For patience hath a perfect work,* as he also pursues at length in the *Apology in the place cited.*

> *QUINTUM, si iniurias, et persecutiones libenter patiantur:* Patientia enim opus perfectum habet, *ut late etiam prosequitur in* Apologia loco citato.

15 From what has been said the Saintly Doctor gathers, quaest. 12. super regulam S. Francisci, that a transition can be made from any religion to the Order of Minors, as to a more perfect one, unless on account of scandals to be avoided and disturbances it has been otherwise disposed by the holy See.

> *Ex dictis colligit S. Doctor quaest. 12. super regulam S. Francisci, posse ex qualibet religione fieri transitum ad Religionem Minorum, tanquam ad perfectiorem, nisi ob scandala vitanda, et perturbationes aliter a sancta Sede sit dispositum.*

16 The REASON of St. Bonaventure is, because in that religion the regular vows are more eminent, as I showed above, even though some religions are more eminent in abstinence from flesh, silence, and the Ecclesiastical Office: for these are compensated by the spiritual observance of the vows, in which the essence of religion is placed, just as a great weight of silver by a little gold.

> *RATIO D. Bonavent. est, quia in ea religione vota regularia sunt eminentiora, ut supra ostendi, esto aliquae religiones in abstinentia a carnibus, silentio, et officio Ecclesiastico eminentiores sint: haec enim spirituali observantia votorum perfectioni, in quibus essentia religionis posita est, compensantur, sicuti modico auro magnum pondus argenti.*

Question XI: On passing to another religious order

1 This transition ought not to be made without a grave cause, but one must stand by the Apostle's Counsel, 1 Corinth. 7. *Let every man abide in the same calling in which he was called.*

> ***De transitu ad aliam Religionem.***
>
> *TRANSITUS hic non debet absque grandi causa fieri, sed standum est iuxta Apostoli Consilium 1. Corinth. 7.* Quisque in vocatione, qua vocatus est, permaneat.

2 FOUR conditions are required for this transition: First, that it not be forbidden to them; Second, that it not be made out of temerity, etc. but only out of a desire for a better life. Third, that the transition be made to a better religion. Fourth, that the faculty be sought from the Prelate, even if it is not obtained. This is had in cap. *statuimus*, and cap. *mandamus 19. quaest. 3. cap. non est, cap. sane, cap. significatum, praecipue cap. licet, de regular.* Nor has this been derogated by the motu of Pius V. in the year 1569, beginning: *Quaecunque facultates*; for there he only abrogates certain particular faculties concerning this transition, [leaving intact] that it is licit by Divine natural law that the vows and life be changed for the better. So Caietanus quaest. 88. art. 12. Sanchez lib. 6. cap. 9.

> *QUATUOR conditiones requiruntur ad hunc transitum: Prima, ut non sit eis vetitus: Secunda, ne fiat ex temeritate, etc. sed solo melioris vitae studio. Tertia, ut transitus fiat ad meliorem religionem. Quarta, ut petatur facultas a Praelato, licet non obtineatur. Habetur cap.* statuimus, *et cap.* mandamus 19. quaest. 3. cap. non est, cap. sane, cap.

significatum, praecipue cap. licet, de regular. *Neque hoc derogatum est motu Pii V. anni 1569. incipiente:* Quaecunque facultates*; ibi enim solum abrogat facultates quasdam particulares circa hunc transitum, iure Divino naturali licitum esse, ut in melius vota, et vita mutentur. Ita Caietanus quaest. 88. art. 12. Sanchez lib. 6. cap. 9.*

3 That this is licit to all religious, is had in 20. quaest. 4. cap. 1. and cap. unic. in princip. verb. *perpetua, de statu regular. in 6.* and there the Canonists, and Sanchez num. 6. where he shows that it has not been revoked for nuns. They subscribe: Faust. lib. 5. quaest. 327. Rodriquez tract. 3. 99. quaest. 52. art. 6.

OMNIBUS autem religiosis hoc esse licitum, habetur 20. quaest. 4. cap. 1. et cap. unic. in princip. verb. perpetua, de statu regular. in 6. *et ibi Canonistae, ac Sanchez num. 6. ubi ostendit non esse revocatum pro monialibus. Subscribunt Faust. lib. 5. quaest. 327. Rodriquez tract. 3. 99. quaest. 52. art. 6.*

4 AS TO the intention, that it not be done rashly or out of levity, but out of a desire for perfection; and moreover that it not be done with loss to the religion from which one departs, as is decided in cap. licet de regular.

QUOAD intentionem, ne temere, vel ex levitate fiat, sed studio perfectionis, insuper ne fiat cum iactura religionis, a qua receditur, ut deciditur, cap. licet de regular.

5 THEREFORE if grave damage should befall the abandoned religion, it could reclaim him, as the Canonists note on cap. licet, provided the perverse morals of that religion were not the cause, for then he must ascribe the evil to himself. So Sanchez from num. 11.

ITAQUE si grave damnum obveniret derelictae religioni, posset ea repetere, ut notant Canonistae in cap. licet, dummodo perversi mores illius religionis non essent in causa, quia tunc sibi debet malum adscribere. Ita Sanchez a num. 11.

6 But there is a question concerning the third condition: whether the transition ought to be made to a more perfect religion, or indeed to a more austere one.

EST autem quaestio circa tertiam conditionem: an transitus debeat fieri ad perfectiorem; an vero ad austeriorem.

7 The FIRST opinion holds that the transition is granted by reason of greater perfection. So St. Thomas quaest. 189. art. 8. Paludanus 4. dist. 38. quaest. 2. and quaest. 3. art. 1. Turrecremata cap. 1. num. 1. versu 1. Quidem 19. quaest. 3. St. Antoninus 3. part. tit. 16. cap. 4. Rosella verb. religio, 4. Sylvester 4. quaest. 1. Tabiena 3. quaest. 23. Navar. com. 4. de regular. num. 2. and 3. Cucus tract. 3. Instit. moral. tit. 1. num. 136. And Sanchez, lib. 6. cap. 7. num. 20., says it is probable.

PRIMA opinio censet concedi transitum ratione perfectionis maioris. Ita D. Thomas quaest. 189. art. 8. Paludanus 4. dist. 38. quaest. 2. et quaest. 3. art. 1. Turrecremata cap. 1. num. 1. versu 1. Quidem 19. quaest. 3. D. Antonin. 3. part. tit. 16. cap. 4. Rosella verb. religio, 4. Sylvester 4. quaest. 1. Tabiena 3. quaest. 23. Navar. com. 4. de regular. num. 2. et 3. Cucus tract. 3. Instit. moral. tit. 1. num. 136. eamque probabilem ait Sanchez lib. 6. cap. 7. num. 20.

8 The SECOND opinion is that consideration is given to whether it is stricter. So Ioan. Andreas cap. sane, num. 8. de regular. and there Antoninus, Anchar. Abbas, Cardinalis, Henricus, Rosella, verb. religio, 4. Angel. verb. Religiosus, num. 34. Passarellus in privil. minim. cap. 39. Lessius de Iustitia, lib. 2. cap. 41. dub. 13. Azor Tom. 1. lib. 13. cap. 14. quaestio 2. Manuel qq. regul. tract. 3. quaest. 52. art. 4. And the royal law 9. and 10. tit. 7. part. 1. embraces this opinion, there: *A otra orden mas aspera*, and there, *mas estrecha vida*, as Gregorius Lopez notes on that law 9. and Bassaeus V. Religio 5.

SECUNDA sententia est, attendi: an sit arctior. Ita Ioan. Andreas cap. sane, num. 8. de regular. et ibi Antoninus, Anchar. Abbas, Cardinalis, Henricus, Rosella, verb. religio, 4. Angel. verb. Religiosus, num. 34. Passarellus in privil. minim. cap. 39. Lessius de Iustitia, lib. 2. cap. 41. dub. 13. Azor Tom. 1. lib. 13. cap. 14. quaestio 2. Manuel qq. regul. tract. 3. quaest. 52. art. 4. et hanc sententiam amplectitur lex regia 9. et 10. tit. 7. part. 1. ibi: A otra orden mas aspera*, et ibidem,* mas estrecha vida*, ut ibi advertit Gregorius Lopez ad eam legem 9. et Bassaeus V. Religio 5.*

9 The SENTENCE of St. Bonaventure, quaest. 12. in regulam, is that this perfection to be followed is taken from the fact that the religion is higher and stricter, and this is, to the letter, what the text has, cap. licet, where it is had: *Libere potest sanctioris vitae propositum adimplere*, and at the end it is concluded: *quae melior censetur, dicens, ut apud eos vitam duceres arctiorem*. Therefore this greater perfection is measured by the stricter manner of living, from which indeed a greater perfection in a religion is also gathered, if it lies in the observance of the vows.

SENTENTIA D. Bonavent. quaest. 12. in regulam, est, hanc perfectionem sequendam desumi ex eo, quod religio sit altior, et strictior, et hoc est ad littetam id, quod habet textus, cap licet, ubi habetur: Libere potest sanctioris vitae propositum adimplere*, et in fine concluditur:* quae melior censetur, dicens, ut apud eos vitam duceres arctiorem. *Itaque haec maior perfectio mensuratur ex arctiori vivendi instituto, ex quo profecto maior etiam perfectio in religione colligitur, si sit in observantia votorum.*

10 HERE each will try to defend his own religion at the summit; so Paludanus in 4. dist. 38. quaest. 3. art. 1. St. Antoninus 3. part. tit. 16. cap. 4. §. Sylvester verb. religio 4. quaest. 6. assert that from the Religion of the Friars Preachers a transition is granted to none; yet indeed to that one from all.

HIC quisque suam religionem in apice tueri conabitur, sic Paludanus in 4. dist. 38. quaest. 3. art. 1. D. Antonin 3. part. tit. 16. cap. 4. §. Sylvester verb. religio 4. quaest. 6. asserunt a Religione fratrum Praedicatorum ad nullam concedi transitum; bene tamen omnibus ad illam.

11 PASSARELLUS in Privil. minim. asserts the same of his own religion, because it is the strictest on account of the perpetual Lenten fast, as Julius II says.

PASSARELLUS in Privil. minim. idem asserit de sua religione, quia ea est strictissima ob ieiunium perpetuum Quadragesimale, ut dicit Iulius II.

12 St. BONAVENTURE quaest. 12. and 13. in Regulam, Corduba cap. 2. quaest. 17. in reg. assert the same of our religion of Minors; the Saintly Doctor nevertheless adds, unless it be specially forbidden, and in this way it is forbidden to be observed, in order to avoid seditions, tumults, etc. Thus in the extravag. Viam de regular. it is expressly forbidden under penalty of excommunication latae sententiae, reserved to the Supreme Pontiff, which are incurred both by the receiving and the received, lest a transition be made from any mendicant religion to any other whatsoever, except to the Carthusians; that from it one can pass to the mendicants where the rule is observed, Sylvester teaches, verb. religio 4. quaest. 6. Navar. tit. de regular. consil. 88. Tannerus disp. 6. quaest. 3. num. 164.

D. BONAVENTURA quaest. 12. et 13. in Regulam, Corduba cap. 2. quaest. 17. in reg. asserunt idem de religione nostra Minorum; addit tamen S. Doctor, nisi specialiter interdictum sit, et hoc modo interdicitur observari ad evitandas seditiones, tumultus, etc. Sic in extravag. Viam de regular. expresse vetitum est sub poena excommun. latae sententiae, Summo Pontifici reservatae, quam incurrunt tam recipientes, quam recepti, ne transitus fiat a quavis religione mendicanti ad quamcunque aliam, praeterquam ad Carthussianos, a qua posse transire ad mendicantes, ubi regula

observatur, docent Sylvester verb. religio 4. quaest. 6. Navar. tit. de regular. consil. 88. Tannerus disp. 6. quaest. 3. num. 164.

13 AND indeed, as to the receivers, the penalty is restricted to certain Orders there enumerated, as Suarez notes, Tom. 5. in 3. part. disp. 22. sect. 5. num. 7. But as to the Society, it is extended to all Religions.

ET quidem quoad recipientes restricta est poena ad quosdam Ordines ibi numeratos, ut notat Suarez Tom. 5. in 3. part. disp. 22. sect. 5. num. 7. Quoad Societatem vero, extenditur ad omnes Religiones.

14 From what has been said you have that Sanchez does not rightly, n. 29., ascribe to the Seraphic Doctor the having said absolutely that one can pass from any religion to ours, as if there were no external prohibition: The Saintly Doctor speaks from the nature of perfection, but adds that certain prohibitions exist, and he understands the same, quaest. 13., when he says that one cannot pass from the religion of St. Francis to others by the force of the perfection of the essential vows, which are highest among us.

EX dictis habes, non recte Sanchez n. 29. adscribere Seraphico, dixisse absolute, posse transire a quacunque religione ad nostram, quasi nulla exter prohibitio: Loquitur S. Doctor ex natura perfectionis, sed addit extare prohibitiones aliquas, et idem intelligit quaest. 13. dum ait non posse a religione S. Francisci ad alias transire ex vi perfectionis essentialium votorum, quae altiota sunt apud nos.

15 AS TO the fourth condition, permission must be sought; and if it is unjustly refused by the Prelate, the Religious can pass, provided the other two conditions hold, that the religion is stricter and that the religious passes only out of zeal for greater perfection. See Sanchez from num. 32.

QUOAD quartam conditionem petenda est licentia, et si iniuste negetur a Praelato, potest Religiosus transire dummodo constent aliae duae conditiones, quod religio sit arctior et religiosus zelo tantum maioris perfectionis transeat. Vide Sanchez a num. 32.

16 NEVERTHELESS, as soon as permission has been sought, he may not pass immediately, but he must wait for a time according to the rule, cap. cum in veteri ad finem, de elect.

NEQUE tamen illico petita licentia licet transire, sed debet tempus expectare iuxta regulam, cap. cum in veteri ad finem, de elect.

17 But they are not to be dismissed without the dimissorial letters of the Prelate of the religion, cap. statuimus 19. quaest. 3.

NON sunt autem dimittendi absque dimissoriis Praelati religionis cap. statuimus 19. quaest. 3.

18 The immediate Prelate indeed, those four conditions being in place, can grant permission, as Sanchez notes, num. 59. Azor lib. 12. cap. 14. quaestio 7. and others in Sanchez.

PRAELATUS vero immediatus potest concedere, positis illis quatuor conditionibus, licentiam, ut notat Sanchez num. 59. Azor lib. 12. cap. 14. quaestio 7. et alii apud Sanchez.

19 ALTHOUGH, however, the common law, cap. licet, de regul., grants the transition when permission has been refused; nevertheless by the decree of the Sacred Congregation by order of Urban VIII. 1624. on the 21st of September it must be awaited until the superior has been made certain that the religion is prepared to receive him; and this holds especially of nuns, who must also present a dowry, and make the transition with honest matrons accompanying, and nowhere pass the

night, except for the cause of hospitality, and with honest persons, and take the straight way to the monastery without any hope of returning to the first. But permission must be sought from the superior, who can incorporate him into the religion itself. Here, among the Minors, it is the Provincial or General; but in religions in which even Local superiors have power to receive, it belongs to those same to give permission, Vecch. disp. 15. dub. 2. Mirandus tract. 19. 31. art. 5. Bassaeus V. Relig. 5. n. 2.

> *QUAMVIS autem ius commune cap. licet, de regul. negata licentia concedat transitum; tamen ex decreto S. Congregat. iussu Urbani VIII. 1624. die 21. Sempt. debet expectari, donec superior certior factus sit, eam religionem paratam esse illum recipere, et hoc praecipue constat de monialibus, quae et dotem exhibeant, et transeat honestis comitantibus matronis, neque uslibi pernoctent, nisi causa hospitii, et apud honestas personas, et recta via ad monasterium tendant absque spe redeundi ad primum. Licentia vero petenda est a superiore, qui potest incorporare ipsi religionis. Hic vero apud minores est Provincialis, vel Generalis; in religionibus vero, in quibus etiam Locales superiores valent recipere, ad eosdem spectat dare licentiam, Vecch. disp. 15. dub. 2. Mirandus tract. 19. 31. art. 5. Bassaeus V. Relig. 5. n. 2.*

20 RELIGIOUS can pass, for a cause, to a laxer one, permission nevertheless obtained. Truly, since some relaxation of the vows is thereby made, a cause is necessary, even for the Pope dispensing. The Bishop can grant this faculty in Monasteries subject to him; but in exempt ones the Prelate having quasi-episcopal jurisdiction over his own, with the consent nevertheless of the Chapter, because this is one of the greater affairs in which, that proceedings be according to the Canons, it is required, Navar. cons. 56. de regular. Azor tract. 1. lib. 12. cap. 15. quaestio 1. Mirand. tract. 1. quaest. 31. art. 6. Sylvester V. vel 4. quaest. 2. Lessius lib. 2. cap. 41. dub. 15. num. 103. Sanchez lib. 6. cap. 7. num. 70. Diana part. 3. de dub. reg. Resol. 43. Vecch. disp. 15. dub. 5. Faust. quaest. 345. Bassaeus V. Relig. 5. num. 3. The Saintly Doctor censures this transition made without the gravest cause, ad cap. 2. Regulae.

> *REGULARES possunt ex causa transire ad laxiorem, obtenta tamen licentia. Sane cum votorum aliqua fiat relaxatio, necessaria est causa etiam Papae dispensanti. Hanc facultatem dare potest Episcopus in Monasteriis sibi subiectis; at in exemptis Praelatus habens iurisdictionem, quasi Episcopalem in suos, cum consensu tamen Capituli, quia hoc est unum e maioribus negotiis, in quibus, ut procedatur iuxta Canones, requiritur, Navar. cons. 56. de regular. Azor tract. 1. lib. 12. cap. 15. quaestio 1. Mirand. tract. 1. quaest. 31. art. 6. Sylvester V. vel 4. quaest. 2. Lessius lib. 2. cap. 41. dub. 15. num. 103. Sanchez lib. 6. cap. 7. num. 70. Diana part. 3. de dub. reg. Resol. 43. Vecch. disp. 15. dub. 5. Faust. quaest. 345. Bassaeus V. Relig. 5. num. 3. Hunc transitum sine gravissima causa factum, carpit S. Doctor ad cap. 2. Regulae.*

21 MENDICANTS cannot pass by the common law to non-mendicants, except to the Carthusians, without the license of the Pope, by the Extrav. In viam ambitiosa, de regular.; nevertheless, by privilege, some Generals can grant it.

> *MENDICANTES iure communi ad non mendicantes nequeunt transire, praeterquam ad Carthusianos, absque Papae licentia, ex Extrav. In viam ambitiosa, de regular. ex privilegio tamen aliqui Generales possunt id concedere.*

22 RELIGIOUS Jesuits cannot pass even to the Carthusians without the license of their General, Bonacina de claus. quaest. 2. p. 9. §. 5. diff. 2. for the Society by the indult of Pius V. enjoys the privileges of the Carmelites; but to these it was granted by Paul V. on the 3rd of April 1610 that they may not pass to the Carthusians under penalty of excommunication to be incurred ipso facto. The same was granted by Urban VIII. to the Capuchins 9. August. 1628. where he forbids that anyone of our order pass to a laxer one without the license of the Apostolic See; but to the Carthusium, or to

any other order whatsoever, unless with the license in writing of the General minister for the time being, under the perpetual mark of the Apostolica and of infamy, and of excommunication and deprivation of voice, may he pass ipso facto.

> *RELIGIOSI Iesuitae neque ad Carthusianos transire valent absque sui Generalis licentia, Bonacina de claus. quaest. 2. p. 9. §. 5. diff. 2. nam Societas ex indulto Pii V. gaudent privilegiis Carmelit. his autem concessum est a Paulo V. die 3. April. 1610. ne ad Carthusianos transire valeant sub excommunicationis poena ipso facto incurrenda. Idem concessum est ab Urbano VIII. Capucinis 9. August. 1628. ubi prohibet, ne ullus nostri ordinis ad laxiorem transeat absque sedis Apostolicae licentia; ad Carthusiam vero, seu quemquam alium ordinem, nisi deministri Generalis pro tempore existentis licentia in scriptis, sub Apostolicae, et infamiae perpetua nota, ac excommunicationis, privationisque vocis ipso facto valeat transmigrare.*

23 It is not licit for Capuchins to receive Friars Minors de observantia, without the license of the Apostolic See, obtained in writing, under penalty of excommunication and of incapacity for any offices whatsoever. So Paul III decreed. See Soibum *Verbo Recipere*. Julius III and Sixtus V confirmed it.

> *NON licet Capucinis recipere Fratres Minores de observantia, absque licentia Sedis Apostolicae, in scriptis obtenta, sub poena excommunicationis, et inhabilitatis ad quaecumque officia. Ita statuit Paulus III. Vide Soibum* Verbo Recipere. *Id confirmavit Iulius III. et Sixtus V.*

24 PIUS V. in the Bull *Sedis Apostolicae*. 1567. forbids that Capuchins migrate to the Minims, or conversely. Gregory XIII confirmed it, as Passarellus reports in *compend. Privil.* where he also reports that the Sacred Congregation by order of Gregory XIII. decreed that these transgressors incur deprivation of voice and of all offices. Vecch. *disp. 15.* and Bassaeus *n. 4.* whom see.

> *PIUS V. in Bulla* Sedis Apostolicae. *1567. prohibet ne Capucini ad Minimos, vel e contra migrent. Id confirmavit Greg. XIII. ut refert Passarellus in* compend. Privil. *ubi etiam refert S. Congregationem iussu Greg. XIII. statuisse, hos transgredientes, privationem vocis, et omnium officiorum incurrere. Vecch.* disp. 15. *et Bassaeus* n. 4. *quem vide.*

Question XII: On the expulsion of religious

1 Prelates can expel some from the Religion for causes: Thus it is had in the *Reg. S. Benedicti, cap. 29. et 30.* and St. August. *cap. 20. et cap. ult. de regular. et cap. cum ad Monasterium, de stat. Monach. et c. resecanda, 24. quaest. 3.* and the Canonists and Theologians discuss it gravely with St. Bonavent. *ad Regulam quaest. 14. et seq.* See Sanchez *lib. 6. moral. cap. 9.* Azor. *lib. 12. cap. 16. quaest. 2.* Laym. *lib. 4. tract. 5. cap. 13.* Mirand. *tom. 1. quaest. 52. art. 1.* Tanner *d. 6. quaest. 3. dub. 5. num. 165.* Bassaeus *V. Religio. 6.*

> ***De Religiosis eiiciendis.***
>
> *POSSUNT Praelati ob causas expellere nonnullos e Religione: Sic habetur in* Reg. S. Benedicti, cap. 29. et 30. *et D. August.* cap. 20. et cap. ult. de regular. et cap. cum ad Monasterium, de stat. Monach. et c. resecanda, 24. quaest. 3. *et graviter disserunt Canonistae, et Theologi cum D. Bonavent.* ad Regulam quaest. 14. et seq. *Vide Sanchez* lib. 6. moral. cap. 9. *Azor.* lib. 12. cap. 16. quaest. 2. *Laym.* lib. 4. tract. 5. cap. 13. *Mirand.* tom. 1. quaest. 52. art. 1. *Tanncrum* d. 6. quaest. 3. dub. 5. num. 165. *Bassaeum* V. Religio. 6.

2 By the common law the incorrigible are to be expelled, *cap. ult. de regular.* But he is considered such who, often admonished, persists in the same crimes without hope of amendment. Now by the decree of the Sacred Congregation by order of the most holy Urban VIII. 21. Sept. 1624. he is not yet proved sufficiently incorrigible, but it is required that he be proved so by one year in prison on a fast; and if afterwards he does not come to himself, let him be expelled. Bassaeus reports this decree. I am

pleased to set down these words: *The Sacred Congregation of Religions adjures the superiors by the bowels of Jesus Christ, that, mindful of the paternal charity and mildness which they have professed, they leave nothing untried, that they may gain the souls of their brothers, fallen almost into an abyss of evils, before they try the extreme remedy of expulsion. And this the more, because the blood of the subjects, who will perish through the evil governance of negligent Prelates forgetful of themselves, our Lord Jesus Christ will require at the hands of those same Prelates in the supreme judgment of God.*

> *IURE communi incorrigibiles sunt expellendi* cap. ult. de regular. *Is autem talis censetur, qui saepe admonitus in eisdem sceleribus durat, sine spe emendationis. Nunc decreto S. Congreg. iussu Sanctissimi Urbani VIII. 21. Sept. 1624. non satis probatur adhuc incorrigibilis, sed requiritur, ut probetur carcere uno anno in ieiunio; et si postea non resipuerit, expellatur. Decretum hoc refert Bassaeus. Haec verba libet apponere:* Sacra Congregatio Religionum superiores per Iesu Christi viscera obtestatur, ut memores paternae charitatis, et mansuetudinis, quam professi sunt, nihil intentatum relinquant, ut lucrentur animas fratrum suorum, fere in profundum malorum delapsas, antequam extremum expulsionis remedium experiantur. Idque eo magis, quod subditorum sanguinem, qui ex malo negligentium, et sui immemorum Praelatorum regimine peribunt, Dominus noster Iesus Christus in supremo Dei iudicio de eorundem Praelatorum manibus sit requisiturus.

3 O how excellently, pondering these things, did the mellifluous General St. Bonaventure guard the souls of his own! Run through the questions brought forward, read through his life and his little works, and from them you will draw forth golden lessons.

> *O quam eximie haec pensitans mellifluus Generalis S. Bonaventura suorum animas custodivit! Percurrite allatas quaestiones, eius vitam, et opuscula perlegite, et inde exhaurietis documenta aurea.*

4 He can be expelled also on account of a hidden grave impediment, as if he abound in epilepsy or the venereal disease. So St. Bonavent. *loc. cit.* Nauarr. *lib. 1. consil. 25. de regul.* Sà *V. Religio, num. 34.* Rodr. *tom. 2. summa cap. 6.* Less. *lib. 2. cap. 41. num. 106.* Bassaeus *num. 5.* Vecchius *d. 13. dub. 15.* Suar. *de relig. tomo 4. tract. 10. lib. 2. cap. 1. num. 28.* and *cap. 3. num. 5.* Diana *p. 4. tract. 4. resolut. 188.* Syluius *in suis resolut. Verbo Professio Monast. 5.*

> *POTEST expelli etiam ob tectum grave impedimentum, ut si epylepsia, aut Venerea lue scateat. Ita D. Bonavent.* loc. cit. *Nauarr.* lib. 1. consil. 25. de regul. *Sà* V. Religio, num. 34. *Rodr.* tom. 2. summa cap. 6. *Less.* lib. 2. cap. 41. num. 106. *Bassaeus* num. 5. *Vecchius* d. 13. dub. 15. *Suar.* de relig. tomo 4. tract. 10. lib. 2. cap. 1. num. 28. *et* cap. 3. num. 5. *Diana* p. 4. tract. 4. resolut. 188. *Syluius* in suis resolut. Verbo Professio Monast. 5.

5 Those expelled by the decree related above, the matter rests with the General alone, with the counsel of six graver Fathers, the process being instructed and the causes of expulsion well proven according to the prescription of the sacred Canons.[1]

[1] Editor's note: the print/OCR reads 'Vt relati decreti expellet, respectat ad solum Generalem'; the clause is corrupt in the 1655 print ('expellet' is not intelligible Latin here), so it is rendered from context as: the expulsion decreed above pertains to the General alone.

> *Vt relati decreti expellet, respectat ad solum Generalem cum consilio sex Patrum graviorum, instructo processu, et bene probatis causis expulsionis ad sacrorum Canonum praescriptum.*

6 These ejected are held to correct their morals and to promote their reception: So Sayr. *lib. 10. cap. 9. n. 15.* Reginaldus *lib. 18. num. 457.* Less. *num. 115.* with St. Bonavent. *quaest. 14. in Regulam.*

> *HI eiecti tenentur corrigere mores, ac suam receptionem promovere: Ita Sayr.* lib. 10. cap. 9. n. 15. *Reginaldus* lib. 18. num. 457. *Less.* num. 115. *cum D. Bonavent.* quaest. 14. in Regulam.

7 ALTHOUGH Diana *part. 3. de dub. reg. res. 60.* Rodr. *2. part. cap. 97. num. 11.* Sà *V. Religio, num. 40.* Azor. *cit. cap. 17. quaestio 1.* teach the opposite.

> *ETSI oppositum doceant Diana* part. 3. de dub. reg. res. 60. *Rodr.* 2. part. cap. 97. num. 11. *Sà* V. Religio, num. 40. *Azor.* cit. cap. 17. quaestio 1.

8 It is PROVED by Bassaeus *num. 7.* with the arguments of St. Bonaventure. First, because by him it stands that he be submerged in the world among the perils of salvation. Then, because thus, growing wanton in his own iniquity, he would carry off a profit from his fault.

> *PROBATUR a Bassaeo* num. 7. *argumentis D. Bonavent. Tum quia per illum stat, ut in saeculo inter pericula salutis mergatur. Tum quia sic libertatem e sua iniquitate acquitens, commodum e culpa reportaret.*

9 The DOMINION of the goods which the ejected man acquires belongs to the Church, if the Monastery is not capable of it; or at least the Monastery, if it is capable, enjoys the use. So Molina *d. 140.* Less. *cit. num. 112.* Bass. *num. 8.*

> *DOMINIUM bonorum, quae eiectus acquirit, sunt Ecclesiae, si Monasterium non est capax; vel saltim commodo, si est capax Monasterium, fruitur. Ita Molina* d. 140. *Less.* cit. num. 112. *Bass.* num. 8.

10 The EJECTED man is held by the vows, lest he draw profit from his fault.

> *EIECTUS tenetur votis, ne commodum e culpa trahat.*

11 Many hold, with Diana *de dub. reg. Resol. 216.* Bassaeus, *num. 9.*, that he is not held by the fasts and the other observances.

> *NON teneri ieiuniis, et aliis observationibus censent multi cum Diana* de dub. reg. Resol. 216. *Bassaeo,* num. 9.

12 Others, however, hold that he is held, as Nauarr. *cap. 7. n. 20.* Sà *V. Religio, num. 40.* Miran. *quaest. 52. art. 5.* Rodr. *tom. 1. quaest. 30. num. 20.* Portel. *V. eycere ab ordine, num. 5.*

> *ALII tamen censent teneri, ut Nauarr.* cap. 7. n. 20. *Sà* V. Religio, num. 40. *Miran.* quaest. 52. art. 5. *Rodr.* tom. 1. quaest. 30. num. 20. *Portel.* V. eycere ab ordine, num. 5.

13 THIS is the sentence of St. Bonavent. *quaest. 14. in Regulam,* where he infers on that account that they are in an evil state, leading a secular life, and are held to enter some religion, if they cannot keep their own. The reason of the Saintly Doctor, on which the rest rely, is, because these promised the Monastic life, and by their doing it stands that they not live at ease in the world, nor ought they to draw profit from their faults.

> *HAEC est D. Bonavent. sententia* quaest. 14. in Regulam, *ubi idco infert, eos esse in malo statu vitam saecularem ducentes, atque teneri religionem aliquam intrare, si propriam non valeant. Ratio S. Doctoris, qua caeteri nituntur, est, quia hi vitam promisere Monasticam, et per eos stat ne aliis convivant, neque commodum e culpis debent haurire.*

14 WHEREFORE not without reason do Rodriguez *quaest. 30. art. 22.* Sanchez *lib. 6. cap. 9.* Lessius *cap. 41. num. 111.* deny that he is held to enter another religion, nor can he be compelled even by the Pontiff, says Rodriq. *art. 23.* Sanch. *num. 42.* Bass. *num. 10.* Their reason is vain; that as no one can be compelled to matrimony, so neither to religion. For the reason is different in the case of one who has already vowed. Whence I retort. As he who has contracted matrimony is held to keep the rights and the faith of matrimony, even though separated by his own fault; so also here, he who has vowed a religion.

QUARE non vere Rodriguez quaest. 30. art. 22. *Sanchez* lib. 6. cap. 9. *Lessius* cap. 41. num. 111. *negant teneri aliam religionem intrare, neque cogi posse etiam a Pontifice, ait Rodriq.* art. 23. *Sanch.* num. 42. *Bass.* num. 10. *Ratio eorum est vana; quod sicuti nequit aliquis cogi ad matrimonium, ita nec ad religionem. Dispar enim est ratio de hoc, qui iam vovit. Unde retorqueo. Sicuti, qui matrimonium contraxit tenetur iura, et fidem matrimonii servare, etsi sua culpa separatus; ita et hic, qui religionem vovit.*

15 RIGHTLY, however, Sanchez *cap. 9. num. 55.* Bonacina *de claus. quaest. 1. part. 12. §. dieunt* hold that the ejected man is held to wear the habit of the religion, unless he has been stripped of it, as usually happens.

BENE tamen Sanchez cap. 9. num. 55. *Bonacina* de claus. quaest. 1. part. 12. §. dieunt *teneri eiectum ad habitum religionis portandum, nisi spoliatus fuerit, ut plerumque accidit.*

16 Such an EJECTED man is suspended from the exercise of the sacred orders and from promotion to the further ones, and if he exercise them, he becomes irregular. The absolution from this suspension is reserved to the Pope; unless perhaps he enter another religion, or be received into his own.

TALIS eiectus, est suspensus ab exercitio Sacrorum ordinum, et promotione ad ulteriores, et eos si exerceat, fit irregularis. Huius autem suspensionis absolutio Papae reservatur; nisi forte aliam intret religionem, vel in sua recipiatur.

17 NOTE in that decree, where this penalty of suspension is laid down, it is also commanded that the fugitives be sought yearly by the Prelates. But in practice this is not observed.

NOTA in eo decreto, ubi poena haec ponitur suspensionis, praecipi etiam ut quotannis fugitivi quaerantur a Praelatis. Sed praxi hoc non servatur.

18 Bassaeus NOTES that he is not to be considered a fugitive who withdraws himself from the vexation of an unjust immediate superior (since he cannot do so in another way), by going to the greater Prelate: For it is a right of nature, from which the Council of Trent did not wish to derogate, *sess. 25. cap. 4.* Nor could the Ordinary detain him, if this were proved to him. See Dianam *part. 3. tract. 2. resol. 56. et 113.* Bordonum *consil. regul. resol. 41. num. 15.* Sanctarell. *de apost. cap. 3. disp. 1.*

NOTAT Bassaeus, non esse censendum fugitivum, qui iniquae superioris immediati se subtrahit vexationi (cum alio modo nequear) pergens ad Praelatum maiorem: Est enim ius naturae, cui noluit derogare Concil. Trident. sess. 25. cap. 4. *Neque Ordinarius posset hunc detinere, si id ei probaretur. Vide Dianam* part. 3. tract. 2. resol. 56. et 113. *Bordonum* consil. regul. resol. 41. num. 15. *Sanctarell.* de apost. cap. 3. disp. 1.

19 EXCEPT if scandal and immense disturbance should thence befall the religion, as Rodriguez says, *tract. 4. sum. cap. 43.* Sanchez *lib. 6 moral. cap. 8. num. 17.* Tamburin: *tract. 3. de iure Abbat. disp. 8. quaest. 2.* and Bassaeus at the end.

EXCIPE si scandalum, et ingens perturbatio religioni inde obveniret, ut ait Rodriguez tract. 4. sum. cap. 43. *Sanchez* lib. 6 moral. cap. 8. num. 17. *Tamburin:* tract. 3. de iure Abbat. disp. 8. quaest. 2. *et Bassaeus in calce.*

Question XIII: Whether every religious is bound to all the counsels

1 I ASSERT that he is not held. So St. Thom. here, and St. Bonavent. ad cap. 1. Regulae Minorum.

An quilibet Religiosus teneatur ad omnia consilia.

ASSERO non teneri. Ita D. Thom. hic, et D. Bonavent. ad cap. 1. Regulae Minorum.

2 *It is PROVED* from the Holy Doctors: A Religious professes a singular institute, and in it not all the counsels are commanded, but three, which fall under vows, and some others, which are found in certain singular institutes: *But he is not held except by the force of the law, without which there is no new sin.* With this argument work Valentia *disp. 10. quaest. 4. punct. 4.* Caiet. ad D. Thom. Sylvest. *verb. Relig. 1. num. 5.*

> PROBATUR *a SS. DD. Religiosus profitetur singulare institutum, et in eo non praecipiuntur omnia consilia, sed tria, quae sub votis cadunt, et aliqua alia, quae in aliquibus singularibus institutis inveniuntur:* Non tenetur autem nisi ex vi legis, sine qua non novi peccatum. *Hoc argumento utuntur Valentia* disp. 10. quaest. 4. punct. 4. *Caiet. ad D. Thom. Sylvest.* verb. Relig. 1. num. 5.

3 HENCE St. Bonav. deduces that the Friars Minors are not held to all the counsels of the Gospel, even though the Rule begins thus: *Regula Fratrum Minorum haec est, scilicet Domini nostri Iesu Christi Evangelium observare;* for it is immediately broken and determined as to what of the Gospel it obliges, saying: *Vivendo in obedientia, sine proprio, et castitate.* The Saintly Doctor confirms it, for in the course of the rule the holy Father Francis places many things which he professes and declares to enjoin not by commanding but by exhorting, as all the expositors note and decree, Nicolaus III. and Clem. V. in their declarations.

> *HINC deducit D. Bonav. Religiosos minores non teneri ad omnia Evangelii consilia, tametsi Regula ita incipiat:* Regula Fratrum Minorum haec est, scilicet Domini nostri Iesu Christi Evangelium observare; *nam illico refringitur, et determinatur ad quid Evangelii obliget, dicens:* Vivendo in obedientia, sine proprio, et castitate. *Confirmat S. Doctor, nam in progressu regulae multa ponit S. P. Franciscus, quae profitetur atque declarat iniungere non praecipiendo, sed hortando, ut omnes expositores advertunt, et decernunt, Nicolaus III. et Clem. V. in suis declarationibus.*

Question XIV: Whether religious ought to teach, preach, etc.

1 The Saintly Doctor expends a whole little work, after the question on the Rule is set forth, on proving that teaching and preaching are not indeed included in the essence of religion. Thus it is had in the Councils and Fathers in Gratian 7. q. 1. c. *Hoc nequaquam;* and 16. *quaest. 1. cap. Monachus: et cap. Adiicimus; et cap. Nemo potest; et cap. Placuit, et cap. Ex auctoritate.*

> An Religiosi debeant docere praedicare, etc.
>
> *DIFFUNDITUR S. Doctor opusculo integro, post quaestionis in Regulam posito, ad probandum non includi sane in essentia religionis docere, praedicare; etc. Sic habetur in Conciliis, et Patribus apud Gratianum 7. q. 1. c.* Hoc nequaquam; *et 16.* quaest. 1. cap. Monachus: et cap. Adiicimus; et cap. Nemo potest; et cap. Placuit, et cap. Ex auctoritate.

2 Truly he shows, *quaest. 1. in Reg. et in opusculo cit.*, that Religions were instituted concerning God for this end, that, since the harvest is great and the laborers few, vinedressers and husbandmen should be added, whom the holy Apostolic See destined for these works; and this from the decrees to the Churches, Syricius P. proves, *epist. 1. cap. 13.* from Conc. Agath. *cap. 27.* Chalced. *act. 15. cap. 3.* and from the many decrees 16. *quaest. 1.* especially *cap. Modernorum, et cap. Nonnulli.* St. Thom. shows the same, *opusc. 19. capit. 25.* Valentia *quaest. 1. punct. 1.* See the Saintly Doctor also *in Apologetico.*

> *ENIM vero institutae de Deo ad hunc finem Religiones ostendit* quaest. 1. in Reg. et in opusculo cit. *ut cum messis sit multa, operarii autem essent pauci, adderentur vinitores, et agricolae, quos sancta Sedes Apostolica ad haec opera destinavit; idque ex decretis Ecclesiis, probat Syricius P.* epist. 1. cap. 13. *e Conc. Agath.* cap. 27. *Chalced.* act. 15.

cap. 3. *et e multis decretis 16.* quaest. 1. *praesertim* cap. Modernorum, et cap. Nonnulli, *Idem ostendit D. Thom.* opusc. 19. capit. 25. *Valentia* quaest. 1. punct. 1. *Vide S. Doctorem et* in Apologetico.

3 But that they may preach licitly, there is required, first, the faculty of superiors, as the Saintly Doctor notes *ad cap. 9. Regulae, and the Rule commands us:* to all indeed the Council of Trent *sess. 5. cap. 2. de Reform. et sess. 24. cap. 4.* and the Lateran Council under Innoc. III. *cap. 3.* where preachers without faculty are excommunicated.

UT autem concionari queant licite, requiritur primo superiorum facultas, ut notat S. Doctor ad cap. 9. Regulae, et praecipit nobis Regula: *omnibus vero Concilium Trident.* sess. 5. cap. 2. de Reform. et sess. 24. cap. 4. *et Concil. Later. sub Innoc. III.* cap. 3. *ubi excommunicantur concionantes absque facultate.*

4 SECOND, that they preach outside the temples of their order, a faculty from the Bishop is necessary, by the Council of Trent above, and St. Bonav. teaches, *quaest. 2. et opusc. citato,* and as is gathered from the Clementina *Dudum de sepult.* the license of the Parish Priest is also required; nor did the Saintly Doctor refuse it, even though it was published after his death.

SECUNDO ut extra templa sui ordinis concionentur, necessaria est facultas ab Episcopo, ex Concilio Trident. supra, et docet D. Bonav. quaest. 2. et opusc. citato, *et ut colligitur e Clementina* Dudum de sepult. *requiritur et licentia Parochi, nec renuit S. Doctor, tametsi post eius mortem edita sit.*

5 THIRD, in Churches nowhere can they preach with the Bishop resisting, by the Council of Trent. *sess. 24. cap. 4.*

TERTIO in Ecclesiis nullibi praedicare possunt Episcopo renitente, ex Concilio Trident. sess. 24. cap. 4.

6 HENCE the Saintly Doctor continues, *citato opusc.*, to show how rightly Religious are also destined to hear confessions. For this, however, they must be judged suitable by the Bishop, and for this he can examine them, as the Council of Trent teaches.

HINC pergit S. Doctor citato opusc. *ostendere, quam recte etiam ad confessiones excipiendas Religiosi destinentur. Ad hoc vero debent ab Episcopo iudicari idonei, et ad hoc potest eos examinare, ut docet Concil. Tridentinum.*

7 HENCE the Saintly Doctor *quaest. 3.* shows that for this reason they ought to apply themselves to studies.

HINC S. Doctor quaest. 3. *ostendit hac de causa debere eos studiis incumbere.*

Question XV: Whether religious ought to labor with their hands

1 On this point there have been twin errors, yet both extremes.

An debeant Religiosi laborare manibus.

GEMINI, sed extremi, fuere in hoc errores.

2 The FIRST was that of the Psallians, or Messalians, of whom the Historia tripart. *lib. 7. cap. 10.* and St. Augustine *de haeres. 57.* speak, who denied that it was lawful for Monks to labor.

PRIOR fuit Psallianorum, seu Messallianorum, de quibus Historia tripart. lib. 7. cap. 10. *D. August.* de haeres. 57. *qui negarunt licere Monachis laborare.*

[3] The SECOND was that of William, against whom St. Bonaventure wrote the *little work on the poverty of Christ*, especially *q. 2.* where he held that religious were bound to labor. His followers were Wycliffe, condemned in the Council of Constance *sess. 8.* and in the *Bull of Martin V.* The same was asserted by the sectaries, excepting those who preach; see Castrum *V. Labor.* Vuald. *l. 3. doctrin. fidei, cap. 12.* D. Thom. *opusc. 19. cap. 5.*

> *ALTER fuit Guilielmi, contra quem scripsit D. Bonav.* opusculum de paupertate Christi, *praecipue* q. 2. *ubi dicebat teneri religiosos laborare. Illum secuti sunt Vvicleph, damnatus in Conc. Const.* sess. 8. *et in* Bulla Martini V. *Idem asserunt sectarii, eos excipientes, qui concionantur, vide Castrum* V. Labor. *Vuald.* l. 3. doctrin. fidei, cap. 12. *D. Thom.* opusc. 19. cap. 5.

[4] I ASSERT, first, that Religious are not bound to apply themselves to labor.

> *ASSERO, primo non teneri Religiosos, labori incumbere.*

[5] It is PROVED from St. Bonaventure *contr. Guil. quaest. 2.* first from that passage of *Luke 10.* where Christ says: *Martha, thou art careful, and art troubled: Ergo she was not doing what was commanded.* He urges that Christ, praising Mary, praised her not laboring, but attentive to the contemplation of life, as being the better part.

> *PROBATUR a D. Bonavent.* contr. Guil. quaest. 2. *primo ex illo* Lucae 10. *ubi Christus ait:* Martha sollicita es, eam carpens: Ergo rem praeceptam non agebat. *Urget laudans Mariam non laborantem, sed vitae attentam contemplationi, quippe meliori.*

[6] NEXT he proves it, because Christ sent the Disciples to preach, thence promising them sustenance on this ground: *For the workman is worthy of his hire.* Hence also the Apostles said *Act. 6.* It is not reason that we should leave the word of God, and serve tables. And Paul in 1 *Cor. 9.* testifies that he could have expected his sustenance from preaching without manual labor, which nevertheless he says he did not do, for reasons on the other side, as he says following St. Thom. *ad 5.* The Apostle adds there the reason why he could do this: *They that serve the temple, eat of the things that are of the temple; and they that wait at the altar, partake with the altar.* St. Augustine uses this reasoning in the book cited.

> *DEINDE probat, quia Discipulos misit ad praedicandum, inde victum spondens ea ratione:* Dignus est enim operarius mercede sua. *Hinc et Apostoli dixere* Act. 6. Non est bonum, nos relinquere verbum, et ministrare mensis. *et Paulus prima* Cor. 9. *testatur, se potuisse absque manuali labore victum e praedicatione expectare, quod tamen se non fecisse ait, ob alienas causas, ut ait ex D. Thom.* ad 5. *Addit ibi Apostolus rationem, cur id facere posset:* Qui in sacrario operantur, quae de sacrario sunt, edunt; et qui altari serviunt, de altari vivunt. *Hac ratione utitur D. Augustinus* l. citando.

[7] THIRDLY he proves it from St. August. *l. de oper. Monach.* from whose context this error also must be driven out, and not merely the opposite extreme uprooted.

> *PROBAT tertio e D. August.* l. de oper. Monach. *ab eo contextu ad hunc errorem etiam arcendum, nedum ad alterum extremum evellendum.*

[8] It is CONFIRMED by the Glosses of the Fathers, and by the examples of the saintly Founders of Religions, who did not labor, as Benedict, Dominic, Augustine, who did not command it either; Nay, not even the holy Father Francis, who only admonishes that those who wish to labor should not be so attached to it as to neglect spiritual things. St. Bernard moreover composed his Apology, as did the

strong argument of St. Bonaventure from the case of Martha adduced above, and from 1 *Timoth.* where he says that bodily labor profiteth little.

> *CONFIRMAT Glossis Patrum, et exemplis sanctorum Institutorum Religionum, qui non laborabant, ut Benedictus, Dominicus, Augustinus, qui nec id praeceperunt; Imo nec S. P. Franciscus, qui solum admonet, ut qui velint laborare, non adeo applicentur, ut spiritualia negligant. D. autem Bernardus Apologiam contexuit vigens argumentum D. Bonavent. e casu Marthae supra allato, et prima* Timoth. *ubi laborem corporalem parum valere ait.*

9 I ASSERT secondly, that some labor rightly.

> *ASSERO secundo, aliquos recte laborare.*

10 St. August. *de oper. Monach.* took this up as a matter to be proved at length.

> *Id ex professo probandum assumpsit D. August.* de oper. Monach.

11 The Apostle indeed labored to give an example to the Pseudo-apostles, who preached for temporal things alone, *2. Cor. 11.* Then that he might not burden those to whom he preached, *2. Cor. 12.* Thirdly, to give an example to the idle, *2. Thessal. 3.* Yet in other places he did not do so, as St. Thom. says ad 5. with St. August. *loc. cit.* There indeed he exhorts all Christians, even religious; and those who cannot have a livelihood from elsewhere he commands to labor, saying: *If any man will not labor, neither let him eat*, as the holy Doctors expound. They add that labor is enjoined for sustenance, lest they turn to base gains; therefore he exhorts them to avoid other occasions of evil, for instance concupiscence, by chastening the body *2. Cor. 6. In labors, and in chastity.* To shun the occasion of theft, *Ephes. 4. He that stole, let him now steal no more: but rather let him labor.* To turn aside covetousness of another's goods, 1 *Thessal. 4. That you may walk honestly toward them that are without:* To avoid base dealings 2. Thessal. 3. *For when we were with you, this we declared to you: That if any man will not work, neither let him eat. For we have heard there are some that walk among you disorderly, working not at all; but curiously meddling.*

> *APOSTOLUS sane laborabat ut Pseudoapostolis exemplum daret, qui ob sola temporalia praedicabant* 2. Cor. 11. *Deinde ne gravaret aliquos, quibus praedicabat* 2. Cor. 12. *Tertio, ut daret exemplum otiosis,* 2. Thessal. 3. *Hoc tamen aliis in locis non faciebat, ut ait D. Thom. ad 5. cum D. August.* loc. cit. *Ibi vero hortatur omnes Christianos, etiam religiosos, et eos, qui aliunde victum habere nequeunt, iubet laborare, dicens:* Qui non laborat, nec manducet, *ut exponunt SS. Doctores. Addentes iniungere laborem ad victum, ne ad turpia lucra convertantur, ideo ad alias mali occasiones vitandas hortatur, puta concupiscentiae, macerando corpus* 2. Cor. 6. In laboribus, et in castitate. *Ad furti ansam fugiendam,* Ephes. 4. Qui furabatur, iam non furetur: Magis autem laboret. *Ad declinandam alieni cupiditatem, prima* Thessal. 4. Ut honeste ambuletis ad eos, qui foris sunt: Ad vitanda turpia negotia 2. Thessal. 3. Cum essemus apud vos, hoc denunciabamus vobis: Quoniam si quis non vult operari, nec manducet. Audivimus enim quosdam inter vos ambulare inquiete, nihil operantes; sed curiose agentes.

12 It is CONFIRMED, for St. Hier. also in his letter to the Monk Rusticus, and St. Benedict, and the holy Father Francis, and St. Augustine exhort to it. Add that some are necessary for the ministries, as laymen, or conversi. And many works are required for the community, see the holy Doctors.

> *CONFIRMATUR, nam et D. Hier. ad Rusticum Monachum, et D. Benedictus, ac S. P. Franciscus, et D. Augustinus hortantur. Adde aliquos ad ministeria esse necessarios, ut laici, seu conversi. Et ad communitatem multa opera requiri, vide SS. Doctores.*

13 They OBJECT against the first assertion from *Genes. 2. He placed him in Paradise of pleasure, to work it.* And *ch. 3. In the sweat of thy face thou shalt eat thy bread.* But these things are said of all.

> *OBIICIUNT contra primum assertum id* Genes. 2. Posuit eum in Paradiso voluptatis, ut operaretur. *Et* cap. 3. In sudore vultus tui, vesceris pane tuo. *Haec autem pro omnibus dicuntur.*

14 The holy Doctor answers that work was given to innocent Adam for solace, and that it is not the work of toil that is referred to there, but good work, whereby by working well he kept himself unharmed in Paradise. But as a punishment it was given to Adam after his fall, not to all; otherwise holy Kings would till the fields. It is given also so that sustenance may be had laboriously with solicitude, which suits all. Hence thou shalt grasp what *Zach. ch. 13. I am a husbandman: for Adam is my example, etc.* means.

> *RESPONDET S. Doctor, Adae insonti datum opus ad solatium, et non laboris opus ibi referri, sed opus bonum, ut bene operando, se in Paradiso servaret incolumem. In poenam vero datum Adae post suum lapsum, non omnibus; alioqui Reges sancti agros colerent. Datur etiam ad victum operose habendum cum sollicitudine, quod omnibus convenit. Hinc capies, quid velit* Zach. cap. 13. Homo agricola ego sum: quia Adam exemplum meum, etc.

15 The remaining objections of William, taken from the Apostle and the Fathers, are easily dissolved; for the Apostle imposed labors not on all, but on certain idle wanderers, and exhorted the rest to do the same at times to avoid occasions of evil; as I said. See the holy Doctor ad *argumenta*, in the solution of which he pours himself out more fully.

> *RELIQUA Guillelmi obiecta, sumpta ex Apostolo, et Patribus liquent; nam Apostolus non omnibus labores iniunxit, sed quibusdam otiosis vagantibus, et caeteros hortabatur, ut aliquando ad vitandas occasiones idem praestarent; ut dixi. Vide S. Doctorem ad* argumenta*, in quorum solutione latius effunditur.*

16 See St. Augustine in that work, where thou shalt behold these things as in a mirror: In the earliest times indeed there had burst forth the Sarabites, Gyrovagi, the Idle, wandering about, to whom occupation was enjoined that they might be the censors of others, not truly imitators. Others despised the works of the community under the color of praying. These Hieronymus, Augustinus, Bernardus reprehend. Peruse *resp. quarta, cap. 3. D. Bonav.* where thou shalt find excellent things.

> *VIDE D. Augustinum opere illo, ubi haec, veluti in speculo, intueberis: Primis sane temporibus eruperant Sarabitae, Gyrovagi, Otiosi, circumeuntes, quibus, ut forent alii censores, non vero imitatores, iniungebatur occupatio. Alii opera communitatis sub colore orandi spernebant. Hos reprehendunt Hieronymus, Augustinus, Bernardus, Perlege* resp. quarta, cap. 3. D. Bonav. *ubi eximia invenies.*

Question XVI: Whether it is lawful for religious to transact secular business

1 The holy Doctor laments most anxiously, in his letters to the Provincials, RELIGIOUS entangled in secular business.

> *RELIGIOSOS, saecularibus negotiis irretitos, anxie deplorat S. Doctor epistolis ad Provinciales.*

2 I ASSERT that it is an evil to engage in business of this kind, unless one takes it up out of charity.

> *ASSERO, malum esse negotia huiusmodi agere, nisi ex charitate ea quis suscipiat.*

3 It is PROVED from St. Bonavent. *opusc. 25. memorialium*, and from St. Thom. *here following him 2. Timot. 2. No man that fighteth for God entangleth himself with secular business.*

PROBATUR a D. Bonavent. opusc. 25. memorialium, *et a D. Thom.* hic ex illo 2. Timot. 2. Nemo militans Deo, implicat se negotiis saecularibus.

4 The same is had *cap. Sunt nonnulli, 26. quaest. 1.*

Idem habetur cap. Sunt nonnulli, 26. quaest. 1.

5 That it is LAWFUL however out of charity the holy Doctors prove, because the state of Religion is ordered to charity. Thus to the Apostles he commends *Rom. ult.* Phoebe: *That you assist her in whatsoever business she hath need of you.* The same is had *in decr. dist. 88. cap. 2. Decreti, and 4. Reg. 4. Eliseus said to the woman: hast thou any business, and wouldst thou have me speak to the King, or to the captain of the army?*

LICERE autem ex charitate probant SS. DD. quia status Religionis est ad charitatem ordinatus. Sic Apostolis Rom. ult. *Phoeben commendat:* Ut assistatis ei in quocunque negotio indiguerit. *Idem habetur* in decr. dist. 88. cap. 2. Decreti, et 4. Reg. 4. Eliseus dixit mulieri: Nunquid habes negotium, et vis ut loquar Regi, vel principi militiae?

6 The holy Doctor however admonishes *lib. 1. and St. Thom. opusc. 19. cap. 15. and Caiet. here ad 3. as also Valent. quaest. 5. puncto 1.* that these businesses must be carried on without tumult, disquiet, or clamor, that is, religiously done.

ADMONET tamen S. Doctor lib. 1. et D. Thom. opusc. 19. cap. 15. et Caiet. hic ad 3. ac Valent. quaest. 5. puncto 1. *haec negotia esse debere sine tumultu, inquietudine, vel strepitu, idest, religiose agenda.*

Disputation III: On the Vow of Obedience

1 The Seraphic Doctor splendidly illustrates OBEDIENCE under a twofold title, as the school of the Savior, and the ladder of salvation, *in Diaeta salut. tit. 3. cap. 2.* where he assigns the proofs and the degrees of this heavenly virtue, which obtains its empire by obeying; for the Savior taught it, whether in coming into the world, *Ioan. 6. I came down from heaven, not to do my own will:* or in remaining in the world, *made obedient unto death, Phil. 2.* or lastly in going out of it, *Not as I will, but as Thou, Matth. 26.* He there gathers the degrees of Obedience from St. Bernard; which are: that one be Willing, not recalcitrant, after the example of Paul *Act. 9.* Simple, not dissembling, after the likeness of the beast of burden *Psal. 72.* Cheerful, not murmuring, as was Simon of Cyrene *Matth. 27.* Swift, not putting off till tomorrow, such as Peter and Andrew had, who suddenly left their nets and followed Christ *Matth. 4.* Manly, not judging, as was the obedience of Peter, ready to be imprisoned with Christ, and to undergo death *Lucae 22.* Humble, not elated, as the Lord teaches in Luke 17. *Say, we are unprofitable servants, etc.* Finally let it be Persevering, not discontinuing, even unto death; that by these seven degrees, as by the ladder of Jacob, Heaven may be attained. From these the following question is in large part resolved.

> *OBEDIENTIAM sub duplici titulo, ut Salvatoris scholam, et salutis scalam, eximie illustrat Seraphicus Doctor* in Diaeta salut. tit. 3. cap. 2. *ubi caelicae huius virtutis, quae obtemperando imperium obtinet, documenta, et gradus assignat; eam enim docuit Salvator, sive in mundum veniens,* Ioan. 6. Descendi de caelo, non ut facerem voluntatem meam: *Sive in mundo manens,* factus obediens usque ad mortem, Phil. 2. *Sive denique inde exiens,* Non sicut Ego volo, sed sicut Tu, Matth. 26. *Obedientiae gradus, ibidem e S. Bernardo aggregat; qui sunt, ut sit Libens, non recalcitrans, ad exemplum Pauli* Act. 9. *Simplex, non simulans, ad instar iumenti* Psal. 72. *Hilaris, non murmurans, qualis erat Simonis Cyrenaei* Matth. 27. *Velox, non re-crastinans, qualem habuere Petrus, et Andreas, qui subito relictis retibus secuti sunt Christum* Matth. 4. *Virilis, non diiudicans, uti erat obedientia Petri, parati cum Christo carcerari, mortemque subire* Lucae 22. *Humilis, non elata, ut docet Dominus Lucae 17.* Dicite, quia servi inutiles, etc. *Sit denique Perseverans, non discontinuans, usque ad mortem; ut per hos septem gradus, tanquam per scalam Iacob Coelum attingatur. Ex his fere resolvitur sequens quaestio.*

Question I: Whether the vow of obedience is chief among the religious vows

1 I ASSERT that among the vows Obedience excels in Religion.

> ***An votum obedientiae sit praecipuum inter vota Religiosa.***
>
> *ASSERO, inter vota praecellere Obedientiam in Religione.*

2 It is *PROVED* from St. Bonavent. *ad cap. 1. Regulae Min.* That is the most excellent among the vows, whereby the most excellent thing is offered: But in man this is the will; whereas by the Vow of chastity the body, and by the Vow of poverty external goods are offered: Ergo. It is confirmed, for by the Vow of obedience the whole man is consumed as a holocaust; for under it Chastity and Poverty are included. Hence some Religions make profession by promising obedience. It is the argument of John XXII. *Extravag. Quorundam, de verb. signif.* which the Fathers used, as at B. Bonavent. *lib. 2. Phar. cap. 43.* and St. Thomas here: Moreover that is more excellent whereby one offers himself, than that whereby he offers his things; but man offers himself by obeying: Ergo.

PROBATUR *a D. Bonavent.* ad cap. 1. Regulae Min. *Illud est praestantiissimum inter vota, quo offertur praestantissimum: Sed hoc in homine est voluntas; cum Voto castitatis corpus; Voto vero paupertatis bona externa offerantur: Ergo. Confirmatur nam Voto obedientiae crematur totus homo in holocaustum; sub eo enim Castitas, et Paupertas includuntur. Hinc aliquae Religiones professionem emittunt, promittendo obedientiam. Est argumentum Ioan. XXII.* Extravag. Quorundam, de verb. signif. *quo usi sunt Patres apud B. Bonavent.* lib. 2. Phar. cap. 43. *ac D. Thomam hic: Praeterea praestantius est id, quo quis se, quam quo sua offert; sed homo se offert obediendo: Ergo.*

3 This vow, however, whereby it is more excellent than the rest, and therewith richer, was at all times harassed by the railings of Heretics; and before all others, from almost the first centuries, the Lampetians dreamed the impious dream that a man, in the worship of God, at the nod of another, renounces his own will; yet they did not think it so evil to promise any vow for another moral end outside the worship of God: Thus walking in darkness they judge perversely, so that what belongs to the service of God is charged with crime, while what is destined to another end is honored by them: This error was followed by the Waldenses, as also by the Beghards and Beguines, as Castro has it, *verb. obedientia;* finally the rest of the innovators in a body, with Luther at their head, swore to the same heresy. They were refuted by Bellarmine *lib. 2. de Monachis, cap. 8.* Suarez *lib. 10. de voto obedientiae,* and other defenders of the truth: Nor indeed can they bring forward any foundation of their error which does not readily collapse for a universal reason: for whatever is in itself good and honest, without doubt becomes better and more honest, while it is placed in a firmer, securer, and immovable state; for this reason, an act elicited from a long-standing habit is more perfect and better than an act from some light disposition, because it becomes more immovable, and proceeds into its act more intensely and more firmly with a stable will; such is that which proceeds from a vow, since it is a state, more stable even than a habit. Who, moreover, will deny that obedience in itself, even when rendered to a man, in the service of God, is good and honest, since for God Christ was made obedient unto death, and was subject to his parents, so that at their nod he even left behind the assembly of the Doctors.

Hoc tamen votum, quo caeteris praestantius, eo ditius omni tempore Haereticorum dicteriis divexabatur; et ante omnes Lampetiani a primis fere saeculis, nefarium somniabant, hominem in Dei cultum, ad alterius nutum, propriam abdicare voluntatem; promittere tamen quodcumque votum ob alium moralem finem extra cultum Dei, non adeo malum arbitrabantur: Ita in tenebris ambulantes praepostere iudicant, ut quod in Dei sit obsequium, sceleris arguatur; quod vero in alium finem destinatur, ab ipsis honestetur: Hunc errorem sectati sunt VValdenses, sicut et Begardae, et Beguinae, ut habet Castro, verb. obedientia; *tandem caeteri novatores gregatim, duce Luthero, in eandem haeresim iurarunt. Eos Bellarminus* lib. 2. de Monachis, cap. 8. *Suarez* lib. 10. de voto obedientiae, *aliique veritatis defensores confutarunt: Nec ullum sane sui erroris fundamentum valent obiicere, quin ea ratione universali facile ruat: nam quicquid in se bonum, et honestum est, proculdubio melius, et honestius evadit, dum in statu firmiori, securiori, et immobili locatur; ideo enim, actus ex diuturno habitu elicitus perfectior, et melior est, quam actus ex levi quadam dispositione, quia fit immobilior, et stabili quadam voluntate, intensius, et firmius in suum actum prodeunte; tale autem est, quod ex voto procedit, cum sit status, ipso etiam habitu stabilior. Obedientiam autem in se, etiam homini praestitam in Dei obsequium, esse bonam, et honestam quis inficiabitur, cum propter Deum Christus factus sit obediens usque ad mortem, et fuerit subditus parentibus suis, ita ut ad eorum nutum, Doctorum etiam caetum derelinqueret.*

Question II: What obedience is promised in religion

1 NOTE from St. Bonavent. *ad cap. 1. Regulae Min. and l. 2. de profectu Religiosi, cap. 39.* whom all Theologians imitate with St. Thom. *2. 2. quaest. 104. art. 2. ad 1.* that obedience and disobedience are

twofold. One is called material, or general. The former is the execution of whatever virtue is commanded. The latter is the omission, or transgression, of any precept; nor does it induce any other sin; just as neither does the former induce another virtue. The other is called formal and special, inclining the subject to carry out the commands of superiors as they are commands, and it is a special virtue; just as the opposite disobedience is a special vice, and sin.

> ***Quae obedientia in Religione sit promissa.***
>
> *NOTA e D. Bonavent.* ad cap. 1. Regulae Min. et l. 2. de profectu Religiosi, cap. 39. *quem imitantur omnes Theologi cum D. Thom.* 2. 2. quaest. 104. art. 2. ad 1. *Obedientiam, et inobedientiam esse duplicem. Alia dicitur materialis, vel generalis. Illa est executio cuiuscunque virtutis praeceptae. Haec omissio, seu transgressio cuiusque praecepti, neque aliud peccatum inducit; sicuti nec illa aliam virtutem. Alia dicitur formalis specialis, inclinans subditum ad exequenda praecepta superiorum hominum, ut praecepta sunt, et est virtus specialis; sicuti opposita inobedientia est speciale vitium, et peccatum.*

2 THEREFORE only those things that are commanded are the object of this virtue, as St. Bonaventura admonishes *lib. 2. Profec. cap. 41. and lib. 2. Pharetrae, cap. 43.* and the holy Fathers, D. Thom. *quaest. 186. art. 9. and quaest. 104. art. 2.* Valentia *d. 7. quaest. 8. puncto 1.* Azor. *tom. 1. lib. 12. cap. 13. quaestio 1.* Less. *de inst. lib. 2. cap. 46. d. 4.* Sanchez *tom. 2. lib. 6. cap. 1.*

> *ITAQUE ea sola, quae praecepta, sunt huius virtutis obiectum, ut monet D. Bonaventura* lib. 2. Profec. cap. 41. et lib. 2. Pharetrae, cap. 43. *ac SS. PP. D. Thom.* quaest. 186. art. 9. et quaest. 104. art. 2. *Valentia* d. 7. quaest. 8. puncto 1. *Azor.* tom. 1. lib. 12. cap. 13. quaestio 1. *Less.* de inst. lib. 2. cap. 46. d. 4. *Sanchez* tom. 2. lib. 6. cap. 1.

3 St. Bonavent. also INFERS, *prima pars, Centil. sect. 18. et opusc. Declaratio term. Theol.* that formal disobedience is to be unwilling to obey the command, as it is a command, and that contempt consists in this: So also D. Thom. *loc. cit. ad 1.*

> *INFERT etiam D. Bonavent.* prima pars, Centil. sect. 18. et opusc. Declaratio term. Theol. *Inobedientiam formalem esse, nolle obedire praecepto, ut est praeceptum, et in hoc esse contemptum: Sic et D. Thom.* loc. cit. ad 1.

4 I ASSERT that under the vow of obedience issued by Religious only the commands of superiors are included. So D. Bonavent. *lib. 2. de profec. Relig. cap. 41.* D. Thom. *quaest. 186. art. 9.* whom the rest follow.

> *ASSERO sub voto obedientiae a Religiosis emisso, includi sola praecepta superiorum. Ita D. Bonavent.* lib. 2. de profec. Relig. cap. 41. *D. Thom.* quaest. 186. art. 9. *quos reliqui sequuntur.*

5 It is PROVED by the holy Doctors, because by this vow we subject ourselves to the Prelate to the end of Religious governance: Therefore only that which, at the Prelate's bidding, is put forth to this end, is the object of religious obedience. So Less. *lib. 2. cap. 46. d. 4. num. 23.* Valent. *quaest. 3. puncto 1.* and Bass. *V. Obed. 2.*

> *PROBATUR a SS. DD. quia hoc voto subiicimur Praelato ad finem regiminis Religiosi: Itaque id solum, quod ex Praelato iubente exponitur ad hunc finem, est obiectum religiosae obedientiae. Sic Less.* lib. 2. cap. 46. d. 4. num. 23. *Valent.* quaest. 3. puncto 1. *et Bass.* V. Obed. 2.

6 AMONG Prelates the supreme is the Roman Pontiff, the Father of the Religious, whom we are bound to obey, especially we Friars Minor, because St. Francis *cap. 1. Regulae* professes this.

INTER Praelatos supremus est Romanus Pontifex, Religiosum Pater, cui obedire tenemur, maxime nos FF. Minores, quia S. Franciscus cap. 1. Regulae *id profitetur.*

7 Yet we are NOT bound to obey from the formal motive, because it is commanded; for it is an act of virtue even from the motive of Religion; nor can the Prelate command this internal act. So Sylv. *p. 2. quaestio 100. art. 9.* Vasquez *ibi, num. 5.* Lessius *cited d. 6. num. 42.* Sanch. *lib. 1. mor. cap. 13.*

NON tenemur autem obedire ex motiuo formali, quia praeceptum sit; nam est actus virtutis etiam ex motivo Religionis; neque Praelatus hunc actum internum praecipere valet. Ita Sylv. p. 2. quaestio 100. art. 9. *Vasquez* ibi, num. 5. *Lessius* citatus d. 6. num. 42. *Sanch.* lib. 1. mor. cap. 13.

8 They enumerate certain CONDITIONS, that Obedience may be pleasing to God. The first is that it be prompt, as St. Bernardus says *lib. de praec. etc.*

ALIQUAS conditiones numerant, ut Obedientia sit Deo grata. Prima, est ut sit prompta, ut ait D. Bernardus lib. de praec. etc.

9 SECOND, that it be done without complaint, as St. Bernardus says, ubi supra.

SECUNDA, ut fiat sine quaerela, ut ait D. Bernardus, ubi supra.

10 THIRD, that it be Cheerful, from the same St. Bernard ad Fratres de monte Dei, as at Tambur. *tom. 2. d. 21. quaest. 4.* Bass. *num. 7.*

TERTIA, ut Hilaris sit ex eodem D. Bernardo ad Fratres de monte Dei apud Tambur. tom. 2. d. 21. quaest. 4. *Bass.* num. 7.

11 FOURTH, that it persevere, from St. Benard. *ad milites templi, cap. 13.* see others touched on above.

QUARTA, ut perseveret, e D. Benard. ad milites templi, cap. 13. *vide alias supra tactas.*

12 These St. Bonavent. rehearses *in octo collationib. coll. 3.* saying, that the obedience of Religious may be acceptable to God, it ought to be prompt without delay, devoted without disdain, voluntary without contradiction, simple without discussion, persevering without cessation, ordered without deviation of end, joyous without disturbance, strenuous without pusillanimity, and universal without exception. See the holy Doctor *loc. cit. and 1. part. speculi disciplinae ad novitios, cap. 4. and 1. part. de Instit. novit. cap. 2.* where he dissects the anatomy of obedience item by item, and *in Regula novitiorum, cap. 13.* where he elegantly weaves the praises and merit of obedience; and *de profectu Religiosi cap. 39. et seq.* where he distinguishes all obediences and climbs the degrees of true obedience, *In Bibliis pauperum,* where he heaps up examples of obedience from scripture; and *in Pharetra, lib. 1. cap. 43.* where he describes it from the Fathers. And *in Diaeta salutis, tit. 3. c. 2.* where thou shalt peruse splendid things, especially the encomia, and those that animate to obedience. and *in formula aurea, cap. 1.* where the degrees of obedience: *And part. 3. stimuli divini amoris, cap. 11.* where wondrous things. *And serm. 3. Dom. inf. oct. Epiph. and serm. 3. Epiph.* where the conditions of obedience; and *ad cap. 4. Eccles.* I do not translate these, that you may not each run to the Fountain.

HAS recenset D. Bonavent. in octo collationib. coll. 3. *dicens, ut Religiosi obedientia sit Deo acceptabilis, debet esse prompta sine dilatione, devota sine dedignatione, voluntaria sine contradictione, simplex sine discussione, perseverans sine cessatione, ordinata fine deviatione, iucunda sine turbatione, strenua fine pusillanimitate, et universalis sine exceptione. Vide S. Doctorem* loc. cit. et 1. part. speculi disciplinae ad novitios, cap. 4. et 1. part. de Instit. novit. cap. 2. *ubi obedientiae anatomen agit per singula, et* in Regula novitiorum, cap. 13. *ubi obedientiae laudes,*

et meritum eleganter intexit; et de profectu Religiosi cap. 39. et seq. *ubi obedientias omnes discriminat. verae obedientiae gradus scandit,* In Bibliis pauperum*, ubi obedientiae exempla e scriptura congerit; et* in Pharetra, lib. 1. cap. 43. *ubi e Patribus eam describit. Et* in Diaeta salutis, tit. 3. c. 2. *ubi egregia perleges, maxime praeconia, et quae ad obediendum animant. et* in formula aurea, cap. 1. *ubi obedientiae gradus:* Et part. 3. stimuli divini amoris, cap. 11. *ubi mira.* Et serm. 3. Dom. inf. oct. Epiph. et serm. 3. Epiph. *ubi obedientiae conditiones; et* ad cap. 4. Eccles. *Non ea traduco, ut curratis quisque ad Fontem.*

Question III: Whether religious are bound to obey prelates in all things

1 NOTE from St. Bonav. *in corp.* that the Religious by the vow of obedience adds to himself a new obligation of obeying the Prelates, who for this have a coercive right over those things that we have promised, as Vasq. says *prim. 2. disp. 154. cap. 4.* Indeed religious are bound in those things which are according to the rule, whether directly, or indirectly, as the holy Doctor says *ad cap. 1. Reg.* Now the question is: whether they are bound also in the rest.

NOTA e D. Bonav. in corp. *Religiosus voto obedientiae addere novam sibi obligationem Praelatis obediendi, qui ad hoc habent ius coactivum ad ea, quae promisimus, ut ait Vasq.* prim. 2. disp. 154. cap. 4. *Tenentur sane religiosi in his, quae secundum regulam sunt, sive directe, sive indirecte, ut ait S. Doctor* ad cap. 1. Reg. *Iam quaestio est: an etiam in reliquis teneantur.*

2 The FIRST opinion is that they are bound to obey also in those things which are outside, and above, the rule: So Archidiac. *cap. Qui iustus, 11. quaest. 3.* Abb. *cap. super eo de Regular.* Praep. *c. ad nostram, num. 9. de appell.* To this Sanchez *lib. 6. cap. 1. num. 14.* draws the doctrine of the Seraphic Doctor *ad cap. 1. Reg.* But the holy Doctor speaks of us not by reason of the vow, but of a precept added of obeying in all things that are not sins.

PRIMA opinio est, teneri obedire etiam in his, quae extra, et supra regulam sunt: Sic Archidiac. cap. Qui iustus, 11. quaest. 3. *Abb.* cap. super eo de Regular. *Praep.* c. ad nostram, num. 9. de appell. *Huc trahit Sanchez* lib. 6. cap. 1. num. 14. *doctrinam Seraphici* ad cap. 1. Reg. *Sed S. Doctor loquitur de nobis non ratione voti, sed praecepti additi obediendi in omnibus, quae non sunt peccata.*

3 The SECOND opinion denies that the subject, by reason of the vow, is bound in those things which are outside, or above, the rule. So D. Thom. *2. 2. quaest. 104. art. 5. ad 3. et quodlib. 10. art. 10.* and thirty-five other Doctors, to whom Sanch. *lib. 6. cap. 2.* subscribes, adducing St. Bonav. *here* as confessing that he is not well alleged for the former opinion. I add Balthasum *V. Obedientia, num. 1.*

SECUNDA sententia negat, subditum, ratione voti, teneri his, quae sunt extra, vel supra regulam. Ita D. Thom. 2. 2. quaest. 104. art. 5. ad 3. et quodlib. 10. art. 10. *et alii 35. Doctores, quibus subscribit Sanch.* lib. 6. cap. 2. *adducens D. Bonav.* hic *fassus, eum non bene pro priori sententia allegari. Addo Balthasum* V. Obedientia, num. 1.

4 I ASSERT that the vow of Obedience is restricted within the Rule.

ASSERO, votum Obedientiae restringi intra Regulam.

5 It is PROVED from the holy Doctor first from St. Bernard. *de praecepto, cap. 8.* where he says: *He who makes profession indeed pledges obedience, yet not unlimited obedience, but determined, according to the Rule; nor any other than that of St. Benedict, so that he who presides must know that he may not loosen the reins of his own will over his subjects, but has a measure fixed for him out of the Rule; and thus at last moderate his commands around that only which is established to be right, nor any right thing whatever, but that only which the aforesaid Father instituted, or certainly what is according as he instituted.*

PROBATUR a S. Doctore primo e D. Bernard. de praecepto, cap. 8. *ubi ait:* Is, qui profitetur, spondet quidem obedientiam, non tamen omnimodam, sed determinate, secundum Regulam; nec aliam, quam S. Benedicti, ut oporteat, eum, qui praeest, non fraena suae laxare voluntati super subditos, sed praefixam ex Regula sibi scire mensuram; et sic demum sua imperia moderari circa id solum, quod rectum esse constiterit, nec quodlibet rectum, sed id tantum quod praedictus Pater instituit, aut certe quod sit secundum quod instituit.

6 HENCE St. Bonavent. elicits the reason in corpore. The Prelate has jurisdiction over the subject, commensurate in correlation with the pledge given in profession: But the subject did not promise every good, nor every Rule, but this Rule or that, and accordingly the good that is in it; otherwise he could be compelled by the Superior to keep all other rules stricter and higher, as St. Bernard argues. Sanchez uses this reasoning with Valentia *quaest. 4. puncto 5.* Therefore St. Bernardus says: *Let not the Prelate command me what I did not promise.*

HINC D. Bonavent. rationem in corpore elicit. Praelatus habet iurisdictionem in subditum, adaequatam correlative sponsioni editae in professione: At subditus non promisit omne bonum, nec omnem Regulam, sed Regulam hanc, vel illam, atque adeo bonum, quod est in ea; alioqui posset cogi a Superiore ad servandas omnes alias regulas strictiores, et altiores, ut arguit D. Bernardus. Hac ratione utitur Sanchez cum Valentia quaest. 4. puncto 5. *Ideo D. Bernardus ait:* Non praecipiat mihi Praelatus, quod non promisi.

7 You will OBJECT first from *Matth. 24.* Jesus says: *All things whatsoever they shall say to you, do and observe.* Nor does he understand this only of Divine precepts, for in *Lucae 9.* he says: *He that heareth you, heareth me.*

OBIICIES primo, Matth. 24. *dicit Iesus:* Omnia quaecunque dixerint vobis, servate. *Neque id solum de praeceptis intelligit Divinis, nam* Lucae 9. *ait:* Qui vos audit, me audit.

8 The holy Doctor answers that these things are understood of those that pertain to the Chair, and of precepts. In the latter he speaks of those things which the Apostles command by Christ's mandate, or themselves impose for necessary instruction: In the rest, he says, their sayings are not to be despised.

RESPONDET S. Doctor, ea intelligi de his quae ad Cathedram spectant, et de praeceptis. In altero loqui de his, quae Apostoli e Christi mandato praecipiunt, vel ipsi ad necessariam institutionem imponunt: In reliquis ait, non contemnendas eorum sententias.

9 You will OBJECT secondly from *Coloss. 3. Sons, obey your parents in all things.*

OBIICIES secundo, Coloss. 3. Filii obedite parentibus vestris per omnia.

10 The holy Doctor answers that obedience is owed by precept in those things which are according to the precepts of God and the Church, which the son is gravely bound to carry out; by a new command of the father, especially what pertains to the fourth precept, they are bound to these out of piety. In the rest, however, it is an admonition.

RESPONDET S. Doctor, obediendum ex praecepto his, quae sunt iuxta praecepta divina, et Ecclesiae, quae filius tenetur graviter exequi, nova patris iussione, maxime quae ad quartum praeceptum pertinent, ad ea ex pietate tenentur. In reliquis vero est monitio.

11 You will OBJECT thirdly, from St. Benedicto *in Regula.* If the Prelate commands the impossible, it must be attempted. Likewise from St. Hieron. *ad Rust. Fear the Prepositus of the Monastery as the Lord; love him as a father; believe whatever he shall say to be wholesome; and judge not the sentence of one greater, whose office*

it is to obey, and to fulfill commands, Moses saying: Hear, O Israel, and be silent, Numer. 6. And from Hug. *in sent. de Obed.* Obedience is a virtue which embraces all things enjoined, to be necessarily fulfilled, unless the authority of the Commander stand in the way.

> *OBIICIES tertio, ex D. Benedicto* in Regula. *Si praecipit Praelatus impossibile, tentandum est facere. Itidem e D. Hieron.* ad Rust. Praepositum Monasterii timeas ut Dominum; diligas ut patrem; credas quidquid dixerit salutare; nec maioris iudices sententiam, cuius officium est obedire, et iussa implere, dicente Moyse: Audi Israël, et tace, Numer. 6. *Et ex Hug.* in sent. de Obed. *Obedientia est virtus, quae omnia amplectitur iniuncta, necessario implenda, nisi obstiterit Imperantis authoritas.*

12 It is answered that they speak of the perfection, not of the necessity, of obedience. So also D. Ignatius in *Constitut. Soc. part. 3. cap. 1. §. 23. and part. 6. cap. 1. says,* Obedience is to be given in all things, where no manifest sin is seen.

> *RESPONDET eos loqui de perfectione, non de necessitate obedientiae. Sic et D. Ignatius in* Constitut. Soc. part. 3. cap. 1. §. 23. et part. 6. cap. 1. ait, *Obediendum in omnibus, ubi manifestum peccatum non cernitur.*

13 You will OBJECT fourthly. Vows are of equal right: But poverty forbids all ownership of external things. Chastity all delight of the flesh: Ergo Obedience also all proper willing.

> *OBIICIES quarto. Vota sunt aequalis iuris: At paupertas vetat omnem rei externae proprietatem. Castitas omnem delectationem carnis: Ergo et Obedientia omnem propriam volitionem.*

14 The holy Doctor answers that it is not a par; for the object of the will is exceedingly ample, which expands to the transcendent good; therefore it must be restricted to the institute which I take up.

> *RESPONDET S. Doctor, non esse par; nam obiectum voluntatis est nimis amplum, quod ad bonum transcendens expanditur; debet igitur stringi ad institutum, quod suscipio.*

15 HENCE thou hast that the objects of Obedience vary according to the variety of the Institutes. Thus the order of Minors has joined to the vow *cap. 10. Regulae* the precept of obeying in all things which are not against God, the soul, or the rule, as the Expositors commonly note, and this from other externals, Lessius *lib. 2. de iust. cap. 41. d. 9. num. 77.* who says the same of the Rule of the Society as related. Although Sanchez resists *num. 16.* saying such an institute, so expounded, to be impossible. Wherefore also Corduba, *cap. 10. quaest. 2.* Sanchez *lib. 6. cap. 2. num. 16.* Layman. *lib. 4. cap. 9.* endeavor to reduce both to the common precept.

> *HINC habes, varia esse Obedientiae obiecta pro Institutorum varietate. Ita ordo Minorum voto habet adiunctum* cap. 10. Regulae*, praeceptum obediendi in omnibus, quae non sunt contra Deum, animam, vel regulam, ut communiter advertunt Expositores, et ex aliis exteris, Lessius* lib. 2. de iust. cap. 41. d. 9. num. 77. *qui idem ait de Regula Societ. relata. Tametsi renuat Sanchez* num. 16. *dicens tale institutum, sic expositum, esse impossibile. Quare et Corduba,* cap. 10. quaest. 2. *Sanchez* lib. 6. cap. 2. num. 16. *Layman.* lib. 4. cap. 9. *deducere conantur utramque ad commune praeceptum.*

16 Yet they are DECEIVED; for in the Rule of the Minors there is an express precept, as the Pontiffs declare, and Sanctes, Politius, Corilianus, and the rest. Indeed the precepts ought to be laid down with discretion in order to the Evangelical perfection, which we have vowed in the Rule. Therefore the precepts must be consonant to natural, divine, and human law, and discreetly coercive, that they may be valid according to the mind of the holy Founder.

FALLUNTUR vero; nam in Regula Minorum est apertum praeceptum, ut declarant Pontifices, et Sanctes, Politius, Corilianus, et caeteri. Debent sane praecepta esse discretione condita in ordine ad Euangelicam perfectionem, quam in Regula vovimus. Itaque esse debent praecepta iuri naturali divino, et humano consentanea, eaque discrete cogentia, ut sint valida ad mentem sancti Institutoris.

17 Hence the Prelate, and the General, cannot make laws commanding the actions of life; for they must be received by each one to whom they pertain, according to the reg. *Quod omnes, de reg. iuris in 6*. Nor indeed have the subjects transferred their will to the Prelate, as St. Bonavent. notes in corp. and ad ultimum, for indiscretion is against the soul, and against the rule, which does not intend to burden above one's strength, as St. Bonavent. admonishes the Provincials at the end.

Hinc nequit Praelatus, et Generalis, leges ferre, actionum vitam praecipientes; debent enim recipi a singulis ad quos spectat, iuxta reg. Quod omnes, de reg. iuris in 6. *Neque vero subditorum volitionem in Praelatum transtulere, ut notat D. Bonavent. in corp. et ad ultimum, nam indiscretio est contra animam, et contra regulam, quae non intendit supra vires onerare, ut monet D. Bonavent. ad Provinciales in fine.*

18 Many indeed say the Pontiff can do this from *cap. unic. in principio, de regular. in 6*. where Boniface VIII. imposed enclosure on all Nuns.

Multi vero aiunt, Pontificem id posse ex cap. unic. in principio, de regular. in 6. *ubi Bonifacius VIII. universis Monialibus clausuram indixit.*

19 Others however deny it, because the precept of obeying the Pope arises from profession, which binds this most exalted religion. So Sanchez lib. 6. cap. 12. numero 22. with Oldrado *consil. 96*. Sylvester *V. Religio, quaestio 6*. Corduba in *Regular. cap. 15. quaest. 2*. Lessius *lib. 2. de Iustitia, cap. 41. dub. 9*. Yet such a decree would bind those who afterward made profession.

Alii tamen negant, quia praeceptum obediendi Papae oritur e professione, quae huic praecelsae obligat religioni. Ita Sanchez lib. 6. cap. 12. numero 22. cum Oldrado consil. 96. *Sylvester* V. Religio, quaestio 6. *Corduba in* Regular. cap. 15. quaest. 2. *Lessius* lib. 2. de Iustitia, cap. 41. dub. 9. *Tale attamen decretum ligaret eos, qui postea profiterentur.*

20 If the Rule in the essentials of the vows is not kept, they are bound to return to observance; for without the vows it cannot stand, as Sanchez notes numero 26.

Si Regula in essentialibus votis non servetur, tenentur ad observantiam redire; nam sine votis nequit consistere, ut notat Sanchez numero 26.

21 As to the other commanded observances, Sanchez says they are prescribed by custom. He alleges St. Thomas *4. dist. 38. q. 1. art. 4. quaestiunc. 1. ad 5*. Carthus. *quaest. 2*. Azor *tract. 1. cap. 11. quaestio 15*. Manuelem *2. tract. cap. 95*. and others.

Quoad alias vero observantias praeceptas, ait Sanchez, eas consuetudine praescribi Allegat D. Thomam 4. dist. 38. q. 1. art. 4. quaestiunc. 1. ad 5. *Carthus*. quaest. 2. *Azor* tract. 1. cap. 11. quaestio 15. *Manuelem* 2. tract. cap. 95. *et alios.*

22 The truer opinion however denies that these non-observances can be introduced from any prescription. So Maior *dist. 38. quaest. 10.* Cordub. in *reg. cap. 10. quaest. 15*. Anton. *cap. Cum causam de elect. numero 14*. It is the view of St. Bonavent. *in epist. ad Provinciales*, where, having gravely set forth the relaxations in buildings, familiarities, costly expenses, wanderings, the idle life of some, and the imprudent dispensing of offices, he subjoins: *Although indeed very many are found who are not culpable in*

any of the aforesaid, yet this malediction involves all, unless by those who do not do these things resistance is offered to those who do them; since clearer than light all the things said above tend to the maximum detriment of our order, and in no way to be dissembled, although to the tepid, and undevout, and those wise according to the flesh, considering the custom, and alleging the multitude, as it were easy and excusable, they may even seem irremediable: Thus the holy General; where he does not say that excuse is gathered from custom, as he says habit, but from prescribed custom, as the learned, and those wise according to the flesh, assert.

> *Verior tamen sententia negat, has inobservantias e praescriptione aliqua induci posse. Sic Maior* dist. 38. quaest. 10. *Cordub. in* reg. cap. 10. quaest. 15. *Anton.* cap. Cum causam de elect. numero 14. *Est D. Bonavent.* in epist. ad Provinciales, *ubi graviter expositis laxationibus in aedificiis, familiaritatibus, expensis sumptuosis, vagationibus, otiosa vita aliquorum, et improvida officiorum dispensatione, subdit:* Licet autem plurimi reperiantur, qui non sunt culpabiles in aliquo praedictorum, tamen omnes involuit haec maledictio, nisi a non facientibus his, qui faciunt, resistatur; cum luce clarius omnia supra dicta in maximum, et nullo modo dissimulandum, vergant nostri ordinis detrimentum, licet tepidis, et indevotis, et secundum carnem sapientibus, considerantibus consuetudinem, et allegantibus multitudinem quasi facilia, et excusabilia, etiam irremediabilia videantur: *Haec sanctus Generalis; ubi non e consuetudine, ut dicit habitum, ait colligi excusari, sed e consuetudine praescripta, ut eruditi, et sapientes secundum carnem astruunt.*

23 The reason of St. Bonavent. is, because the precepts bind from profession, or promise made to God, which, since it binds by divine law, does not admit prescription.

> *Ratio D. Bonavent. est, quia praecepta obligant e professione, seu promissione Deo facta, quae cum iure divino obliget, non patitur praescriptionem.*

24 Sanchez answers *numero 26.* that these precepts are reduced to the vows, as laws annexed. Wherefore they bind only as long as they have the force of law; and this force they lose by prescriptive custom.

> *Respondet Sanchez* numero 26. *haec praecepta reduci ad vota, tanquam leges adiunctas. Quare obligant solum quamdiu vim obtinent legis, hanc autem vim praescripta consuetudine perdunt.*

25 But he begs the principle; for since I showed that it pertains to divine law, it is already established that it is not prescribed.

> *At petit principium; nam cum ad ius divinum pertinere ostenderim; iam constat non praescribi.*

26 It is confirmed, for the Religions have need of their precepts and observances for the end, and without them they are a scandal, and a mockery.

> *Confirmatur, nam Religiones egent suis praeceptis observationibus ad finem, et sine eis sunt scandalo, et ludibrio.*

27 He presses: dispensations are made.

> *Instat, fieri dispensationes.*

28 I say they are not general, and that they are made only for grave causes impending on the end of the Religions at the time.

> *Dico non esse generales, easque tantum fieri ob graves causas ad finem Religionum tunc ingruentes.*

29 He presses: these men promised to keep the rule in such a state.

> *Instat, hos spopondisse servare regulam in tali statu.*

30 Contrariwise, for if knowingly these things are precepts, if deceitfully he does not promise, while he vows to keep the rule, he promises these also. But if he is ignorant, he is bound to know; and knowing afterward, he ought to betake himself to another rule, where these are kept in this way with impunity, as Angel. says *V. relig. n. 32.* Corduba in *Regul. cap. 2. quaest. 16.*

> *Contra, nam sciens haec esse praecepta, si ficte non spondet, dum vovet regulam conservare, haec etiam spondet. Si vero ignorat, tenetur scire, et sciens postea, debet regulam aliam adire, ubi impune haec ita servantur, ut ait Angel.* V. relig. n. 32. *Corduba in* Regul. cap. 2. quaest. 16.

31 There arises indeed the doubt, whether the General with the Chapter can reform a lapsed rule, and whether the subjects are bound to assent.

> *Oritur vero dubium, an Generalis cum Capitulo valeant regulam elapsam reformare, et teneantur subditi assentiri.*

32 Having set aside the various opinions at Sanchez from *num 31.* the truer is the opinion asserting they can, and it is that of St. Bonavent. *epist. ad ministros, et Custodes*, in which he orders the reformation of the order, protesting that he will not assent with those resisting. Twenty Doctors follow him with Sanchez numero 35. The reason of the holy Doctor, which the others use, is the one he brings at the end of the letter. For those who have vowed religion assuredly promised the means to the perfection of its institute: But these are the precepts.

> *Omissis variis sententiis apud Sanchez a* num 31. *verior est sententia asserens, estque D. Bonavent.* epist. ad ministros, et Custodes, *quibus reformationem ordinis indicit, protestans se renitentibus non assensurum. Eum sequuntur viginti Doctores cum Sanchez numero 35. Ratio S. Doctoris, qua utuntur alii, est, quam in fine epistolae affert. Qui enim voverunt religionem, utique media ad perfectionem eius instituti promisere: Haec autem sunt praecepta.*

33 Nevertheless the subject would be excused, if he were so infirm that he could not sustain such rigor.

> *Excusaretur tamen subditus, si adeo infirmus esset, ut talem rigorem non valeret sustinere.*

34 Hence rightly Boniface VIII. *cap. unic. in princip. de statu regul.* imposed perpetual enclosure on Nuns, even if many had not professed it. The Council of Trent innovates this decree *sess. 25. cap. 5.* because it imposes no new austerity, but the means to keeping the former one safe and intact. Thus twenty-three Doctors teach ad *cap. cit.* And it is de fide that this can be done by the Pope.

> *Hinc rite Bonifacius VIII.* cap. unic. in princip. de statu regul. *perpetuam indixit clausuram Monialibus, etiamsi multae non essent eam professae. Hoc decretum innovat Concil. Tridentinum* sess. 25. cap. 5. *quia non indicit novam austeritatem, sed mediam ad pristinam sartamtectam servandam. Ita docent viginti tres Doctores ad* cap. cit. *Estque de fide posse id a Papa fieri.*

Question IV: Whether one doubting whether the thing commanded is lawful is bound to obey the prelate

1 The first opinion holds that he is not bound, nor can he obey. So Adrian, *quodlib. 2. part. 2.* Vasquez *p. 3. disp. 65. cap. 9.* Rodriguez *p. p. cap. 9.*

> ***Utrum dubitans, an res praecepta sit licita, teneatur Praelato obedire.***
>
> *Prima opinio astruit non teneri, nec posse obedire. Ita Adrian.* quodlib. 2. part. 2. *Vasquez* p. 3. disp. 65. cap. 9. *Rodriquez* p. p. cap. 9.

2 The opposite opinion is that of Sanchez *lib. 6. cap. 3.* citing forty-three Doctors, especially D. Bonaventure *2. dist. 39. quaest. 3. ad ult.* Add Basaeus *V. Obed. num. 12.* I defended it *p. 2. tract. 1. disp. 27. quaest. 14. et 22.*

> *Opposita sententia est Sanchez* lib. 6. cap. 3. *adducens quadragintatres Doctores, praesertim D. Bonavent.* 2. dist. 39. quaest. 3. ad ult. *Adde Bassaeum* V. Obed. num. 12. *Eam asserui* p. 2. tract. 1. disp. 27. quaest. 14. et 22.

3 Diana *part. 4. tract. 3. resol. 9.* says the prior opinion approves itself to him in the case where the subject fears grave loss to himself or another from obedience. Aragon subscribes *2. 2. quaest. 69. art. 2.* Medina *prima 2. quaest. 19. art. 6.* Henriquez *lib. 14. cap. 3. in gloss. lit. X.* Lessius *lib. 2. cap. 4. dub. 9. num. 77. cont.* Sanchez in *select. disp. 43. num. 21.*

> *Diana* part. 4. tract. 3. resol. 9. *ait priorem sententiam sibi probari in casu, quo subditus timeret sibi, vel alii ex obedientia damnum grave. Subscribit Aragon.* 2. 2. quaest. 69. art. 2. *Medina* prima 2. quaest. 19. art. 6. *Henriquez* lib. 14. cap. 3. in gloss. lit. X. *Lessius* lib. 2. cap. 4. dub. 9. num. 77. cont. *Sancium in* select. disp. 43. num. 21.

4 But if the Prelate himself doubts, the subject who knows it is not bound. So Castro Palao *tract. 1: disp. 4. part. 14.* Sanchez *lib. 6. cap. 3.* Salas *2. 2. quaest. 21. tract. 8. disp. unic. sect. 26. num. 275.* Basaeus *num. 13.*

> *Quod si et ipse Praelatus dubitet non tenetur subditus id sciens. Ita Castro Palao* tract. 1: disp. 4. part. 14. *Sanchez* lib. 6. cap. 3. *Salas* 2. 2. quaest. 21. tract. 8. disp. unic. sect. 26. num. 275. *Bassaeus* num. 13.

5 I assert with the second opinion that in doubts the subject is bound to stand by the precept of the prelate. This opinion the Holy Doctor upholds also *part. . . 1 speculi ad Novit. cap. 4.*

> *Assero tum secunda sententia, teneri subditum in dubiis stare praecepto praelati. Hanc opinionem astruit S. Doctor etiam* part. . . 1 speculi ad Novit. cap. 4.

6 It is proved from the Holy Doctor first *parte 1. de eccl. Hier. Et in confessionali, cap. 1. partic. 5.* from Scripture, *Deuter. 17. 2. Paral. 19. et Ezech. 34.* where it is ordained that subjects in difficult and ambiguous matters stand by the judgment of the Priest Prelate.

> *Probatur a S. Doctore primo* parte 1. de eccl. Hier. Et in confessionali, cap. 1. partic. 5. *e Scriptura,* Deuter. 17. 2. Paral. 19. et Ezech. 34. *ubi sancitur, ut subditi in arduis, et ambiguis stent iudicio Sacerdotis Praelati.*

7 *IT IS PROVED* secondly from D. Bonaventure in *2. loco cit. et in speculo*, by the reason on which all rely. In doubt the condition of the possessor is better, as is had in the rules of law; but in this case possession stands for the Prelate, to whom the subject promised obedience: Therefore. It is confirmed for the Minor. He is in possession, for which there is a presumption of law, against whom fails the burden of proving exemption: but in doubt the superior is presumed just, to whom the subject promised as to one acting in God's stead, *cap. quid culpatur in fine 23. quaest. 1. et* Basaeus teaches it is defined there, Covarruvias *reg. Peccatum, p. p. num. 5.* with others. So decreed Leo X. in Mirandula *tract. 1. manual. quaest. 26. art. 9.*

> PROBATUR *secundo a D. Bonavent. in* 2. loco cit. et in speculo*, ratione, qua nituntur omnes. In dubio melior est conditio possidentis, ut habetur in regulis iuris; sed in hoc casu possessio stat pro Praelato, cui subditus spopondit obedientiam: Ergo. Confirmatur Minor. Ille est in possessione, pro qua est praesumptio iuris, contra quem deficit onus probandae exemptionis: at in dubio praesumitur superior iustus, cui subditus promisit tanquam Dei vices agenti,* cap.

quid culpatur in fine 23. quaest. 1. et *docet ibi definiri Bassaeus, Covar.* reg. Peccatum, p. p. num. 5. *cum aliis. Ita statuit Leo X. apud Mirandam* tract. 1. manual. quaest. 26. art. 9.

8 *IT IS CONFIRMED* by the Holy Doctor *part. 3. Eccl. Hier. multis scripturis Heb. ult. Eccles. 4.* where the Holy Spirit exhorts us to entrust ourselves with simple obedience to the commands of Prelates: for they are established as sureties of souls, who are to render an account of them, which is a great consolation for subjects.

CONFIRMATUR *a S. Doctore* part. 3. Eccl. Hier. multis scripturis Heb. ult. Eccles. 4. *ubi hortatur Spiritus Sanctus, ut simplici nos obedientia Praelatorum iussis demandemus: ipsi enim rationem de his reddituri statuuntur animarum fideiussores, quae est magna subditorum consolatio.*

9 *YOU OBJECT* with Vasquez, that for a right action a determinate practical judgment of conscience is required: but as long as you remain in doubt, you cannot judge that thing licit, nor do you adhere probabilistically, but you still act rashly in uncertainty, exposing yourself to the peril of fault. Nor is the superior in possession of jurisdiction, except by reason of the vow, which surely regards only licit goods. And just as I am not bound to fulfill a vow that I doubt I made, as the Doctors commonly hold with Diana *tom. 1. tract. 3. resol. 10.* so neither am I bound to the precept of a man. It is confirmed because whose is the precept not to expose even to the peril of mortal fault.

OBIICIES *cum Vasquez, ad rectam operationem requiritur determinatum iudicium practicum conscientiae: at quamdiu manes dubius, non vales iudicare eam rem licitam, nec probabiliter adhaeres, sed anceps adhuc temere operaris, exponens te culpae discrimini, Neque superior est in possessione iurisdictionis, nisi ratione voti, quod sane sola respicit bona licita. Et sicut non teneor implere votum, quod dubito an emiserim, ut communiter asserunt Doctores cum Diana* tom. 1. tract. 3. resol. 10. *ita neque teneor ad praeceptum hominis. Confirmatur quia cuius est praeceptum non exponendi etiam periculo culpae mortalis.*

10 *THE HOLY DOCTOR ANSWERS*, that a thing first doubtful in speculation, with the precept of the superadded superior — of whom it is well presumed that he aims at justice, prudence, etc. — acquires practical probability for execution, nor is it any longer practically doubtful, since possession stands for the authority of the one commanding, constituted by God to settle doubts. Wherefore I can and ought to determine the judgment, and thus I shall act probabilistically, not rashly. But it is not the same in a doubt of a vow, in which in my uncertainty I find no new something weighing down. But that things are thus is defined in *cap. Quid culpatur in fine, 23. quaest. 1.* where it is read: *A just man, if perchance he even serve under a King, and a sacrilegious man, can rightly make war at his bidding, if what is commanded him either is certainly not against the precept of God, or it is not certain whether it is: so that perhaps the iniquity of commanding makes the King guilty: but the order of serving shows the soldier innocent.* So explain Innocent, Hostiensis, John Andrew, Baldus, Abbas Navarrus, and Toletus.

RESPONDET *S. Doctor, rem primo speculative dubiam, accedente praecepto superioris, de quo bene praesumitur, quod ad iustitiam, prudentiam, etc. acquirere practicam probabilitatem ad executionem, neque amplius est dubium practicum, cum possessio stet pro authoritate praecipientis, a Deo constituti ad dubia sedanda. Quare possum, et debeo iudicium determinare, atque ita probabiliter non temere operabor. Non est autem idem in dubio voti, in quo anceps non invenio novum quid praeponderans. Haec autem ita se habere definit* cap. Quid culpatur in fine, 23. quaest. 1. *ubi legitur:* Vir iustus, si forte etiam sub Rege, et homine sacrilego militet, recte potest, illo iubente, bellare, si quod sibi iubetur, vel non esse contra Dei praeceptum, certum est; vel utrum sit, certum non est: ita ut fortasse reum faciat Regem iniquitas imperandi: innocentem autem militem ostendat ordo serviendi. *Ita exponunt Innocent. Hostiens. Ioan. Andreas, Bald. Abb. Nauar. et Toletus.*

11 From which text is also defined the case in which soldiers doubt about the justice of the war. Of which I have treated enough in *disp. cit. prima secundae*. There however I declared that a subject, in doubt about the jurisdiction of the one commanding, is not bound to obey, because possession then stands for liberty. See the Doctors in Sanchez *lib. 6. cap. 3*.

> *Ex quo textu definitur etiam casus, quo milites dubii sunt de iustitia belli. De quo satis egi* disp. cit. prima secundae. *Ibi tamen declaravi, subditum, dubium de iurisdictione praecipientis, non teneri obedire, quia possessio tunc est pro libertate. Vide Doctores in Sanchez* lib. 6. cap. 3.

Question V: Whether all the statutes of religious orders bind under sin

1 NOTE that there are various Rules: for some, besides vows, add other precepts; and indeed some otherwise of divine and natural law, and these I do not think are enjoined by a distinct law unless the Holy Founder declares himself: but only confirmed them; therefore then there will not be a twofold sin, as Cajetan teaches *quaest. 186. art 9.* although Valencia *disp. 10. quaest. 4. puncto 3.* Sanchez *lib. 6. cap. 4. num. 7.* say there are two malices, insofar as the transgression would be against the vow of obedience.

> An omnia Religionum statuta sub culpa obligent.
>
> *NOTA varias esse Regulas: Aliquae enim, praeter vota, addunt alia praecepta; et quidem aliqua alioqui iuris divini, et naturalis, et haec non reor distincta lege diversa iniungi, nisi Sanctus Institutor se declaret: sed solum confirmasse; tunc igitur non erit duplex peccatum, ut docent Caietanus* quaest. 186. art 9. *etsi Valentia* disp. 10. quaest. 4. puncto 3. *Sanchez* lib. 6. cap. 4. num. 7. *duas malitias esse dicant, quatenus transgressio esset contra votum obedientiae.*

2 SOME add new precepts, as the Rule of the Minors. Of these many are imposed on others not by precept, as the Fasts of Advent, abstinence from meats, assistance at Choir, and the like. But the formula of the Rule must be observed. Each indeed has observances of supererogation.

> *ALIQUAE apponunt nova praecepta, ut Regula Minorum. Ex his multa apud alios imponuntur non praecepto, ut Ieiunia Adventus, abstinentia a carnibus, assistentia Choro, et similia. Observanda vero est Regulae formula. Singulae vero habent observantias supererogationis.*

3 THEREFORE now not all the statutes of Regulars compel under guilt of fault, even if we promise to observe the Rule, as we Minors especially; for the promise must be understood according to the sense of the Rule, and the mind of the Patriarch. So they declare concerning us Nicholas III. *Clem. Exiit de verb. signific. in 6. §. in primis*, and Clement *Exivi §. Cum igitur in primis, de verb. signific.* and D. Bonaventure admonished *ad cap. 1. Regulae*, D. Thomas *2. 2. quaest. 186. art. 9.* Sylvester *V. Relig. 1. quaest. 8. dict. 1. et quaest. 13. dict. 5.* Vasquez *prima 2. disp. 162. cap. 4.* Faustus *in theol. lib. 6. quaest. 121.* Angel. *V. relig. n. 28.* Sylvius *ad locum cit. D. Thom.* Basaeus *V. Obed. num. 14.* Sanchez *lib. 6. in praec. cap. 4.* The Holy Doctor declares this *ad ea verba Reg. cap. 1. Regula fratrum minorum haec est, sanguis Domini Nostri Iesu Christi Evangelium observare*, saying, The Rule is promised as it is; but it is certain (he says) that some things are enjoined preceptively, others only admonitorily.

> *IAM igitur non omnia Regularium statuta cogunt sub reatu culpae, etiamsi promittamus Regulam observare, ut nos praecipue Minores; debet enim intelligi promissio ad sensum Regulae, et ad mentem Patriarchae. Ita de nobis declarant Nicol. III.* Clem. Exiit de verb. signific. in 6. §. in primis, *et Clem.* Exivi §. Cum igitur in primis, de verb. signific. *et advettit D. Bonavent.* ad cap. 1. Regulae, *D. Thom.* 2. 2. quaest. 186. art. 9. *Sylvester* V. Relig. 1. quaest. 8. dict. 1. et quaest. 13. dict. 5. *Vasquez* prima 2. disp. 162. cap. 4. *Faustus* in theol. lib. 6. quaest.

121. *Angel*. V. relig. n. 28. *Sylvius* ad locum cit. D. Thom. *Bassaeus* V. Obed. num. 14. *Sanchez* lib. 6. in praec. cap. 4. *Hoc declarat S. Doctor* ad ea verba Reg. cap. 1. Regula fratrum minorum haec est, sanguis Domini Nostri Iesu Christi Evangelium observare, *dicens, Promitti Regulam sicuti est; certum est autem (ait) aliqua esse praeceptorie, alia tantum admonitorie iniuncta.*

4 So also in the Rule of the Fathers the Preachers it is said: *We do not will to bind under fault*. The same in the Rule of the Minims Passarelli reports *cap. 25*. The same in the Constitutions of the Society, *6. part. cap. 5*.

Sic et in Regula Patrum Praedicatorum dicitur: Nolumus obligare ad culpam. *Idem in Regul. Minim. refert Passarell.* cap. 25. *Idem in Constit. Societatis,* 6. part. cap. 5.

5 CONTEMPT indeed would be a grave offense, as D. Bonaventure notes *in speculo animae*, and in the Rule, and D. Thomas *art. 9.* and others.

CONTEMPTUS quidem esset grave piaculum, ut advertit D. Bonavent. in speculo animae, *et in Reg. ac D. Thom.* art. 9. *et alii.*

6 Sanchez infers *num. 10.* that it is mortal not to will to observe the rules, except those which compel under mortal sin; Basaeus subscribes *num. 16.* because it is to the grave prejudice of Religion, and he himself would be a scandal to others, and would in himself undergo the peril of a grave fall.

INFERT Sanchez num. 10. *esse mortale, nolle regulas observare, nisi quae sub mortali cogunt; subscribit Bassaeus* num. 16. *quia est in grave Religionis praeiudicium, et ipse esset caeteris scandalo, et in se subiret periculum gravis casus.*

7 It is however arduous to find when, and whence the rules bind under mortal sin. This I discussed in *Tract. de Legibus, disp. 5. quaest. 2.*

EST autem arduum invenire quando, et unde regulae obligent sub mortali. Hoc discussi Tract. de Legibus, disp. 5. quaest. 2.

8 All note that by usage it has already come in, that obedience does not compel under mortal sin, unless it be commanded in virtue of holy obedience, or of the Holy Spirit, as Suarez warns *Tom. 3. de Relig. lib. 10. cap. 4.*

ADVERTUNT omnes, usu iam esse invectum, ut obedientia ad mortale non cogat, nisi praecipiatur in virtute sanctae obedientiae, vel Spiritus Sancti, ut monet Suarez Tom. 3. de Relig. lib. 10. cap. 4.

9 Truly if the matter be grave, and it be commanded under penalty of divine indignation, or of excommunication, then the Prelate expresses that it is commanded under the lethal, as they commonly concede.

ENIM vero si materia sit gravis, et praecipiatur sub poena divinae indignationis, vel excommunicationis, iam Praelatus exprimit praecipi sub lethali, ut concedunt communiter.

10 But if the matter be light, it does not compel under mortal sin, even if the precept be added. So Sanchez *lib. 1. cap. 4.* Suarez *lib. 5 1. de leg. cap. 25.* Azor *tract. 1. lib. 5. cap. 6. quaestio 5.* and others among these.

Si autem materia sit levis, non coget sub mortali, etsi adiungatur praeceptum. Ita Sanchez lib. 1. cap. 4. *Suarez* lib. 5 1. de leg. cap. 25. *Azor* tract. 1. lib. 5. cap. 6. quaestio 5. *et alii apud istos.*

11 Yet some things light of themselves can be made grave by the consequent harm, or another circumstance, and be commanded under anathema, etc. so Valencia disp. 7. quaest. 5. puncto 6. saying, silence can for this reason be commanded.

> *ALIQUA tamen ex se levia possunt fieri e damno sequenti, vel alia circumstantia gravia, ac praecipi sub anathemate, etc. ita Valentia disp. 7. quaest. 5. puncto 6. dicens, posse ob id praecipi silentium.*

12 Cajetan judges it arduous, V. *Praeceptum*, to judge of these from mere apparent gravity or lightness, since often some things are grave in the judgment of Prelates which seem light to subjects, as Suarez saw in Tom. 3. de Relig. lib. 10. cap. 4. num. 9. Therefore in part. 9. constit. societ. I. suae, cap. 3. §. 10. it is declared that all things can be commanded which make for the proposed end of the Society, perfection.

> *ARDUUM existimat Caietanus V.* Praeceptum*, e sola gravitate, vel levitate apparente, de his iudicare, cum saepe aliqua sint Praelatorum iudicio gravia, quae subditis videntur levia, ut vidit Suarez Tomo 3. de Relig. lib. 10. cap. 4. num. 9. Ideo part. 9. constit. societ. I. suae, cap. 3. §. 10. declaratur posse praecipi omnia, quae ad propositum Societatis finem perfectionis faciunt.*

13 Conversely it can happen that the Prelate commands grave things under venial, as Sanchez saw lib. 6. cap. 4. and lib. 1. de matrim. disp. 9. num. 6. Castro de lege poen. cap. 5. docum. 4. Valencia loco cit. Navarrus cap. 23. n. 49. Diana part. 3. tract. 6. resol. 91. and others among these. Pelizarius pursues these at length.

> *E regione potest esse, ut Praelatus praecipiat res graves sub veniali, ut vidit Sanchez lib. 6. cap. 4. et lib. 1. de matrim. disp. 9. num. 6. Castro de lege poen. cap. 5. docum. 4. Valentia loco cit. Navar. cap. 23. n. 49. Diana part. 3. tract. 6. resol. 91. et alii apud istos. Haec late prosequitur Pelizarius.*

14 From what has been said you have, that formal disobedience is a most grave sin, as D. Bernard says serm. 46. in Cant.

> *Ex dictis habes, Inobedientiam formalem esse peccatum gravissimum, ut ait D. Bernardus serm. 46. in Cant.*

15 NOTE however that formal disobedience, which is not to will to obey because of the precept, includes contempt to be expressed in confession. So Suarez de Relig. lib. 3. cap. 28. num. 25. Sanchez lib. 6. cap. 4. num. 8. et 11. Valencia t. 2. disp. 7. quaest. 5. puncto 6. Layman lib. 1. tract. 5. cap. 7. Crousier ad cap. 10. Regul. min. lect. 3. Caspensis tract. 12. disp. 3. sect. 5. Eligius Basaeus V. *Obedientia*, and V. *Contemptus*, at the end.

> *NOTA vero, inobedientiam formalem, quae est nolle obedire, quia praeceptum, includere contemptum exprimendum in confessione. Ita Suarez de Relig. lib. 3. cap. 28. num. 25. Sanchez lib. 6. cap. 4. num. 8. et 11. Valentia t. 2. disp. 7. quaest. 5. puncto 6. Layman lib. 1. tract. 5. cap. 7. Crousier ad cap. 10. Regul. min. lect. 3. Caspensis tract. 12. disp. 3. sect. 5. Eligius Bassaeus V.* Obedientia*, et V.* Contemptus*, in calce.*

16 INDEED Suarez adds that such disobedience imports a twofold malice. The first is against religion, and is sacrilege; the second is against Justice, acquired by the prelate in the person of the subject; and this is acquired by a twofold title; for spiritual and dominative jurisdiction is derived upon all the prelates of a Religion from the supreme Pontiff, in virtue of which they can command and found statutes, since they are the ordained pastors of their subjects; besides, the subjection must be considered in which disobedience is committed; for if it be opposed to a special virtue, it will be a special sin; thus he who does not obey a prelate enjoining a fast for a just end will also sin against

temperance. Yet it is not the custom to set forth these various species in confessing, and it suffices to express that one did not obey the commanding Prelate, even though the vow enjoined it. It is however necessary, if the penitent be not known to the Confessor, that he set forth his state of solemn or simple vow. This I say on account of those who in the world make a simple vow of obeying their directors, or even sometimes Lords; which vow has a special obligation, which Suarez weighs throughout Chapter 3. For although he to whom this vow binds can obtain its use from the one vowing; properly however he is not his superior; and therefore he who in a doubtful case should wonder whether he was to be obeyed, could not obey; because for him then stands that possession which otherwise would stand for the prelate, if the one vowing were a Religious, who is bound not only in virtue of the vow but also of ecclesiastical subjection: And if indeed a case were given in which the prelate lacked this ecclesiastical jurisdiction, yet his condition would not forthwith be equated to that of one who could obtain it in virtue of a simple vow; because in this vow there is only a promise without the actual handing over of oneself and one's goods under the dominion of anyone; which always intervenes in the making of a solemn vow.

> *IMO addit Suares talem inobedientiam duplicem importare malitiam. Prima est contra religionem, et est sacrilegium; secunda est contra Iustitiam, praelato in personam subditi acquisitam; et haec acquiritur duplici titulo; nam derivatur in omnes Religionis praelatos Iurisdictio spiritualis et dominativa, a summo Pontifice; virtute cuius possunt praecipere, et statuta condere, cum sint suorum subditorum Pastores ordinati; praeterea considerandam est subiectio, in quo inobedientia committitur; nam si speciali virtuti opponatur, speciale erit peccatum; sic qui praelato, Ieiunium ob iustum finem iniungenti, non obtemperat, contra temperantiam etiam peccabit. Non tamen mos est huiusmodi varias species inter confitendum exponere, sufficitque exprimere, praecipienti Praelato non obtemperasse, quamvis votum id iniunxerit. Necesse tamen est, si poenitens Confessario notus non sit, ut statum voti solemnis, vel simplicis exponat. Hoc dico propter illos, qui in saeculo faciunt votum simplex obediendi suis directoribus, seu etiam aliquando Dominis; quod votum specialem habet obligationem, quam expendit Suares toto Capite 3. Nam licet ille, cui hoc votum obstringit, possit eius usum in voventem obtinere; proprie tamen non est eius superior; ac proinde qui in casu dubio ambigeret, num ei esset obediendum, posset non obedire; quia pro ipso tunc stat illa possessio, quae alias pro praelato staret, si vovens esset Religiosus, qui non solum virtute voti, sed etiam subiectionis Ecclesiasticae tenetur: Et si quidem casus daretur, in quo praelatus careret hac iurisdictione Ecclesiastica, non tamen subinde eius conditio aequipararetur illi, qui impetrare posset virtute voti simplicis; quia in hoc voto sit tantum promissio absque actuali traditione sui, et suorum sub dominium alicuius; quae semper intervenit in emissione voti solemnis.*

Disputation IV: On the Vow of Poverty

1 SINCE the price of heaven, appraised by Christ, is the spirit of poverty: *Blessed are the poor, for theirs is the kingdom of heaven*, no one who wishes to purchase such treasures can exempt himself from this poverty; Truly a loftier voice sounds in the ears of the perfect: *If you will be perfect, go, and sell, etc.* the rich shrink from this voice; grown fat with riches; the unclean, fatted with delights; and the proud, enlarged with honors, as the Holy Doctor has it tit. 3. dicta salut. cap. 3. citing that of Deuteronomy 32. *Incrassatus, impinguatus, dilatatus, dereliquit Deum factorem suum*, nor do they gladly receive this counsel, even those who profess a more exact observance of the commandments, as was that Young man who, after he had said, Matthew 19: *all these have I kept from my youth*, upon hearing: *Go and sell, and give*, at the sound of these words was struck dumb, *and went away sad, for he was having many possessions;* nor is it a wonder, for not all receive that word, since poverty is set as a sign, which is contradicted, as the Seraphic Doctor has at the place cited. The essence, excellence, and becomingness of this votive virtue we undertake to discuss here briefly.

> ***De Voto Paupertatis.***
>
> *CUM caeli pretium, a Christo taxatum, sit spiritus paupertas:* Beati pauperes, quoniam ipsorum est regnum caelorum*, nullus, qui tantos thesauros velit emere, valet ab hac paupertate se eximere; Verum altior vox perfectorum auribus insonat:* Si vis perfectus esse, vade, et vende, etc. *hanc vocem exhorrent auati; divitiis incrassati; immundi, deliciis impingvati; et superbi, honoribus dilatati, ut habet Sanctus Doctor tit. 3. dicta salut. cap. 3. afferens illud Deuteronomii 32.* Incrassatus, impinguatus, dilatatus, dereliquit Deum factorem suum*, nec libenter consilium istud excipiunt, etiam qui mandatorum observantiam exactiorem praetendunt, qualis erat Iuvenis ille, qui postquam, Matthaei 19. dixerat:* omnia haec custodivi a iuventute mea*, audito:* Vade et vende, et da*, ad horum verborum sonitum obmutuit,* et abiit tristis, erat enim habens possessiones multas; *nec mirum, non enim omnes capiunt verbum istud, cum paupertas posita sit in signum, cui contradicitur, ut habet Seraphicus loco citat. Huius itaque votivae virtutis essentiam, praestantiam, et decentiam hic breviter discutiendam suscipimus.*

Question I: On the essence of this vow

1 We have seen the SANCTITY of this Vow, and its antiquity, *disp. 2. quaest. 3.*

> ***De essentia huius Voti.***
>
> *SANCTITATEM huius Voti, eiusque antiquitatem vidimus* disp. 2. quaest. 3.

2 Religious POVERTY is a voluntary renunciation of temporal goods, as to dominion at least, and ownership independent of the will of superiors. So Suarez *tract. 3. de Rel. lib. 8. cap. 7. and Valencia disp. 10. quaest. 4. puncto 9.*

> *PAUPERTAS Religiosa est ultronea abdicatio bonorum temporalium, quod ad dominium saltem, et proprietatem independentem a voluntate superiorum. Ita Suarez* tract. 3. de Rel. lib. 8. cap. 7. et Valentia disp. 10. quaest. 4. puncto 9.

3 One must perceive well, however, what you promise by this vow, so that from it you may know in what way it can be violated.

> *OPORTET autem bene percipere, quid spondeas hoc voto, ut inde scias quo pacto violari queat.*

4 A LORD, or proprietor, first has the free faculty of using a thing at his own discretion without injury to another, which would be against commutative justice, and by this faculty someone is constituted a lord, as it were in first act, as is clear from the definition of dominion given, *Tract. de Iust. disp. 27. quaest. 1.*

> *DOMINUS, seu proprietarius primo habet liberam facultatem usurpandi rem arbitratu suo absque alterius iniuria, quae sit contra iustitiam commutativam, et per hanc facultatem constituitur aliquis dominus, quasi in actu primo, ut patet ex finitione dominii tradita,* Tract. de Iust. disp. 27. quaest. 1.

5 SECOND he uses the thing independently of the will of another, whereby he is lord of the thing, as it were in second act. Now Religious renounce both by the vow of Poverty: For they promise that they will neither have nor receive that free faculty over any thing, nor even use anything independently of the will of a superior. So Valencia *loco cit.* and Sylvester *V. Religio 6. num. 2.*

> *SECUNDO utitur re independenter a voluntate alterius, quo est rei dominus, veluti in actu secundo. Iam vero Religiosi utroque se abdicant voto Paupertatis: Pollicentur enim se neque habituros, neque recepturos liberam illam facultatem circa rem aliquam, neque etiam usurpaturos quicquam independenter a voluntate superioris. Ita Valentia* loco cit. *et Sylvester* V. Religio 6. num. 2.

6 Hence it will easily be judged in which cases Poverty is violated, of which I shall treat. For a religious is forbidden to have direct or useful dominion, or possession in money, or a thing worth money, whether movable or immovable, or independent use. *Rodriquez tract. 3. qq. quaest. 19. art. 3. et 4. Lessius lib. 2. cap. 41. num. 78. Sanchez lib. 7. moral. cap. 18. num. 25. Miranda tract. 1. quaest. 18. art. 1. Faust. in thesauro lib. 8. quaest. 12. Basseus V. Pauper. num. 1.* adding meanwhile that a religious retains dominion, or the right of honor, of fame, the right of electing, presenting, and consenting; likewise to hold a regular benefice, and spiritual jurisdiction, and to be able to act in his own name for acquiring, retaining, recovering such rights.

> *Hinc diiudicabitur facile in quibus casibus violetur Paupertas, de quibus agam. Prohibetur enim religiosus habere dominium directum, vel utile, aut possessionem in pecunia, seu re pecunia aestimabili, tam mobili, quam immobili, aut usum independentem.* Rodriquez tract. 3. qq. quaest. 19. art. 3. et 4. Lessius lib. 2. cap. 41. num. 78. Sanchez lib. 7. moral. cap. 18. num. 25. Miranda tract. 1. quaest. 18. art. 1. Faust. in thesauro lib. 8. quaest. 12. Basseus V. Pauper. num. 1. *addens interim religiosum retinere dominium, seu ius honoris, famae, ius eligendi, praesentandi, et consentiendi; item regulare beneficium, atque spiritualem iurisdictionem habendi, atque ad talia iura acquirenda, retinenda, recuperanda suo nomine agere posse.*

Question II: Which poverty is more excellent

1 All (as the common saying goes,) divert the rivulets of waters to their own mill. They say therefore. D. Thomas *quaest. 188. art. 7.* with the distinguished disciples of his order, and the Fathers of the Society, among whom Suarez *tomo 3. de Relig. lib. 8. cap. 9.* Valencia *disp. 10. quaest. 6. puncto 2. and others related by Basseus, V. Religio 1. num. 13.* that their poverty excels the others.

> *Omnes (ut vulgato fertur sermone,) rivos aquarum ad suum derivant molendinum. Dicunt igitur. D. Thom.* quaest. 188. art. 7. *cum discipulis sui ordinis praeclari, et Patres Societatis, inter quos Suarez* tomo 3. de Relig. lib. 8. cap. 9. *Valentia* disp. 10. quaest. 6. puncto 2. et alii relati a Basseo, V. Religio 1. num. 13. *suam paupertatem caeteris praecellere.*

2 They suppose, however, that Religion to be more perfect which is ordered to the better end. Since indeed the contemplative life is ordered to a higher end, namely it is raised to union with God; than the active, which is destined to the aids of neighbors, as Christ defines, *Luke 10. Martha, you are anxious and troubled about many things: Mary has chosen the best part, etc.* But that is better than both which attends to God by contemplation, and to neighbor by aid, especially spiritual; since these more closely imitate the mixed life of Christ and the Apostles, and not only shine by virtue but also illuminate, as D. Thomas discusses *quaest. 188. art. 6.* Sylvius with Cajet. *ibi* Sylvest. *V. Religio, 1.* Lessius *lib. 2. cap. 41. dub. 2.* Layman *lib. 4. tract. 5. cap. 1.*

> *Supponunt autem eam Religionem esse perfectiorem, quae ad finem meliorem est ordinata. Quoniam vero vita contemplativa est ad finem altiorem, quippe ad Dei unionem elevatur; quam activa, quae ad proximorum auxilia destinatur, ut definit Christus,* Lucae 10. Martha sollicita es, et turbaris erga plurima: Maria optimam partem elegit, etc. *Utraque vero melior est illa, quae et Deo attendit contemplatione, et proximo, adiutorio maxime spirituali; quippe hi vitam Christi, et Apostolorum mixtam propius imitentur, atque non modo luceant virtute, sed illuminent etiam, ut disserit D. Thom.* quaest. 188. art. 6. *Sylvius cum Caiet.* ibi *Sylvest.* V. Religio, 1. *Lessius* lib. 2. cap. 41. dub. 2. *Layman* lib. 4. tract. 5. cap. 1.

3 They suppose next, that Poverty, fasts, etc. are not the very formal object of perfection, but are mere instruments, whence it happens that their goodness and perfection must be drawn not from absolute perfection, but from instrumental; and accordingly that poverty will not be more perfect which strips more strictly, but which better serves the end of religion. Thence they advance, that since some external goods are required for the mixed life, the perfection of religion is not diminished if some goods are laid down in common, surely so that individuals without anxiety may attend to the end of religion. This doctrine is acclaimed with much applause, received. This at least Suarez asserts in some Religions *num. 5.* after Viguet. *sum. cap. 17. §. 1.* Ferrar. *3. com. G. cap. 143.* and others. He proves it with Valencia, because the Most Holy Council of Trent *sess. 25. cap. 3. de regul.* concedes immovable goods to mendicant Religions, except only the FF. of Observance and the Capuchins.

> *Supponunt deinde, Paupertatem, ieiunia, etc. non esse ipsum perfectionis obiectum formale, sed esse mera instrumenta, quo fit, ut eorum bonitas, et perfectio desumenda non sit e perfectione absoluta, sed ex instrumentali; atque adeo non erit perfectior paupertas, quae strictius expropriat; sed quae melius deserviat religionis fini. Hinc progrediuntur, quod cum ad vitam mixtam requirantur aliqua externa bona, non imminuitur religionis perfectio, si deponantur aliqua bona in communi, sane ut singuli absque sollicitudine religionis fini intendant. Haec doctrina multo plausu recepta acclamatur. Hoc saltem in aliquibus Religionibus astruit Suarez* num. 5. *post Viguet.* sum. cap. 17. §. 1. *Ferrar.* 3. com. G. cap. 143. *et alios. Id probat cum Valentia, quia Sanctissimum Tridentinum Consil.* sess. 25. cap. 3. de regul. *concedit bona immobilia Religionibus mendicantibus, solis exceptis FF. de Observantia, et Capucinis.*

4 Pellizarius expends more things for proving this.

> *Plura ad id probandum insumit Pellizarius.*

5 The opinion of D. Bonaventure *ad cap. 6. Regulae,* and the expositors *ibi*, as also of Bartoli *in minorica, cap. 1. cit.* that the Poverty of the Minors is far more perfect than the others: Therefore it is called by S. P. Francis *cap. 6. et* by the supreme Pontiffs, especially Nicholas III. *cap. Exiit. Et Clem. V. cap. Exivi, in 6. and* others, with John Fenestra *in tract. de Pauper. ALTISSIMAM.* And he adds: *This is that height of the Most High Poverty.*

Sententia D. Bonavent. ad cap. 6. Regulae, *atque expositorum* ibi, *nec non Bartoli* in minorica, cap. 1. cit. *Paupertatem Minorum esse longe caeteris perfectiorem: Ideo vocari a S. P. Francisco* cap. 6. et *a summis Pontificibus, praesertim Nicolao III.* cap. Exiit. Et Clem. V. cap. Exivi, in 6. et *aliis apud Ioan. Fenestrem* in tract. de Pauper. ALTISSIMAM. *Et addit:* Haec est illa celsitudo Altissima Paupertatis.

6 It is proved from the Holy Doctor first, from the foundation of the adversaries. That Poverty is more sublime which leads better to the end of perfection, which is the Charity of God and neighbor, which the Religion professing the mixed life, which is most perfect, professes excellently: Such is the Poverty of the Minors: Therefore. The Major is that of the adversaries. The Minor is proved; for the Poverty of the Minors says every renunciation, even in common, which exceeds all others, and especially separates from the cares of external things, whose cupidity is called the root of all evils, by the Apostle, and idolatry. Then thus: The more one recedes from one extreme, the more one approaches the other; but our Poverty most of all tears away from the world: therefore it most of all raises to the love of God. Hence *cap. 6. Regulae,* it is called by S. P. Francis rightly and deservedly Most High, and it is acclaimed in the abstract: *This is that height of the Most High Poverty, which made you, my most dear brothers, heirs and kings of the kingdom of heaven, poor in things, and raised you in virtues.* Behold the summit of virtues, which consists in charity. It alludes to the promise of Christ for the present: *Blessed are the poor in spirit: for theirs is the kingdom of heaven,* as D. Bonaventure notes there, since the Kings of that kingdom, on account of their most high state and merit, are acclaimed stable on the throne, if they persevere in their vocation. The minor is proved still further; for what most of all is repugnant to the love of God and neighbor is the immoderate love of one's own, which makes us, cast down to build the infernal Babylon of the devil, descend to the center, as D. Augustine says 14. *de CIV. cap. ult. et lib. 11. de Gen. ad litt. cap. 15.* and that Mine and Thine, as D. Gregory says *homil. in Breviar. de uno Martyre.* Therefore, he who more abstracts from this love raises most of all to the city of God, which is built by Charity, as D. Augustine says *loco cit. de civit.*

Probatur a S. Doctore primo, adversariorum fundamento. Ea est Paupertas sublimior, quae ducit melius ad finem perfectionis, qui est Charitas Dei, et proximi, quam eximie profitetur Religio, vitam profitens mixtam, quae est perfectissima: Talis est Paupertas Minorum: Ergo. Maior est adversariorum. Minor probatur; nam Paupertas Minorum dicit omnem expropriationem, etiam in communi, quae omnes alias excedit, et maxime separat a curis rerum externarum, quarum cupiditas radix omnium malorum dicitur, apud Apostolum, et idolatria. Tunc sic: Quanto ab uno extremo receditur, tanto acceditur ad alterum; sed nostra Paupertas maxime avellit a mundo: ergo maxime elevat ad Dei amorem. Hinc cap. 6. Regulae, *a S. P. Francisco iure, ac merito Altissima vocatur, eique acclamatur in abstracto:* Haec est illa celsitudo Altissima Paupertatis, quae vos charissimos fratres meos, haeredes, et reges regni caelorum instituit, Pauperes rebus fecit, et virtutibus sublimavit. *En virtutum apicem, qui in charitate consistit. Alludit ad Christi promissum de praesenti:* Beati pauperes spiritu: quoniam ipsorum est regnum caelorum, *ut adnotat ibi D. Bonavent. quippe Reges illius regni ob altissimum statum, et meritum stabiles in throno acclamantur, si in vocatione perseveraverint. Probatur adhuc minor; nam quod amore Dei, et proximi maxime repugnat, est amor proprius immoderatus, qui facit, ut deiecti ad struendam diaboli Babylonem infernam descendamus ad centrum, ut ait D. August. 14.* de CIV. cap. ult. et lib. 11. de Gen. ad litt. cap. 15. *et illud Meum, et Tuum, ut ait D. Gregor.* homil. in Breviar. de uno Martyre. *Igitur, qui magis abstrahit ab hoc amore, maxime elevat ad civitatem Dei, quae Charitate extruitur, ut ait D. August.* loco cit. de civit.

7 It is confirmed; for this poverty is enjoined by Christ willing perfection: *If you will be perfect, go, sell all that you have, and give to the poor,* as D. Jerome expounds *epist. 8. ad Demetriadem: It belongs to the height of apostolic and perfect virtue to sell all things and distribute to the poor, and thus with Christ to fly upward, light and*

unencumbered, to heavenly things. The whole argument is D. Bonaventure's also *opusculo de Christi paupertate, art. 1. et Apol. paup. cap. 3. resp. prima.*

> *Confirmatur; nam haec paupertas iniungitur a Christo volenti perfectionem:* Si vis perfectus esse, vade, vende omnia, quae habes, et da pauperibus, *ut exponit D. Hieronym.* epist. 8. ad Demetriadem: Apostolici est fastigii, perfectaeque virtutis omnia vendere, et pauperibus distribuere, et sic levem, et expeditum cum Christo ad caelestia subvolare. *Totum argumentum est D. Bonavent. etiam* opusculo de Christi paupertate, art. 1. et Apol. paup. cap. 3. resp. prima.

8 All answer with D. Thomas, that those leading the active life need many resources, because many things are necessary for actions, as Aristotle says 10. *Eth. cap. 8.* but those living in contemplation, as Monks, need external things less, as the Philosopher says above; for they are more attentive to the spirit, whence they are content with moderate revenues. Those who in the end lead a mixed life, communicating contemplation with action, since they have a doubled solicitude for spiritual things, therefore undergo and suffer the least solicitude; but the least solicitude is to reserve something for necessity. For thus also Christ, the master of the poor, had handed over his purse to Judas for expenses, and necessary things were bought with it, as is gathered from John *cap. 4. 12. et 13.*

> *Respondent omnes e D. Thom. agentes vitam activam opibus indigere multis, quia ad actiones multa sunt necessaria, ut ait Aristoteles 10.* Eth. cap. 8. *at degentes in contemplatione, ut Monachi, minus egent externis, ut ait Philosophus supra; sunt enim magis spiritui attenti, unde moderatis proventibus sunt contenti. Qui tandem vitam trahunt mixtam communicando contemplationem cum actione, cum sollicitudinem geminatam spiritualium habeant, ideo minimam sollicitudinem adeunt, ac patiuntur; minima autem sollicitudo est aliqua reservare pro necessitate. Sic enim et Christus magister pauperum, loculos suos Iudae ad expensas tradiderat, et his emebantur necessaria, ut colligitur ex Ioan.* cap. 4. 12. et 13.

9 These things are not proved against the Seraphic Doctor, who wove the little work on the poverty of Christ, against William. He indeed admits that Christ had purses at the time of persecution, also compassionating infirmity; but sending the disciples, he commanded: *Take nothing, neither scrip, etc.* giving them the form of the Evangelical life. He adds, that he had purses as supreme Prelate of the Church, to relieve the necessities of the poor. Therefore he did not have a denarius for himself to pay the tribute *Matt. 17.* as the Gloss says.

> *Haec non probantur Seraphico, qui opusculum contexuit de Christi paupertate, contra Guillelmum. Fatetur quidem, Christum tempore persecutionis loculos habuisse, etiam infirmitis compatientem ; at mittens discipulos, iussit :* Nihil tuleritis, non peram, etc. *dans eis formam vitae Evangelicae. Addit, cum loculos habuisse, ut summum Praelatum Ecclesiae ad pauperum necessitates sublevandas. Ideo nec denarium pro se ad tributum solvendum habuit* Matth. 17. *ut ait Glossa.*

10 He shows also that it is FALSE, that the least solicitude handed down by Christ is to have purses.

> *FALSUM etiam esse ostendit, minimam sollicitudinem, a Christo traditam, esse loculos habere.*

11 FIRST it is clear from the scriptures *Matt. 19. Go, sell all, and give to the poor.* He enjoined this, that he might give the form of religious perfection, reserving nothing at all to himself, either in particular or in common, as the Glosses expound, and the Fathers, *Matt. 10. Do not possess gold, nor silver, nor money, etc.*

> *PRIMO patet e scripturis* Matth. 19. Vade, vende omnia, et da pauperibus. *Hoc iniunxit, ut formam daret perfectionis religiosae, nihil sibi penitus reservando, vel in particulari, vel in communi, ut Glossae exponunt, et Patres,*

Matth. 10. Nolite possidere aurum, neque argentum, nec pecuniam, etc.

12 *Mark 12.* he praises the widow, because from her want she had given her whole livelihood.

Marci 12. *laudat viduam, quia de penuria sua dederat totum victum suum.*

13 *Luke 12. Consider the ravens, etc.* where he addresses the saints to perfection, as the Gloss says, that they have nothing.

Lucae 12. Respicite corvos, etc. *ubi sanctos alloquitur ad perfectionem, ut ait Glossa, ne quid habeant.*

14 *Matthew 8. The foxes have dens, and the birds of the air nests: but the son of man has not where to lay his head,* where Chrysostom homil. 28. *Why do you expect money, following me? Do you not see that I have not a lodging, not even as much as the birds?* So the Gloss also there.

Matthaei 8. Vulpes foveas habent, et volucres caeli nidos : filius autem hominis non habet, ubi caput suum reclinet, *ubi Chrysostom. homil. 28.* Quid pecunias expectas, sequens me congregare? Non vides quia diversorium mihi, neque tantum quantum avibus? *Ita Glossa etiam ibi.*

15 SECOND *Cor. 8. Christ is called needy and poor.* See other scriptures in the Holy Doctor at the cited places, as *Act. 3. Silver and gold there is not for me.*

SECUNDA Cor. 8. Christus egenus dicitur, et inops. *Alias scripturas vide in S. Doctore locis cit. ut* Act. 3. Argentum et aurum non est mihi.

16 He adds MANY testimonies of the Holy Fathers in the cited little works, and *quaest. 4. in Regulam.*

MULTA SS. Patrum addit testimonia opusculis adductis, et quaest. 4. in Regulam.

17 D. AMBROSE lib. 6. in Lucam, cap. 9. *Of what sort he ought to be who evangelizes the kingdom of God is designated by the evangelical precepts, that without staff, without scrip or shoes, without bread, without money, that is, not requiring the supports of secular aid, and secure in faith he may think that he can more abundantly supply the want of them.* Hence the mission of the disciples, *Luke 10.* was without the aid of temporal things.

D. AMBROSIUS lib. 6. in Lucam, cap. 9. Qualis debeat esse, qui evangelizat regnum Dei, praeceptis evangelicis designatur, ut sine virga, sine pera, sive calceamento, sine pane, sine pecunia, hoc est, subsidii saecularis adminicula non requirens, fideque tutus putet sibi quominus ea requirat, magis posse suppetere. *Hinc discipulorum missio,* Lucae 10. *erat sine rerum temporalium adminiculo.*

18 D. JEROME epist. ad Heliodor. *I do not will that you recall former necessities; you love the naked eremus: I do not will that the ancient difficulty of pilgrimage terrify you. You who believe in Christ, believe also his words. Seek first the kingdom of God, and all these things will be added to you. A scrip must not be taken up by you, nor a staff; rich is he who is poor with Christ.* Here again he enjoins the counsel of Christ, *Matt. 6. Consider the birds of the air, they labor not, neither do they spin, and God feeds them. Be not solicitous therefore.* He adds to this the Gloss of D. Jerome himself, and of D. Augustine.

D. HIERONYMUS epist. ad Heliodor. Nolo, pristinarum necessitatum recorderis, nudos amas eremus : nolo, te antiqua peregrinationis terreat difficultas. Qui in Christum credis, et eius crede sermonibus. Quaerite primum regnum Dei, et haec omnia adiicientur vobis. Non pera tibi sumenda est, non virga, dives est, qui cum Christo pauper est. *Hic rursus iniungit consilium Christi,* Matth. 6. Respicite volatilia caeli, non

laborant, neque nent, et Deus pascit illa. Nolite ergo solliciti esse. *Addit ad hoc Glossam D. Hier. ipsius, et D. Augustini.*

19 D. GREGORY homil. 20. in Ezech. *When one vows something of his own, it is a sacrifice: but when all that he has, all that he lives, it is a holocaust.*

D. GREGORIUS homil. 20. in Ezech. Cum quis aliquid suum vovet, sacrificium est : cum vero omne quod habet, omne quod vivit, holocaustum est.

20 D. BERNARD epist. 42. *Happy he who retains nothing for himself of all things; he has not a den as the fox, nor a nest as the birds of the air, not purses, as Judas, etc.*

D. BERNARDUS epist. 42. Felix, qui nihil sibi retinet ex omnibus, non habet foveam ut vulpes, nec tanquam volucres caeli nidum, non loculos, quomodo Iudas, etc.

21 He also adduces many reasons. See the work itself.

Multas etiam rationes apponit. Ipsum vide.

22 He ADDS that our Rule was dictated by Christ on the mountain of Palumbo, as is had in the life of S. P. Francis, confirmed by Holy Church, as is had cap. *Nimis prava de excess. Praelat.* and the Pontiff Honorius III. in this appended confirmation protests the divine indignation against the violator. But if also the holy Council of Trent forbids the Capuchins and Minors of Observance goods in common, surely it makes for perfection, so that so grave a decree not be idle, but concerning the good of the Church.

ADDIT Regulam nostram a Christo dictatam in monte Palumbo, ut habet in vita S. P. Francisci, eam a S. Ecclesia confirmatam, ut habetur cap. Nimis prava de excess. Praelat. *et Pontifex Honorius III. haec confirmationis a se apposita violanti divinam protestatur indignationem. Quod si et sanctum Concil. Trident. vetat Capucinis, et Minoribus de Observ. bona in communi, sane ad perfectionem facit, ut tam grave decretum otiosum non sit, sed concernens bono Ecclesiae.*

23 They OBJECT especially, that God is not to be tempted, but thus God is tempted by casting away necessities.

OBIICIUNT praecipue, non esse Deum tentandum, sic autem tentatur Deus abiiciendo necessaria.

24 I answer at once with D. Bonaventure, that he is not tempting God who *Matt. 6.* promised providence; and in other places gives counsel about this. Nay he tempts God who doubts of his promises exhibited: *Consider the birds of the air, etc.* Whence D. Jerome says there: *Therefore he who doubts of this, as the sons of Israel, tempts God, who said: Can God prepare a table in the desert? But perfect men ought not to be conformed to these, but rather to the Apostles, of whom it is said 2. Cor. 4. We are cast down, but we are not destitute.* See the Holy Doctor, who adds in the apol. Bede, Chrysostom, Ambrose, and Augustine.

CITO respondeo cum D. Bonaventura non tentari Deum, qui Matth. 6. *promisit providere; et aliis locis consilium de hoc dat. Imo tentat Deum, qui de eius promissis exhibitis ambigit :* Respicite volatilia caeli, etc. *Unde ait D. Hieronym. ibi :* Qui igitur de hoc dubitat, sicut filii Israel, Deum tentat, qui dicebant : Nunquid poterit Deus parare mensam in deserto? His autem non debent viri perfecti conformari, sed potius Apostolis, de quibus dicitur 2. Cor. 4. Aperiamur, sed non destituimur. *Vide S. Doctorem, qui addit in apol. Bedam, Chrysostom. Ambros. et Augustinum.*

25 They OBJECT secondly. Virtue is not in extremes, but to give all things is prodigality in the extreme.

> *OBIICIUNT secundo. Virtus non est in extremis, sed prodigalitas est in extremo dare omnia.*

26 The Holy Doctor ANSWERS that Liberality is in the mean: but prodigality is in the extreme, badly consuming; but to leave all things for the love of Christ is the mean of perfection, whereby unburdened we may go more expeditiously to God.

> *RESPONDET S. Doctor Liberalitatem in medio esse : prodigalitatem vero male consumentem in extremo : at relinquere omnia pro amore Christi est perfectionis medium, quo exonerati ad Deum expeditius eamus.*

27 NEITHER let us fear; for *6. Matth.* he promises: *Seek first the kingdom of God, and all these things (that is, food and clothing) will be added to you.* See the Holy Doctor differing excellently in both works.

> *NEQUE timeamus ; nam* 6. Matth. *spondet :* Quaerite primum regnum Dei, et haec omnia (idest victus, et vestitus) adiicientur vobis. *Vide S. Doctorem egregie differentem in utroque opere.*

28 They OBJECT, that Religions which follow this highest poverty soon relaxed have failed; but others have persevered steadfastly. They urge also that from it proprieties are introduced.

> *OBIICIUNT, Religiones, quae hanc summam sequuntur paupertatem, cito laxatas defecisse; alias vero constanter permansisse. Urgent quoque inde induci proprietates.*

29 Pellizarius urges that D. Bonaventure held this sense *epistolis ad ministros*, and that the Council of Trent conceded goods in common to other Orders.

> *URGET Pellizarius id sensisse D. Bonavent.* epistolis ad ministros*, et Concilium Tridentinum concessisse aliis Ordinibus bona in communi.*

30 THESE things avail nothing; for the perfection of virtue is in the arduous; what wonder then that the Most High Poverty has been assailed by tempests? the lightnings strike the highest mountains, and if that Order has undergone relaxations, God will provide also reformations. Nor does S. Bonaventure speak in that sense which Pellizar. takes, but he exhorts the ministers to remove relaxations and depraved examples, on account of which worldly men deny alms. But as to what he says of the Council of Trent, let it be that it was judged to belong to perfection, to concede goods in common. Would you then say that it denied these to the Minors on account of imperfection? far be it. Nay, the most prudent Fathers, compassionating the depraved age and the infirmity of religious, concede those goods according to their institutes, who would with difficulty fulfill their duties without them.

> *HAEC nihil valent ; nam perfectio virtutis est in arduo; quid ergo mirum altissimam Paupertatem tempestatibus esse impetitam? feriunt summos fulmina montes, et si Ordo iste laxationes passus est, etiam reformationes Deus providet. Neque S. Bonavent. eo sensu loquitur, quo accipit Pellizat. sed hortatur ministros, ut laxationes, et prava exempla amoveant, ob quae mundani eleemosynas denegant. Quod vero ait de Concilio Trident. esto perfectionis sit existimatum, concedere bona in communi. Ergone dices ad imperfectionem ea minoribus denegasse? absit. Imo compatientes prudentissimi Patres depravato saeculo, et infirmitati religiosorum ea bona concedunt, iuxta eorum instituta, quae difficile sine illis sua munia peragerent.*

Question III: Whether mendicancy befits religious poverty

[1] UVICLEPHUS, therefore, condemned in the Council of Constance, *sess. 8*, and in the Bull of Martin V, and Luther with Roffensis, *art. 41. contra eum*, clamored that mendicancy should be done away with altogether. Nicholas III approves it, *cap. exiit de verb. significat. in 6.* And it is approved by Vualdensis, *lib. 4. doctrinae fidei, cap. 3. et 4.* Caietanus, *ad art. D. Thom.* I ASSERT that mendicancy is honorable for religious.

> An Religiosam Paupertatem deceat mendicitas.
>
> *UVICLEPHUS ideo damnatus in Concilio Constantiae* sess. 8. *et in Bulla Martini V. et Lutherus apud Roffensem,* art. 41. contra eum, *mendicitatem de medio tollendam clamabant. Eam vero approbat Nicolaus III.* cap. exiit de verb. significat. in 6. *Eamque probant Vualdensis* lib. 4. doctrinae fidei, cap. 3. et 4. *Caietanus* ad art. D. Thom. *ASSERO, mendicitatem religiosis honestam esse.*

[2] PROVED by St. Bonaventure first from the Rule taken up by St. Francis, from 10 Matth.: *Do not possess gold, or silver, nor money in your purses, nor a scrip for the journey, nor two coats, nor shoes.* The same he commands *Mark 6. and Luke 9. and 10.* There they are seen to live not from labor, but from the liberality of those to whom they preached. The same is read 1 *Cor. 9. and* he gives the reason: *Who ever serves at his own charges?* And Christ says: *The laborer is worthy of his hire.* To this the Apostle urges, 2 *Cor. 8.*

> *PROBATUR a D. Bonavent. primo ex Regula assumpta a D. Francisco, ex 10. Matth.* Nolite possidere aurum, vel argentum, neque pecuniam in zonis vestris, neque peram in via, neque duas tunicas, nec calceamenta. *Idem praecipitnr* Marci 6. et Lucae 9. et 10. *Ibi autem non ex labore, sed ex liberalitate eorum, quibus praedicabant, vivere cernuntur. Idem legitur 1.* Cor. 9. et *reddit rationem:* Quis militat suis stipendiis unquam? *Et Christus it:* Dignus est enim operarius mercede sua. *Ad id hortatur Apostolus 2.* Cor. 8.

[3] PROVED secondly by St. Bonaventure from the example of Christ, who declares himself a beggar, *Psalm. 39. But I am a beggar and poor,* and *Psalm. 108. And he persecuted a needy and beggarly man:* where Bellarmine observes that in these places is the word אֶבְיוֹן, which is had *Deuter. 15.* where it is said: *There shall be no beggar among you.* But observe that it in no place signifies a beggar, but in *Deuter.* the needy man, and in the *Psalms*, the poor man, as Pagn. notes, although in the Latin Bibles translated by Pagnino it reads *beggar*. But the LXX also read *poor*, with the Chaldean Paraphrase. It is had in the original *Psalm. 39.* עָנִי וְאֶבְיוֹן *afflicted, and poor.* The same you have *Psalm. 108.* but among the Hebrews 109. 17. This the Seraphic Doctor observed, I think, who does not bring this passage against himself, when at *num. 13.* he opposes to himself *Cod. de mendic. validis, lib. 11. cap. 25.* where the able-bodied are forbidden to beg from house to house publicly.

> *PROBATUR secundo a D. Bonavent. exemplo Christi, qui se mendicantem asserit,* Psalm. 39. Ego autem mendicus sum, et pauper, *et* Psalm. 108. Et persecutus est hominem inopem, et mendicum: *ubi observat Bellarminus his locis esse vocem* אֶבְיוֹן *quae habetur* Deuter. 15. *ubi dicitur:* Non erit in te mendicus. *Sed observa in nullo significare mendicum, sed in* Deuter. *inopem, et in* Psalmis, *egenum, ut notat Pagn. etiamsi in Bibliis Latinis translatum a Pagnino legatur* mendicus. *Sed et LXX. legunt* egenus, *cum Parapht. Chaldaeo. Habetur autem in originali* Psalm. 39. עָנִי וְאֶבְיוֹן afflictus, et egenus. *Idem habes* Psalm. 108. *at apud Hebraeos 109. 17. Haec observavit, ut reor, S. Doctor, qui hunc locum non obiicit sibi, cum* num. 13. *sibi opponat* Cod. de mendic. validis, lib. 11. cap. 25. *ubi inhibetur validis mendicare de domo in domum publice.*

4 Both Psalms are applied to Christ, and indeed the former by Paul, *Heb. 9.* and the latter by Peter, *Act. 1. and 2. Cor. 8. For your sakes he was made poor,* where the Greek has ἐπτώχευσε, *signifying a beggar* of gentle birth, who confidently asks for a meal somewhere, as Homer hints, *Odiff. 17.* Now Christ was such a beggar of gentle birth, such as we call in Italian *Poveri vergognosi.* He asked indeed, but with reserve, now at Martha's house *Luke 10.* now at Zacchaeus' *ch. 19.* now at Simon the Leper's *Matth. 26. Marci 14.* now in the house of Peter *Luke 4.* now in the house of Matthew *ch. 9. et Marci 11. Having looked round on all things, he went out to Bethany,* seeing that no one had invited him.

> *Christo uterque Psalmus applicatur, et quidem prior a Paulo,* Heb. 9. *et posterior a Petro* Act. 1. et 2. Cor. 8. Propter vos egenus factus est*, ubi Graecus habet ἐπτώχευσε* mendicum significans *ingenuum, qui prandium confidenter alicubi postulat, ut innuit Homerus* Odys. 17. *Iam vero Christus talis mendicus fuit ingenuus, quales Italice vocamus* Poveri vergognosi. *Quaerebat sane, sed reservate, nunc apud Martham* Lucae 10. *nunc apud Zachaeum* c. 19. *modo apud Simonem Leprosum* Matth. 26. Marci 14. *nunc in domo Petri* Lucae 4. *nunc in domo Matthaei* cap. 9. et Marci 11. Circumspectis omnibus exiit in Bethaniam*, videns, nullum ipsum invitasse.*

5 IN Deuteronomy, however, he said that no beggar at all, or needy man, would be among them, not forbidding, but foretelling from the blessing of their produce, if only they observed the law; otherwise he threatened in the same chapter: *The poor shall not be lacking among you.* Whence many in Judea in the time of Christ were beggars *Luke 16.* Lazarus *Luke 18.* the blind man begging *Ioan. 9.* another blind man *Act. 3.* that lame man. Therefore God had promised that there would be no beggar, either of gentle birth, or going publicly from door to door, because he would ward off want from those observing the divine law: but Christ in the Vulgate is called a beggar, and to this we must hold, even if in the Hebrew it is not read, except *poor and needy, not a beggar;* perhaps because he was not among those who ply their trade at the temple porches and through the streets. I will bring another solution from St. Bonaventure, *ad 6.*

> *IN Deuteronomio autem nullum penitus mendicum, vel egentem futurum dixit, non prohibens, sed praedicens ex benedictione proventuum, si tamen legem observassent; alioqui minatus est eodem cap.* Non deerunt pauperes inter vos. *Unde multi in Iudaea tempore Christi erant mendici* Lucae 16. *Lazarus* Lucae 18. *Caecus mendicans* Ioan. 9. *alius caecus* Act. 3. *claudus ille. Igitur promiserat Deus, nullum fore mendicum, aut ingenuum, aut publice euntem ostiatim, quia inopiam arceret observantibus Divinam legem: Christus vero in Vulgata dicitur mendicus, et huic standum etiamsi in Hebraeo non legitur, nisi* egenus, et inops, non mendicus; *forsan quia non erat e quaestuantibus in valvis templi, et per vias. Aliam solutionem e D. Bonavent. afferam* ad 6.

6 THESE things I have said, that I may satisfy Armachanus, who says it is not read that Christ was a beggar. But what he adds about the necessary poverty of Christ lies sufficiently refuted by Bellarmine.

> *HAEC dixi, ut Armacano satisfaciam dicenti, non legi, Christum fuisse mendicum. Quae vero addit de Christi necessaria paupertate, satis a Bellarmino explosa iacent.*

7 HENCE also falls what he adds, that the religious mendicant life was not instituted by Christ; for this is against the declaration of Nicholas P. III, *cap. Exiit,* and, as Apostolic, it was approved by Innocent III by the testimony of St. Bonaventure, Honorius III, who confirmed the rule. Gregor. IX. Innoc. IV. Alexand. IV. as Ioan. XXII. reports in *Extrau. Quia quorundam, de verb. significat.* and also the General Council of Lugdunum, as Nicholas P. reports, *cap. Exiit,* and that of Constance, *sess. 8.*

> *HINC etiam ruit id quod addit, vitam mendicandi religiosam non esse a Christo institutam; hoc enim est contra declarationem Nicolai P. III.* cap. Exiit*, eamque, ut Apostolicam, approbarunt Innocent. III. teste D. Bonavent.*

Honorius III. qui regulam confirmavit. Gregor. IX. Innoc. IV. Alexand. IV. ut refert Ioan. XXII. in Extrau. Quia quorundam, de verb. significat. *nec non Concil. Generale Lugdun. ut refert Nicolaus P.* cap. Exiit, *et Constantiense* sess. 8.

8 NOR did Christ ever revoke this institution, but dispensed for the time of the fierce persecution *Lucae 22.* Whence also 1. *Cor. 9.* the Apostle teaches by the argument of Christ, adduced above, namely, that those who preach the Gospel should live from the Gospel.

NEQUE unquam revocavit hoc institutum Christus, sed pro tempore persecutionis atrocis dispensavit Lucae 22. *Unde et 1.* Cor. 9. *Apostolus argumento Christi, supra allato id docet, nempe, ut qui Euangelium annunciant, de Euangelio vivant.*

9 PROVED still by St. Bonaventure, *from 11. Heb.* where the Saints are said: *They wandered about in sheepskins, destitute.* So Elias 3. *Regum, 17.* Eliseus, and others.

PROBATUR adhuc a D. Bonavent. ex 11. Heb. *ubi SS. dicuntur:* Circuierunt in melotis, egentes. *Sic Elias 3.* Regum, 17. *Elisaeus, et alii.*

10 HE proves also by examples of the saints of the new testament, who even wrought miracles in receiving alms. He adds the authorities of the holy Fathers, especially St. Gregory, *lib. 8. moral. cap. 5.* St. Hieron. *ad Iulian. epist. 34.*

PROBAT etiam exemplis sanctorum novi testamenti, qui et miracula patrarunt in eleemosynis accipiendis. Addit authoritates SS. Patrum, praesertim D. Gregor. lib. 8. moral. cap. 5. *D. Hieron.* ad Iulian. epist. 34.

11 HE proves also by reasons: Then because the state of the poor is that of the needy, and it is not only not forbidden religious to beg, but it is declared holy and meritorious, because it humbles and makes one contemptible. Then it is fair that the spiritual laborer at least be sustained, while he spends his life for them, as Christ and the Apostle say.

PROBAT etiam rationibus: Tum quia pauperum status est egentium, et non modo vetitum est religiosis mendicare, imo declaratur sanctum, et meritorium, quia humiliat, et contemptibilem exhibet. Tum aequum est, ut spiritualis operarius saltem alatur, dum vitam impendit pro eis, ut aiunt Christus, et Apostolus.

12 SINCE, however, there is another mendicancy, religious, unto evangelical perfection, which I proved honorable, and the Seraphic Doctor confirms again in the body, by authority, and by reason, as anyone can read through. Another is of necessity, which he shows is meritorious, if patiently undergone, as is shown of Lazarus *Luke 16.* Another is from cupidity. This the holy Doctors reprehend with St. Ambrose, *lib. 2. de offic. cap. 16.* St. August. *de oper. monach. cap. 21. et seqq.*

QUONIAM vero alia est mendicitas religiosa ad perfectionem Euangelicam, eamque honestam probavi, et iterum confirmat S. Doctor in corpore, authoritate, et ratione, ut quisque potest perlegere. Alia est necessitatis, quam ostendit meritoriam, si patienter agatur, ut ostenditur de Lazaro Lucae 16. *Alia ex cupiditate. Hanc reprehendunt SS. Doctores cum D. Ambrof.* lib. 2. de offic. cap. 16. *D. August.* de oper. monach. cap. 21. et seqq.

13 The adversaries OBJECT first from Scripture, which detests mendicancy, as the cause of many evils, *Prouerb. 30. Give me not beggary, and riches: give me only food necessary for my sustenance: lest perhaps being filled I be enticed to deny, and say: Who is the Lord? or compelled by want I steal, and perjure the name of my God, Eccles. 17. Through want many have fallen away.*

OBIICIUNT adversarii primo e Scriptura, quae detestatur mendicitatem, ut causam multorum malorum, Prouerb. 30. Mendicitatem, et divitias ne dederis mihi: tantum tribue victui meo necessaria: ne forte satiatus illiciar ad negandum, et dicam: Quis est Dominus? aut egestate compulsus furer, et periurem nomen Dei mei, Eccles. 17. Propter inopiam multi deliquerunt.

14 St. Bonaventure ANSWERS, *art. 1. de paupertate Christi*, that the Holy Spirit speaks of involuntary poverty, whose desire is the handle of evil; not of voluntary poverty, *whereby we are as having nothing, and possessing all things, 2. Cor. 6.* For this looks up to heaven, nay, sits in it. He brings St. Chrysostom, *homil. 47. in Matth.*

RESPONDET D Bonavent. art. 1. de paupertate Christi, *loqui Spiritum Sanctum de paupertate involuntaria, quae cupido est ansa ad malum; non de voluntaria,* qua sumus tanquam nihil habentes, et omnia possidentes 2. Cor. 6. *Haec enim caelum suspicit, imo in eo sedet. Affert D. Chrysostomum* homil. 47. in Matth.

15 He ANSWERS secondly, that it speaks of the state of the old testament, where men, for the most part imperfect, esteemed the greatest blessings in a land flowing with milk and honey, as Chrysost. says, *homil. 18. in epist. ad Heb.* and Ambros. *serm. 8. in Psalm. 118.*

RESPONDET secundo, loqui de veteris testamenti statu, ubi homines, ut plurimum imperfecti, maximas benedictiones aestimabant in terra fluente lacte, et melle, ut ait Chrysost. homil. 18. in epist. ad Heb. *et Ambros.* serm. 8. in Psalm. 118.

16 They OBJECT secondly: mendicancy is imposed only in punishment of faults, *Psalm. 108. Wavering, let his children be removed, and beg,* and *Psalm. 36. I have not seen the just forsaken, nor his seed seeking bread, Psalm. 33: There is no want to them that fear him, Eccles. 40. Better is it to die, than to want.*

OBIICIUNT secundo: mendicitas indicitur solum in poenam culparum, Psalm. 108. Nutantes transferantur filii eius, et mendicent, *et* Psalm. 36. Non vidi iustum derelictum, nec semen eius quaerens panem, Psalm. 33: Non est inopia timentibus eum, Eccles. 40. Melius est mori, quam indigere.

17 The Seraphic Doctor ANSWERS that want of spiritual goods, and involuntary, is the punishment.

RESPONDET S. Doctor inopiam bonorum spiritualium, et involuntariam, esse poenam.

18 To the second passage he says with the Gloss, that the just do not need spiritual food — surely many just men have begged. Elias 3. *Reg. 17.* David 1. *Reg. 21.* Lazarus, *Luke 16.* Therefore Hieronymus and Augustine explain it of spiritual refreshment.

Ad secundum locum ait e Glossa, iustos non egere spiritualibus ferculis, sane multi iusti mendicarunt. Elias 3. Reg. 17. *David 1.* Reg. 21. *Lazarus,* Lucae 16. *Itaque de spirituali id refectione explicant Hieronymus, et Augustinus.*

19 Bellarmine ANSWERS secondly, *cap. 46.* citing Titelmanus, that that word (*derelictum*) is referred also to the seed seeking bread. Thus the sense is: *I have not seen the just, nor his children, even seeking bread, forsaken by God.* It had been better for him to say that this response is that of St. Bonaventure, from whom he excerpted all the others, as is evident to the reader.

RESPONDET secundo Bellarminus, cap. 46. *Titelmanum allegans, illud (*derelictum*) referri etiam ad semen quaerens panem. Ita sensus est :* Non vidi iustum, neque filios eius, quaerentes etiam panem, a Deo derelictos. *Satius erat ei dicere eam responsionem esse D. Bonaventurae, e quo omnia alia excerpsit, ut patet legenti.*

20 ¶ The Seraphic Doctor adds that this is true of the anxious solicitude of the greedy, which does not befit the just. Whence in the Hebrew the verb is in the *Piel*, בקש, which signifies to seek solicitously.

¶ *Addit S. Doctor, id verum esse de anxia sollicitudine avidi, quae iustus non convenit. Unde in Hebraeo est verbum in* Piel, *בקש quod significat sollicite quaeritare.*

21 ¶ To the third he says it speaks of spiritual want, of which he subjoins: *The rich have wanted, and suffered hunger.*

¶ *Ad tertium dicit, loqui de egestate spirituali, de qua subdit :* Divites eguerunt, et esurierunt.

22 ¶ To the fourth he answers with the Gloss, that it is understood of those needy of spiritual goods, such as was that one in the Apocalypse.

¶ *Ad quartum respondet e Glossa, intelligi de egentibus bonorum spiritualium, qualis erat ille Apocalypsis.*

23 ¶ They object thirdly: moderate riches contribute to a perfect life, Eccli. 7. *Wisdom is more profitable with riches.*

¶ *Obiiciunt tertio : opes moderatae ad vitam conferunt perfectam, Eccli. 7.* Utilior est sapientia cum divitiis.

24 ¶ He answers that nothing is better for the poor wise man than the things of eternal life; but the rich fool is liable to six hundred evils, therefore the rich man is better joined with wisdom together with riches; for thus he does not cling to them, but becomes poor in spirit. Thus the sense is: *Wisdom is more profitable*, that is, if it is joined with riches, rather than if he lacks it: Or more profitable, insofar as it teaches him to spend them for salvation. Thus St. Bonavent. *respons. 4. cap. 3. in Apologia.*

¶ *Respondet, nil melius esse pauperi sapienti quam ea, quae sunt aeternae vitae; divitem vero insipientem sexcentis obnoxium esse malis, ideo meliorem esse divitem cum sapientia iuncta divitiis; sic enim non haeret illis, sed fit spiritu pauper. Ita sensus est;* Utilior est sapientia*, id est, si cum divitiis coniungitur, potius quam si ea careat: Vel utilior, quatenus docet eas expendere in salutem. Ita D. Bonavent.* respons. 4. cap. 3. in Apologia.

25 ¶ But what Bellarmine expounds from the Hebrew: *Good is wisdom with riches*, because without it riches are evil, not because without riches wisdom itself is evil; and thus he removes the comparison, he accomplishes little.

¶ *Quod vero exponit Bellarminus ex Hebraeo:* Bona est sapientia cum divitiis*, quia sine ea malae sunt, non quia sine illis ipsa sit mala; et ita demit comparationem, parum facit.*

26 ¶ They object fourthly. Act. 20. *It is a more blessed thing to give, than to receive.* Whence Aristotle 1. *Eth. cap. 8.* says that riches are necessary for happiness.

¶ *Obiiciunt quarto. Act. 20.* Beatius est dare, quam accipere. *Unde Aristoteles 1.* Eth. cap. 8. *ait, opes esse necessarias ad foelicitatem.*

27 ¶ The Seraphic Doctor answers that it is more blessed to give alms, than to receive out of necessity: but it is more blessed to receive by begging for the love of God, than to give: for the former adds the state of perfection. Thus he expounds with St. August. *de Eccl. dogm. cap. 71.* or Gennad. with St. August. who teaches this in the *lib. de bono coniug. cap. 8.* Aristotle, however, speaks of human happiness.

¶ *Respondet S. Doctor, beatius esse dare eleemosynam, quam accipere ex necessitate: at beatius est accipere mendicando amore Dei, quam dare: illud enim addit statum perfectionis. Ita exponit cum D. August.* de Eccl. dogm. cap. 71. *seu Gennad. apud D. August. qui id docet* lib. de bono coniug. cap. 8. *Aristoteles vero loquitur de humana foelicitate.*

28 ¶ They object fifthly, Luke 11. *Sell what you possess, etc.* where the Gloss says: *That you may live by labor.*

> ¶ *Obiiciunt quinto, Lucae 11.* Vendite quae possidetis, etc. *ubi ait Glossa:* Ut labore vivatis.

29 ¶ The Seraphic Doctor answers that it is a counsel, and indeed an alternative one, whence he subjoins: *Or make alms.* Moreover he urges labor on those not occupied in a greater work.

> ¶ *Respondet S. Doctor esse consilium, et sane alternativum, unde subdit:* Vel faciatis eleemosynam. *Porro laborem suadet non occupatis in maiori opere.*

30 ¶ They object sixthly: Urban Pope 12. *quaest. 1. cap. Videntes*, orders the Bishops to provide the needy with a common life, that no one be needy.

> ¶ *Obiiciunt sexto: Urbanus Papa 12.* quaest. 1. cap. Videntes*, iubet Episcopos providere egentibus vitam communem, ut nemo egenus sit.*

31 ¶ St. Bonaventure answers that the decree is not for the needy, but for the Bishops. Whence just as the law of Deuter. 15. *There shall be no needy one at all, and no beggar among you,* is not given against the mendicancy of the poor, but against the tenacity of the rich, as is evident, for in the same *cap.* it is subjoined: *The poor shall not be lacking in the land of your habitation: Therefore I command you, to open your hand etc.* so also in this case. This exposition Bellarmine attributes to St. Thomas.

> ¶ *Respondet S. Bonavent. decretum non esse ad egenos, sed ad Episcopos. Unde sicut lex Deuter. 15.* Non erit omnino indigens, et mendicus inter vos*, non est data contra mendicitatem pauperum, sed contra divitum tenacitatem, ut patet, nam eo* cap. *subditur:* Non deerunt pauperes in terra habitationis tuae: Idcirco ego praecipio tibi, ut aperias manum etc. *ita et in casu isto. Haec expositio a Bellarmino adscribitur D. Thomae.*

32 ¶ He adds there that Clerics are introduced, that they may not possess property: and it is added, that they should be helped; granted that they may have in common; nevertheless the profession of having nothing in common he teaches is approved by the Supreme Pontiffs, Innocent, Honorius, and Gregory, *cap. Nimis prava de excessibus prael.* Both, however, Nicholas III praises, *cap. Exiit.*

> ¶ *Addit ibi induci Clericos, ne proprium possideant: et adiungitur, ut adiuventur; esto habere valeant in communi; attamen et professionem nil habendi in communi docet approbatam esse a Summis Pontificibus, Innoc. Honorio, et Gregorio* cap. Nimis prava de excessibus prael. *Utramque vero laudat Nicol. III.* cap. Exiit.

33 ¶ They object seventhly, that begging is forbidden in the *Cod.*

> ¶ *Obiiciunt septimo prohiberi in* Cod. *mendicationes.*

34 ¶ The Seraphic Doctor answers that the law speaks of certain healthy, able-bodied, and idle men, useless to the Republic, not of poor evangelicals, who labor not idly, but for the good of the Republic and of the Church.

> ¶ *Respondet S. Doctor legem loqui de quibusdam sanis, validis, et otiosis, inutilibus Reipubl. non pauperibus Euangelicis, qui non otiose, sed ad bonum Reipublicae, et Ecclesiae operantur.*

35 ¶ They object eighthly, that it is the vice of the Giezi to receive bodily things for spiritual.

> ¶ *Obiiciunt octavo, esse vitium Giezitarum accipere corporalia pro spiritualibus.*

36 ¶ The Seraphic Doctor answers that they do not give spiritual things for sustenance, but ask for sustenance, that they may spend their life for the salvation of others.

> ¶ *Respondet S. Doctor, hos non dare spiritualia pro victu, sed postulare victum, ut valeant vitam insumere ad aliorum salutem.*

37 ¶ They object ninthly: the ancient holy Patriarchs, Basilius, Benedictus, Augustinus, Hieronymus, and others, held goods in common, nor are they read to have begged.

> ¶ *Obiiciunt nono: Sancti Patriarchae veteres, Basilius, Benedictus, Augustinus, Hieronymus, et alii, habebant bona in communi, nec mendicasse leguntur.*

38 ¶ The Seraphic Doctor answers amply at 10. that by the great providence of God at this time he sent Blessed Francis to the Church, to be built up by the apostolic life, when men, already growing cold in charity, were declining from the paths of Christ: Therefore he seemed to be renewing the footsteps of Christ, as is read in the Chronicles. He venerates, and deservedly, the other Patriarchs. Thus *quaest. 4. in Regulam.*

> ¶ *Respondet ample S. Doctor ad 10. magna Deum providentia hoc tempore misisse B. Franciscum ad Ecclesiam, vita Apostolica aedificandam, cum homines iam in charitate frigescentes, a semitis Christi declinarent: Ideo visum vestigia Christi renovantem, ut legitur in Chronicis. Veneratur, et merito, reliquos Patriarchas. Sic* quaest. 4. in Regulam.

39 ¶ Nor does he fear those denying that Christ was a beggar, and saying that he asked out of urbanity; nor yet that he did these things for imitation. For he showed that he exhibited these to be imitated, and earnestly begged. See the Seraphic Doctor.

> ¶ *Neque pavet negantes, Christum fuisse mendicum, atque dicentes, petiisse ex urbanitate; neque etiam ad imitationem haec peregisse. Haec enim ostendi exhibuisse imitanda, cumque serio emendicasse. Vide S. Doctorem.*

40 ¶ From these he deduces that Religious can live from alms; for alms are owed to Religious from the will of the givers, from the necessity assumed for Christ, and from the ministries undertaken for the people, as St. Thom. also says, *quaest. 186. art. 4.*

> ¶ *Ex his deducit posse Religiosos vivere ex eleemosynis; nam illae debentur Religiosis ex legantium voluntate, ex necessitate pro Christo assumpta, et ministeriis pro populo susceptis, ut ait etiam D. Thom.* quaest. 186. art. 4.

41 ¶ But accidentally alms would be illicit for them, if they deviated from their due, and this is lethal, Caietan. says, if they abstained from their office out of contempt for the benefit of alms. See also Valencia, *quaest. 5. puncto 3.* These St. P. Francis called thieves.

> ¶ *Per accidens vero eis essent eleemosynae illicitae, si a suo debito aberrarent, et hoc esse lethale ait Caietan. si ex contemptu beneficii eleemosynarum abstinerent: a suo officio. Vide etiam Valentiam* quaest. 5. puncto 3. *Hos vocabat S. P. Franciscus fures.*

42 ¶ St. Thom. adds in the body with St. Bonau. in the *arguments;* if it is lawful to receive ample possessions, much more can they receive necessaries for sustenance. But why it is now asked more, see the Seraphic Doctor, *quaest. 14. cont. hostes Religionis*, and *quaest. 8. in Regulam.*

> ¶ *Addit D. Thom. in corpore cum D. Bonau. in* argumentis; *si licet recipere possessiones, amplas multo magis posse necessaria ad victum. Cur autem amplius nunc quaeratur, Vide S. Doctorem* quaest. 14. cont. hostes Religionis, *et* quaest. 8. in Regulam.

Question IV: Whether religious ought, on account of poverty, to wear mean clothing

1 ¶ I ASSERT that it is lawful to use a rough habit, nay, that it befits them. Thus St. Bonau. *in cap. 2. Reg. et p. p. speculi discipl. ad novitios, cap. 25.* This indeed contributes to poverty, humility, penance, and contempt of worldly things. Vuald. pursues these at length, *lib. 3. doctr. fidei, cap. 27.* Each orders obtains its own peculiar habit from the ancient custom and tradition of the Church, as is evident from St. Dionys. *cap. 6. Eccl. Hier. from the Councils, Gangr. at the end, Aurel. V. cap. 19. Carth. IV. cap. 11. et 104.* Tolet. VI. *cap. 6.* Tol. X. *cap. 4. 5. 6.* The Sixth General Synod, *cap. 42.* and excommunication is imposed upon one who rashly lays aside the habit, *cap. es periculosa, tit. Ne Clerici, vel Monach. lib. 6.* See Caiet. *V. Excom. cap. 61.* Valencia, *d. 10. quaest. 5. puncto 4.*

An Religiosi, ob Paupertatem, vilibus indui debeant.

¶ *Assero, licere uti habitu rudi, imo id convenire. Ita D. Bonau.* in cap. 2. Reg. et p. p. speculi discipl. ad novitios, cap. 25. *Hoc sane ad paupertatem, humilitatem, poenitentiam, et rerum mundanarum contemptum confert. Haec late prosequitur Vuald.* lib. 3. doctr. fidei, cap. 27. *Habitum sane singuli ordines obtinent peculiarem ex antiqua Ecclesiae consuetudine, et traditione, ut constat e D. Dionys.* cap. 6. Eccl. Hier. e Conciliis, Gangr. ad calcem, Aurel. V. cap. 19. Carth. IV. cap. 11. et 104. *Tolet. VI.* cap. 6. *Tol. X.* cap. 4. 5. 6. *Sexta Synod. Gener.* cap. 42. *et imponitur excommunicatio temere habitum dimittenti,* cap. es periculosa, tit. Ne Clerici, vel Monach. lib. 6. *Vide Caiet.* V. Excom. cap. 61. *Valentiam* d. 10. quaest. 5. puncto 4.

2 ¶ I ASSERT that meanness of habit befits Religious.

¶ *Assero, vilitatem habitus convenire Religiosis.*

3 ¶ It is proved by St. Bonaventure first: The habit indicates the state of the person, Eccli. 19. *The apparel of a man declares him,* but the Religious ought to be discerned from delicate seculars. Surely *they who are clothed in soft garments are in the houses of kings,* Matth. 11.

¶ *Probatur a D. Bonavent. primo: Habitus indicat statum personae, Eccli. 19.* Amictus hominis annunciat de eo, *debet autem Religiosus discerni a saecularibus delicatis. Sane* qui mollibus vestiuntur in domibus Regum sunt, *Matth. 11.*

4 LEARN THE COMPOSITION of the habit in the Seraphic Doctor.

COMPOSITIONEM habitus disce in S. Doctore.

5 FURTHERMORE he ENJOINS, that they not be stripped of the habit without necessity, even for a short time.

INIUNGIT porro, ne habitu absque necessitate, etiam ad modicum tempus exuantur.

6 IT IS FORBIDDEN under excommunication incurred ipso facto, to lay aside the habit rashly, cap. *Ut periculosa,* cit.

VETITUM est sub excommunicatione ipso facto, habitum deponere temere cap. Ut periculosa, *cit.*

7 NOTE that it is incurred through rashness, if it is laid aside without cause, and another is assumed unto apostasy, or he could be said to have laid it aside. See Politius in *cap. 2. Reg.* where he adds that excom. is not incurred by him who would strip himself in order to commit fornication, unless he put on another garment, that he might go unknown. Thus also Nauar. *Man. cap. 27. num. 131.* Sylvest. *V. Excom. 9. num. 24.* yet he would sin lethally. The habit ought to be worn openly abroad, from Trident.

sess. 25. cap. 1. t. Rodrig. *tom. 1. qq. quaest. 30. art. 2.* It ought also to be worn at night, *cap. Sanctimon. d. 23.* See also Sanctem. *ad cap. 2. Regulae.*

> *ADVERTE eam incurri e temeritate, si absque causa deponitur, et alius assumitur ad apostasiam, vel possit dici deposuisse. Vide Politium in* cap. 2. Reg. *ubi addit non incurri excom. ab eo, qui ad fornicandum exueret, nisi alium indueret, ut abiret incognitus. Sic et Nauar.* Man. cap. 27. num. 131. *Sylvest.* V. Excom. 9. num. 24. *is tamen lethaliter peccaret. Debet habitus extra gestari patens, ex Trident.* sess. 25. cap. 1. t. *Rodrig.* tom. 1. qq. quaest. 30. art. 2. *Debet etiam nocte gestari* cap. Sanctimon. d. 23. *Vide et Sanctem.* ad cap. 2. Regulae.

8 St. BONAVENTURA published another little work on sandals, in which he shows that these were worn from the times of the infant Church even by the very Apostles. Read him through.

> *D. BONAVENTURA opusculum aliud edidit de sandaliis, ubi ostendit, haec a temporibus nascentis Ecclesiae gestata fuisse etiam ab ipsis Apostolis. Eum perlege.*

Question V: Whether austerity of food is owed to religious poverty

1 ELOQUENTLY the Seraphic Doctor expounds the abstinences and austerities of Religious *c. 2. et 3. Responsionis secundae in Apologia Pauperum.* The sectaries assail them with calumnies and taunts.

> ***An Religiosa victus austeritas debeatur Paupertati.***
>
> *DISERTE Religiosas abstinentias, et austeritates edisserit S. Doctor* c. 2. et 3. Responsionis secundae in Apologia Pauperum. *Eas calumniis, et dicteriis insectantur sectarii.*

2 I ASSERT that austerity befits Religious.

> *ASSERO, austeritatem Religiosos decere.*

3 It is proved from the Seraphic Doctor first, from *Luke 1.* where Ioannes is foretold great on that account: *For he shall be great; he shall not drink wine, or strong drink.* And he ate locusts, clothed in haircloth.

> *PROBATUR a S. Doctore primo, ex* Lucae 1. *ubi Ioannes praenunciatur inde magnus:* Erit enim magnus; vinum, et siceram non bibet. *Et edebat locustas, vestitus cilicio.*

4 THEN from *1. Cor. 9.* where Paul: *I chastise my body, etc. Every one who contends in the arena abstains from all things.*

> *DEINDE ex* 1. Cor. 9. *ubi Paulus:* Castigo corpus meum, etc. Omnis qui in agone contendit, ab omnibus se abstinet.

5 THIRDLY from the austerities of the ancient Saints. See the excellent things there.

> *TERTIO ex austeritatibus Sanctorum veterum. Vide ibi praeclara.*

Question VI: How poverty is violated

1 INNUMERABLE cases are to be defined here, and so this question must be treated more broadly.

> ***Quomodo violetur Paupertas.***
>
> *INNUMERI casus sunt hic definiendi, ideo latius de hac quaestione differendum.*

2 NOTE first, from what was said in *question 1* from the obligation induced by the vow, by what means it is violated. The vow of Poverty therefore strips one of all dominion, and of use independent of the free will of the Superior. Wherefore anyone whatsoever usurping some dominion, or use independent of the will of the Superior, will be guilty of rashly violating Poverty.

> *NOTA primo, ex dictis* quaest. 1. *ex obligatione voto inducta colligi, quibus modis violetur. Votum igitur Paupertatis expoliat omni dominio, et usu independenti a libera voluntate Superioris. Quare omnino dominium aliquod usurpans, vel usum independenter a voluntate Superioris, erit Paupertatis temerariae reus.*

3 NOTE secondly, that the will of the superior grants the disposition of some thing in two ways: first expressly, second tacitly, or interpretatively, as D. Bonaventure teaches *in the Apology of the Poor, cap. 3. of the fourth response.* The will is express, when the Superior expressly grants the faculty by word, in writing, or by signs. The tacit interpretative, or presumed will, is that by which the superior, knowing and able to object, freely permits something; and for that reason we can act, interpreting the will of the Superior, which we morally presume not to resist, and which, if he knew this were being done, he would not refuse, nor would he demand that an express faculty be sought. And this has been introduced chiefly from the custom of doing these things without a sought faculty, as D. Bonav. notes *in the opuscula cited*, and Bassaeus *V. Paupertas, num. 3.* It is gathered also from the circumstances of the superior: whether he be discreet, whether gentle, whether friendly. From the circumstances also of the subject: whether he be upright and serious. From the things themselves: whether they be studious, whether useful to the Religion, etc.

> *NOTA secundo, duobus modis voluntatem superioris concedere alicuius rei dispositionem, primo expresse, secundo tacite, seu interpretative, ut docet D. Bonavent.* in Apologia Pauperum, cap. 3. quarta responsionis. *Voluntas expressa est, cum Superior expresse dat facultatem verbo, scripto, vel nutibus. Voluntas tacita interpretativa, seu praesumpta est, qua superior sciens, et potens obstare, libere permittit aliquid, idque ideo possumus agere, interpretantes Superioris voluntatem, quam moraliter praesumimus non renitentem, et si sciret hoc agi, non renueret, aut praetenderet expressam postulari facultatem. Idque e consuetudine potissimum invectum est haec agendi absque petita facultate, ut notat D. Bonav.* in opusculis allatis*, et Bassaeus* V. Paupertas, num. 3. *Colligitur etiam e circumstantiis superioris, si sit discretus, si lenis, si amicus. E circumstantiis etiam subditi, si probus, et gravis sit: Ex rebus ipsis, si studiosae, si utiles sint Religioni, etc.*

4 But OBSERVE, as Faustus notes *in the treasury, lib. 8. question 162*, and Bassaeus *loc. cit.*, and Rodrig. *part. 3. on the Vow of Poverty*, that the Religion in which these things occur must be keenly observed; for what in this one will be venial, or free from fault, in another will be mortal. The customs also must be observed: whether they were introduced and kept by the God-fearing, or rather are corruptions and abuses creeping from the looser morals of the age into the Religion, which the Prelates tolerate for the sake of peace, lest seditions be stirred up. Truly these faculties do not have the character of a privilege *in the manner of* one, so that they be given and diffused to all by communication; for although all vow Poverty, some vow a stricter one than others, as I showed in *question 1*, and where the pledge is equal, the observance is not equal.

> *OBSERVAT autem Faustus* in thesauro, lib. 8. quaest. 162. *ac Bassaeus* loc. cit. *et Rodrig.* part. 3. de Voto Paupertatis*, oculate observandam Religionem, in qua haec fiunt; quod enim in hac erit veniale, aut a culpa immune; in alia erit lethale. Observandae sunt autem consuetudines: An sint a timoratis invectae, et servatae; aut potius sint corruptelae, et abusus e laxiorum moribus in Religionem serpentes, quas tolerent Praelati pro bono pacis, ne seditiones concitentur. Non sane hae facultates habent rationem privilegii* ad instar*, ut per communicationem omnibus dentur, ac*

diffundantur; quamvis enim omnes Paupertatem voveant, alii tamen vovent aliis arctiorem, ut ostendi q. 1. *et ubi est aequalis sponsio, non est aequalis observantia.*

5 THEREFORE against the vow of Poverty a Religious sins if he accepts, keeps, consumes, exchanges, or gives away any thing whatsoever, whether of the Religion, or from outside, without the tacit or express consent of the superior: Azor. *tom. 1. lib. 12. cap. 12.* Valent. *d. 10. question 4. point 3.* Sanchez *lib. 7. moral. cap. 19.* Less. *lib. 2. cap. 1. num. 78.* Bassaeus *num. 2.* Arag. *with D. Thom. 2. 2. question 32. art. 8.* Diana *on Poverty resol. 31. part. 1.* Laym. *lib. 4. tract. 5. cap. 7.* Sanchez *lib. 7. moral. cap. 18.*

IGITUR contra votum Paupertatis peccat Religiosus, si rem quampiam, seu Religionis, seu extra advenientem absque superioris consensu tacito, vel expresso accipiat, retineat, absumat, permutet, aut donet: Azor. tom. 1. lib. 12. cap. 12. *Valent.* d. 10. quaest. 4. puncto 3. *Sanchez* lib. 7. moral. cap. 19. *Less.* lib. 2. cap. 1. num. 78. *Bassaeus* num. 2. *Arag.* cum D. Thom. 2. 2. quaest. 32. art. 8. *Diana* de Paupert. resol. 31. part. 1. *Laym.* lib. 4. tract. 5. cap. 7. *Sanchez* lib. 7. moral. cap. 18.

6 It is PROVED from the first noting, because he promised the opposite.

PROBATUR e primo notando, quia promisit oppositum.

7 THEN among consumable things are also foods, to the grave loss of the Religion; which if they are taken from outside, it is against Poverty; but if from the Monastery, it will also be theft. Yet these are not to be weighed with so delicate a scale, that if anyone, even with a companion, frequently consumes them by eating, it be mortal (except if grave loss were inflicted). Thus Suarez *Tom. 3. on Religion lib. 8. cap. 11. num. 41.* Tannerus adds *2. 2. d. 7. question 3. d. 4. num. 106.* Nor can any severity of the Prelates render such acceptances, with respect to the substance of the thing accepted, iniquitous. Caramuel subscribes *d. 60. num. 888.*

DEINDE inter res consumptibiles sunt etiam esculenta in grave damnum Religionis, quae si extra accipiuntur, est contra Paupertatem; si vero de Monasterio, erit et furtum. Haec tamen non adeo subtili lance sunt accipienda, ut si quis, etiam cum sodali, de his frequenter edendo absumat, sit lethale (excipe si grave damnum inferretur.) Ita Suarez Tom. 3. de Relig. lib. 8. cap. 11. num. 41. *Addit Tannerus* 2. 2. d. 7. quaest. 3. d. 4. num. 106. *Nulla etiam Praelati severitas eiusmodi acceptiones, quo ad substantiam rei acceptae, iniquas reddere potest. Subscribit Caramuel* d. 60. num. 888.

8 RESTRICT however, if the Religion were poor, as Barthol. a Sancto Fausto says of himself *in the treasury lib. 8. question 110.* Sayrus *lib. 9. cap. 16. num. 20.* Bassaeus *num. 3.*

RESTRINGE tamen, si Religio esset pauper, ut se ait Barthol. a S. Fausto in thes. lib. 8. quaest. 110. *Sayrus* lib. 9. cap. 16. num. 20. *Bassaeus* num. 3.

9 But WHAT quantity is required for it to be mortal, Diana does not determine *first part. on Poverty resol. 30*, nor Faustus, nor Sayrus, nor even Bassaeus.

QUAE quantitas vero ad lethale requiratur, non determinat Diana prima part. de Paupert. resol. 30. *nec Faustus, nec Sayrus, neque etiam Bassaeus.*

10 MOREOVER many things must be weighed, as the quality of things, scarcity, or abundance, as Bassaeus notes with Caramuel.

PRAETEREA sunt pensitanda multa, ut qualitas rerum, penuria, vel abundantia, ut notat Bassaeus cum Caramuele.

11 You will ASK: whether in ownership there can be parvity of matter, say, an obol.

QUAERES: an detur in proprietate parvitas materiae, puta oboli.

12 SOME have denied it, and Doctors Benedict, Jerome, Bonaventure, Anthony, and Cassian are brought forward, according to Faustus *in the treasury, lib. 8. question 187.*

ALIQUI usi sunt negate, et adducuntur DD. Benedictus, Hieronymus, Bonaventura, Antonius, et Cassianus, apud Faustum in thesauro, lib. 8. quaest. 187.

13 The Saintly Doctor is BADLY brought forward; for *ad cap. 6 of the Rule* in these words: *Let the brothers appropriate nothing to themselves* — from which words some deduce that it is forbidden under penalty of ownership to take to oneself even the smallest thing above nothing, as Sanctes reports, among whom they place D. Bonaventure; but the Saintly Doctor shows this exposition to be false, because there is subjoined: *Neither a house, nor a place, nor any other thing,* inferring that there are excluded not only money, of which above, but also other kinds of things under grave guilt, not singly down to every kind whatever. Nor do the holy Fathers will anything else, or that the appropriation of a minute thing be ownership; but from the parvity of matter they knew that a light one, in the judgment of prudent men, is not a higher precept than this natural precept of not stealing, in which parvity of matter is admitted.

MALE adducitur S. Doctor; nam ad cap. 6. Regulae *in ea verba:* Fratres nihil sibi approprient; *e quibus aliqui deducunt, prohiberi sub poena proprietatis, ne minimam quamque rem supra nihil sibi adsciscant, ut refert Sanctes, inter quos ponunt D. Bonaventuram; ostendit autem S. Doctor hanc expositionem falsam esse, quia subditur:* Neque domum, neque locum, nec aliam rem, *inferens excludi non modo pecuniam, de qua supra; sed etiam alia rerum genera sub gravi reatu, non singula usque ad nihil generum. Neque Sancti Patres aliud volunt, aut appropriationem rei minutae esse proprietatem, sed ex parvitate materiae levem sciebant prudentis viri non esse altius praeceptum hoc praecepto naturali non furandi, in quo parvitas materiae admittitur.*

14 THEREFORE they require grave matter for a mortal sin, and that it be determined, as I showed for constituting the grave theft of sons, in the *disputation on theft.*

SUMMAM igitur gravem exigunt ad mortale, eamque determinari, quae ad constituendum furtum filiorum grave ostendi, disput. de furto.

15 On this matter see Diana *part. 1. on Poverty resol. 36,* where he says, *as many heads, so many opinions;* Rodr. *tom. 4. cap. 118.* posits two aurei; Soto taught it *on justice lib. 4. question 3. ad 3,* and Aragon. judged it probable *2. 2. question 66. art. 6.*

De hac re Diana part. 1. de Pauper. resol. 36. *ubi ait,* quot capita, tot esse sententias, *Rodr.* tom. 4. cap. 118. *ponit duos aureos; eam docuit Soto* de iust. lib. 4. quaest. 3. ad 3. *et probabilem censuit Aragon.* 2. 2. quaest. 66. art. 6.

16 Cenedo *on the Poverty of Religious dub. 20.* with Ledesm. *addition to the summa tom. 2. cap. 4.* posits *ocho o nueve reales* [eight or nine reals], 6. the value of them.

Cenedo de Paupertate Relig. dub. 20. *cum Ledesm.* additione ad sum. tom. 2. cap. 4. *ponit* ocho o nueve reales *6. valor dellos.*

17 MENDOZA *question 8. on Poverty* posits two silver coins, which are eight reals.

MENDOZA quaest. 8. de Pauper. *duos ponit argenteos, qui sunt octo reales.*

18 IOANNES DE LA CRUZ *on the Religious state lib. 1. cap. 3. d. 5.* and Sanchez *sum. tom. 3. lib. 7. cap. 20.* posit *four silver coins, namely 16 reals.* So also Faustus *in the treasury lib. 8. question 193*, who adds in the wealthiest Religions *three silver coins; in middling ones two; in poor ones one*; Diana subscribes.

> *IOANNES DE LA CRUZ* de stat. Relig. lib. 1. cap. 3. d. 5. *et Sanchez* sum. tom. 3. lib. 7. cap. 20. *ponunt* quatuor argenteos, nempe 16. Reales. *Sic et Faustus* in thes. lib. 8. quaest. 193. *qui addit in Religionibus ditissimis* tres argenteos; in mediocribus duos; in pauperculis unum; *subscribit Diana.*

19 MIRANDA *in the Manual tom. 1. question 28. art. 17.* teaches that this must be measured according to the variety of the Religion, of persons, of place, and of time, by the judgment of a prudent man. Bassaeus subscribes *V. furtum 2. num. 6.* This seems right to me.

> *MIRANDA* in Man. tom. 1. quaest. 28. art. 17. *docet hoc mensurandum pro religionis, personarum, loci, et temporis varietate, iudicio prudentis viri. Subscribit Bassaeus* V. furtum 2. num. 6. *Haec mihi probatur.*

20 This is the opinion of D. Bonavent. *in the mirror of the soul, cap. 2. §. On theft*, where he wills not to determine the quantity, but shows that it varies according to the circumstances.

> *Haec est sententia D. Bonavent.* in speculo animae, cap. 2. §. Circa furtum, *ubi quantitatem non vult determinare, sed e circumstantiis variam eam esse ostendit*

21 Bassaeus however WARNS *V. Paupertas 3.* that there can be grave matter of theft from loss, say of an instrument for gain, *for example*, a needle; yet it will not be grave by reason of ownership; just as ownership can be grave, say of gold, yet it will not be grave in the genus of theft, say, if it were taken from the King.

> *MONET tamen Bassaeus* V. Paupertas 3. *posse esse furti materiam gravem ex damno, puta instrumenti ad lucrum,* verbi gratia*, acus, nec tamen fore gravem in ratione proprietatis; sicut potest esse proprietas gravis, puta auri, non tamen in genere furti erit gravis, puta, si Regi sit ablatum.*

22 But WHEN several petty thefts make one grave one, I taught sufficiently in the *disputation on theft.*

> *QUANDO autem plura furtula faciant unum grave, satis docui* disput. de furto.

23 From the first foundation you have also that a Religious cannot usurp to himself for another use money precisely destined by the superior to one use, Less. *lib. 2. cap. 41.* Layman. *lib. 4. tract. 5. cap. 7.* Sanch. *lib. 7. cap. 19. num. 115.* Faust. *lib. 8. question 101.* Rodrig. *tom. 3. 99. rule question 29. art. 10.* Bassaeus *num. 5.*

> *Ex primo fundamento habes etiam non posse religiosum pecuniam sibi ad unum usum praecise a superiore destinatam, ad alium usum usurpare, Less.* lib. 2. cap. 41. *Layman.* lib. 4. tract. 5. cap. 7. *Sanch.* lib. 7. cap. 19. num. 115. *Faust.* lib. 8. quaest. 101. *Rodrig.* tom. 3. 99. reg. quaest. 29. art. 10. *Bassaeus* num. 5.

24 You HAVE also that Poverty is violated if he accepts, or keeps those things *which are given from outside, cap. ad Monasterium, on the state of Monks.* Molina *tom. 1. tract. 2. d. 140.* For whatever a Religious acquires, he acquires for the Monastery, if it be capable. And if the Religious by a contract or offense does not bring the Monastery under an obligation, *cap. Quod quibusdam on suretyship.* Except if he has compromised it, or drawn profit from it.

> *HABES etiam violari paupertatem, si accipiat, vel retineat ea,* quae extra sunt data, cap. ad Monasterium, de statu Monach. *Molina* tom. 1. tract. 2. d. 140. *Quidquid enim acquirit Religiosus, Monasterio acquirit, si capax sit.*

Et si Religiosus e contractu, vel delicto, Monasterium non inducat ad obligationem cap. Quod quibusdam de fideiusso. *Excipe, si compromiserit, vel commodum hauserit.*

25 He will VIOLATE Poverty also by hiding a thing from the Prelate, even if he had license from a preceding Prelate. Likewise, he who murmurs with a resisting will, if the thing be taken away by the Prelate; thus Less. *cit. num. 79.* Sanchez *cit. cap. 19. num. 60.* Sylvest. *V. Relig. 6. question 7.* Layman. *cit. cap. 7. n. 8.* Faust. *lib. 8. question 126.* Rodtig. *cit. art. 10. and 12.* Petr. Nauarr. *lib. 3. on restitution cap. 1. num. 174. and 179.* Bassaeus *num. 7.*

VIOLABIT paupertatem etiam abscondens a Praelato rem aliquam, etiam si a praecedenti Praelato licentiam haberet. Item, qui murmurat voluntate renitens, si res a Praelato auferatur, ita Less. cit. num. 79. *Sanchez* cit. cap. 19. num. 60. *Sylvest.* V. Relig. 6. quaest. 7. *Layman.* cit. cap. 7. n. 8. *Faust.* lib. 8. quaest. 126. *Rodtig.* cit. art. 10. et 12. *Petr. Nauarr.* lib. 3. de rest. cap. 1. num. 174. et 179. *Bassaeus* num. 7.

26 The Steward also will violate it by distributing against his ministration. Thus D. Thom. *question 32. art. 8.* Molin. *tom. 2. d. 276.* Sylvest. ad D. Thomam.

VIOLABIT eam etiam Oeconomus dispertiens contra suam ministrationem. Ita D. Thom. quaest. 32. art. 8. *Molin.* tom. 2. d. 276. *Sylvest. ad D. Thomam.*

27 SIMILARLY the Prelate badly distributing the goods of the Monastery, *cap. Fraternitatem on donations.* Sanchez *cit. cap. 19. num. 30.* Graff. *part. 1. lib. 3. cap. 5. num. 133.* Bass. *num. 8.,* who nevertheless numbers various cases in which it is lawful for a Religious to give alms without consulting the superior. But with him unwilling, he can bestow it in extreme necessity. Thus D. Thom. *2. 2. question 32. art. 8. ad 1.*

SIMILITER Praelatus res Monasterii male dispertiens, cap. Fraternitatem de donat. *Sanchez* cit. cap. 19. num. 30. *Graff.* part. 1. lib. 3. cap. 5. num. 133. *Bass.* num. 8. *qui varios tamen casus numerat, quibus licet Religioso dare eleemosynam, superiore inconsulto. Eo autem invito, potest eam largiri in extrema necessitate. Ita D. Thom.* 2. 2. quaest. 32. art. 8. ad 1.

Doubt I: Whether prelates can grant religious an annual allowance

1 Truly the superior cannot grant an IRREVOCABLE use of things, as the Doctors warn at Bassaeus *num. 19.*

An Praelati possint Religiosis concedere annuum peculium.

IRREVOCABILEM sane rerum usum nequit superior concedere, ut monent DD. apud Bassaeum num. 19.

2 Indeed by ancient law it was granted revocably, for a cause, for determinate necessities; yet so that it be in the hand of the Official of the convent, to whom he may expose his singular necessity, and receive moderately, and let that peculium be incorporated into the goods of the Monastery; Rodrig. *tom. 2. cap. 33.* Azor. *tom. 1. lib. 12. cap. 9. question 1.* Sanch. *lib. 7. cap. 19.* although others stand opposed to him there; for he does not appropriate anything to himself.

IURE quidem antiquo erat concessum ex causa revocabiliter ad determinatas necessitates, ita vero, ut in manu Officialis conventus sit, cui individuam necessitatem exponat, accipiatque moderate, sitque peculium illud incorporatum bonis Monasterii; Rodrig. tom. 2. cap. 33. *Azor.* tom. 1. lib. 12. cap. 9. quaestio 1. *Sanch.* lib. 7. cap. 19. *etsi alii apud illum e regione stent; non enim is aliquid sibi appropriat.*

3 NOR does the Council of Trent revoke this *sess. 25. cap. 2.*, but only declares the ancient law, as is clear to one reading, and very many teach with Sanchez *lib. 7. cap. 21. num. 11.* Diana *part. 1. tract. on poverty resol. 32.* Although others teach the opposite, as reported at those cited and at Bassaeus *num. 10.*, among them Rodrig. *tom. 3. 99. question 27. art. 10.* Less. *lib. 2. cap. 4. num. 30.* Molin. *tom. 2. d. 276.* Valent. *d. 10. question 4. point 3.*

> *NEQUE id revocat Concil. Trid.* sess. 25. cap. 2. *sed solum declarat ius antiquum, ut patet legenti, et docent plurimi cum Sanchez* lib. 7. cap. 21. num. 11. *Diana* part. 1. tract. de pauper. resol. 32. *Tametsi alii oppositum doceant apud relatos, et Bassaeum* num. 10. *inter quos Rodrig.* tom. 3. 99. quaest. 27. art. 10. *Less.* lib. 2. cap. 4. num. 30. *Molin.* tom. 2. d. 276. *Valent.* d. 10. quaest. 4. puncto. 3.

4 Truly I do not see that, with the peculium remaining with the aforementioned cautions, there should flow forth any stain of ownership, the use in fact remaining in the hand of the official for relieving singular necessities. See also Faustus *in the treasury l. 8. question 30.*

> *NON video sane remanente peculio cum allatis cautionibus, qua scateat proprietatis labe, manente usu facti ad singulares necessitates sublevandas in manu officialis. Vide etiam Faustum* in thes. l. 8. quaest. 30.

5 Yet Religious must BEWARE lest they squander a peculium granted chiefly for their indigence on disgraceful acts: for these act against poverty and are liable to restitution: although Diana, citing many yet fearing, grants it loosely *part. 3. tract. 2. resol. 65. and part. 2. tract. 15. resol. 54.* Nor does Bordonus teach more correctly *in the cons. of the rule resol. 53. question 17.*, that an express license for spending money on illicit uses excuses from ownership and restitution.

> *CAVEANT vero Religiosi ne peculium ad indigentiis apprime concessum, in actibus turpibus dilapident: hi enim contra paupertatem agunt, et restitutioni sunt obnoxii: tametsi Diana multos trahens, pauens tamen, laxe concedat* part. 3. tract. 2. resol. 65. et part. 2. tract. 15. resol. 54. *Nec rectius docet Bordonus* in cons. reg. resol. 53. quaest. 17. *licentiam expressam insumendi pecuniam in usus illicitos excusare a proprietate, et restitutione.*

Doubt II: Whether a religious who has superfluities by his superior's permission is a proprietor

1 It is CERTAIN that both the superior granting and the Religious having are guilty of a mortal sin, *from the Council of Trent sess. 25. cap. 2.*, and the holy Congregation at Quarant. *V. Reserved case*, and the Clementine at Nauarr. *Com. 4. on the Rules num. 27.*

> ***An Religiosus superioris licentia habens superflua, sit proprietarius.***
>
> *CERTUM est, et superiorem concedentem, et Religiosum habentem, lethalis esse reos,* ex Conc. Trid. sess. 25. cap. 2. *et sacra Congr. apud Qqarant.* V. Casus reservatus*, et Clementina apud Nauarr.* Com. 4. de Regul. num. 27.

2 But whether he is an owner against Poverty; I judge this man guilty, for I do not see of what other crime he would be guilty, except ownership, since he uses superfluous things against the will of the Pontiff, the supreme Father, as is had in the Council of Trent *loc. cit.* Thus Maior in *4. d. 38. q. 9.* Petr. Nauar. *lib. 3. on Restitution cap. 1. d. 1. n. 168.* Graff. *2. p. lib. 3. cap. 19.* Bassaeus Baffaeus num. 11., where he explains the superfluity of things with D. Bernard in the Apology to William, and in the letter to the brothers of Mount Dei, and sermon 4. Adveniens.

> *An vero proprietarius sit contra Paupertatem; Arbitrot hunc reum, non enim video cuius criminis alius reus sit, nisi proprietatis, cum utatur superfluis, contra voluntatem Pontificis, summi Patris, ut habetur in Conc. Trid.* loc. cit. *Ita Maior in* 4. d. 38. q. 9. Petr. *Nauar.* lib. 3. de Restit. cap. 1. d. 1. n. 168. *Graff.* 2. p. lib. 3. cap. 19. *Bassaeus*

Baffaeus num. 11. ubi rerum superfluitatem exponit cum D. Bernardo in Apol. ad Guilelm. et in ep. ad fratres de monte Dei et serm. 4. Adveniens.

3 S. Bonaventure defers it most excellently to c. 1. of the Rule in these words: *Let them be clothed in poor garments.*

Optime differit S. Bonavent. ad c. 1. Reg. in ea verba: Vestimentis vilibus induantur.

4 The Saintly Doctor condemns superfluity in things, above all pomp in buildings, q. 6. on the Rule, where he says these act gravely against poverty. Moreover, he declares them guilty of scandal and of the sins of others.

Superfluitatem in rebus, maxime pompam in aedificiis, damnat S. Doctor q. 6. in Regulam, ubi hos contra paupertatem graviter agere ait. Insuper, eos scandali, et aliorum peccatorum reos clamat.

5 IN the Apology of the poor, of the first response c. 2. and 3. he gravely reproves superfluity of food; more closely c. 3. respons. 3. But gravely cap. 2. respons. 5. He refutes what a certain adversary objects from the riches of the ancient Levites, from the august pomp of the temple of Solomon, in order to overturn Evangelical Poverty. And cap. 3. he approves a poverty that lacks abundance. He confirms the same, c. 4. and in the Letters to the Ministers.

IN Apol. pauperum, responsionis 1. c. 2. et 3. reprehendit graviter superfluitatem victus; Pressius c. 3. respons. 3. Graviter vero cap. 2. respons. 5. Eluit, quae adversarius quidam opponit e divitiis antiquorum Levitarum, e templi Salomonis Augusti pompa, ut paupertatem Evangelicam evertat. Et cap. 3. penuriosam approbat paupertatem. Eadem confirmat, c. 4. et in Epistolis ad Ministros.

6 These things one would have to transcribe with no Iota changed. But I beg you, run through and drink in the flowing wisdom of the Saintly Doctor. Truly I wonder at Baffaeus not to defer to S. Bonaventure; indeed, not even to name him.

HAEC oporteret transcribere nullo mutato Iota. Sed obsecro affluentem S. Doctoris sapientiam percurrite, et ebibite. Sane admiror Baffaeum ad S. Bonaventuram, non remittere; imo neque ipsum nominare.

7 The PRELATE, on the other hand, not ministering necessaries to his subjects, when he can, and offering a particular occasion, sins gravely. From D. Antonin. 3. part. tit. 16. c. 1. §. 11. Silvest. V Relig. 6. q. 7. Sanchez l. 7. c. 11. n. 26. Less. l. 2. c. 41. dub. 5. Val. disp. 10. q. 4 point 2. Baff. n. 13. He sins also by receiving more than can be sustained by revenues, or alms, as you have in the Council of Trent sess. 25. cap. 3. and in the Decree on the celebration of Mass under Urban VIII.

PRAELATUS e regione non ministrans necessaria subditis, cum possit, et peculiari ansam exhibet, peccat graviter. Ex D. Antonin. 3. part. tit. 16. c. 1. §. 11. Silvest. V Relig. 6. q. 7. Sanchez l. 7. c. 11. n. 26. Less. l. 2. c. 41. dub. 5. Val. disp. 10. q. 4 puncto 2. Baff. n. 13. Peccat etiam plures recipiens, quam reditibus, vel eleëmosynis valeant sustentari, ut habes in Concilio Tridentino sess. 25. cap. 3. et in Decreto de celebrat. Missae sub Urbano VIII.

8 But those things which are necessary for the Religious life must be held in common. See the Saintly Doctor in the opuscula cited, with D. Basil. in the Constitutions of Monks c. 9. Chrysost. homily 58. to the people of Antioch.

EA vero, quae vitae Religiosae sunt necessaria, debent esse in communi. Vide S. Doctorem opusculis adductis cum D. Basil. in Constit. Monach. c. 9. Chrysost. homil. 58. ad popul. Antiochenum.

9 *Whether a Religious sins by accepting alms for others.*

An Religiosus peccet accipiendo pro aliis eleëmosynas.

Doubt III: Whether a religious sins by accepting alms for others

1 I SAY, that one accepting alms for the poor, whether blood relatives, or strangers, without license, does not sin, Sanch. on Matrimony sess. 6. disp. 4. n. 7. and lib. 7. moral. c. 50. num. 4. Layman l. 4. tr. 5. c. 7. num 16. Caramuel num. 887. l. 8. Diana p. p. on Poverty resol. 8. and 29. Fagund. praec. 1. l. 8. c. 6. n. 18. Suarez tract. 3. on Religion l. 8. c. 11. num. 45. Baffaeus num. 14., provided he does not assume to himself the donation, or any right. He will indeed conduct himself as an intercessor, in no way injuring his Poverty.

DICO, accipientem eleëmosynas pro pauperibus, sive consanguineis, sive alienis absque licentia, non peccare, Sanch. de Matrimonio sess. 6. disp. 4. n. 7. et lib. 7. moral. c. 50. num. 4. Layman l. 4. tr. 5. c. 7. num 16. Caramuel num. 887. l. 8. Diana p. p. de Pauper. resol. 8. et 29. Fagund. praec. 1. l. 8. c. 6. n. 18. Suarez tract. 3. de Relig. l. 8. c. 11. num. 45. Baffaeus num. 14. dummodo donationem, vel ius aliquod in se non assumat. Ita vero se habebit, ut intercessor, nil Paupertatem suam laedendo.

2 Such a man can receive, in deposit, broadly taken, without an obligation of safekeeping, certain things; and if he dies, he is not to be straightway deprived of burial. See Portel. V sepult. num. 11. Hieron. Rodriguez in the comp. resolut. 138. num. 20.

TALIS potest in deposito, late sumpto, absque obligatione servandi, aliquas res recipere, et si moriatur, non illico privandus est sepultura. Vide Portel. V sepult. num. 11. Hieron. Rodriguez in comp. resolut. 138. num. 20.

3 Baffaeus EXCEPTS the Minorite, unless the circumstances occurred to the contrary.

EXCIPIT Baffaeus minoritam, nisi circumstantiae in contrarium occurrerent.

4 But if he has received in himself a right of money, even to be transferred to others, he sins. Thus Turrianus 2. 2. disp. nr. 84. dub. 3. Layman lib. 4. tract. 5. cap. 7. num. 16. Faust. in the treasury l. 8. question 117.

Si vero receperit in se pecuniae ius, etiam in alios transferendam, peccat. Ita Turrianus 2. 2. disp. nr. 84. dub. 3. Layman lib. 4. tract. 5. cap. 7. num. 16. Faust. in thes. l. 8. quaest. 117.

Doubt IV: Whether a legacy to a religious stands, as belonging to him personally

1 I SAY the intention of the Testator is to be expounded and received benignly, so that it be understood that the legacy is dispensed in a lawful manner, leg. Plenum, §. equis, ff. on use, and habitation. And dispositions must be interpreted rather that they may stand than that they may perish, as the Doctors warn on Leg. In contrahenda ff. on the rules of law. And the perplexity of words is to be interpreted from the presumed will of the one disposing, Leg. qui quadringenta ff. on the lex Falcidia. See Diana part 3. tract. 2. resol. 34. Baffaeus num. 19.

An stet Legatum Religioso, ut ad eum precise pertineat.

DICO Testatoris intentionem benigne explicandam, et accipiendam, ut intelligat dispensari illud legatum modo licito leg. Plenum, §. equis, ff. de usu, et habitatione. Et oportet dispositiones interpretari potius ut valeant, quam ut pereant, ut monent DD. in Leg. In contrahenda ff. de reg. iuris. Et Verborum perplexitas interpretanda est ex praesumpta disponentis voluntate Leg. qui quadringenta ff. ad leg. Falcidiam. Vide Dianam parte 3. tract. 2. resol. 34. Baffaeum num. 19.

2 He can THEREFORE acquire a Legacy for the sole uses conceded to a Religious, by license. If, however, the testator expresses that he wills the Legacy only under the condition that it be under the dominion of the Religious, it falls; because then the will obtains the first place. See Baffaeus.

POTEST ideo Legatum acquirere ad solos usus Religioso concessos, ex licentia. Si tamen exprimat testator nolle Legatum nisi sub conditione, ut sit sub dominio Religiosi corruet; quia tunc primum locum voluntas obtinet. Vide Baffaeum.

Question VII: On the penalties and the marks of a proprietor

1 FIRST, the owner in death is deprived of sacred burial, cap. Monachi on the state of Monks; he is therefore to be buried in the dunghill with his money. But if he already lies in a sacred place, he is to be dug out. Secondly, by cap. cum ad Monasterium, on the state of Monks, it is decreed that the Owner be expelled: but this is not in use; rather he is delivered over to prison for Penance. Thirdly, from the Council of Trent sess. 25., let him be deprived for two years both of active and passive voice. See Sanch. l. 7. c. 20. Faust. l. 8. q. 158.

De Poenis, et signis Proprietarii.

PRIMO, proprietarius in morte privatur sacra sepultura, cap. Monachi de statu Monach. sepeliendus ergo est in sterquilinio cum pecunia. Quod si iam in loco sacro iacet, exutrahendus. Secundo, cap. cum ad Monasterium, de stat Monach. decernitur, ut Proprietarius expellatur: Sed hoc non est in usu; at carceri mancipatur ad Poenitentiam. Tertia ex Conc. Trident. sess. 25. privetur biennio voce tam activa, quam passiva. Vide Sanch. l. 7. c. 20. Faust. l. 8. q. 158.

2 But the FIRST, and principal sign of ownership is noted at cap. Monachi, if a Religious is found to possess a peculium in his own name, where it is indicated as a penalty that, until he comes to his senses, he be removed from communion of the Altar, as guilty indeed both of sacrilege against the vow, and of theft, in retaining what belongs to another.

PRIMUM autem, ac praecipuum proprietatis signum notatur cap. Monachi, si inveniatur Religiosus peculium possidere proprio nomine, ubi indicatur pro poena, ut donec resipiscat, ab Altaris communione removeatur, quippe reus, et sacrilegii contra votum, et furti, retinendo alienum.

3 The SECOND sign, is the concealment of a thing; for even if from the beginning the thing be taken with the presumed permission of the superior, if nevertheless afterwards it is concealed with the mind of retaining it, and not yielding it to the prelate seeking it, the vice of ownership is incurred. And this indeed is true even if the thing has been taken with express license for the particular use of some Religious; for such permission is presumed granted with this tacit condition, that it be always under the dominion of the prelate; if the Religion be such as to be able to possess in common.

SECUNDUM signum, est rei occultatio; nam etiamsi ab initio cum praesumpta venia superioris res auferatur, si tamen postea occulletur animo retinendi, et non cedendi eam praelato petenti, proprietatis vitium incurritur. Et hoc quidem verum est etiamsi cum expressa licentia res fuerit in particularem usum alicuius Religiosi ascita; nam talis venia praesumitur concessa, ea tacita conditione, ut semper sit sub Dominio praelati; si talis sit Religio, ut possit possidere in communi.

4 HENCE some draw from this a great indication of ownership, that someone keeps a thing sealed with a key without the license of the superior, even if he has obtained the thing itself with this license; which manner here argues a tenacity of mind and affection toward a thing not his own; moreover, as the sign of proprietary possession in civil law a key is wont to be given, leg. clavibus ff.

on contracting purchases; for these reasons Alvarus Pelag. lib. 1. on the lament of the Church, cap. 67. Corduba in the exposition of the Rule, cap. 6. question 9. and Serena Conscientia question 81. are judged to have given rise and origin to this opinion. And truly of old it was utterly abhorrent to the Fathers to seal up a thing with a key, as Cassianus has lib. 4. c. 15. of the institutes.

> *HINC nonnulli magnum proprietatis indicium inde eliciunt, quod quis rem aliquam clavi obsignatam habeat absque superioris licentia, etiamsi rem ipsam cum hac licentia nactus sit; qui modus hic arguit mentis, et affectus tenacitatem ad rem non suam; praeterea in proprietariae possessionis signum in lege civili solet tradi clavis leg. clavibus ff. de contrahend. empt. propter has rationes huic sententiae ortum, et originem dedisse censentur Alvarus Pelag. lib. 1. de planctu Ecclesiae, cap. 67. Corduba in expositione Regulae, cap. 6. quaest. 9. et Serena Conscientia quaest. 81. Et sane antiquitus patribus plane perosum erat rem aliquam clavi obsecrare, ut habet Cassianus lib. 4. c. 15. de instit.*

5 TRULY it is certain, that in itself the key is not a sign of ownership, but of custody, as Suarez well notes *lib. 8. on poverty, cap. 12.*; whence it indicates ownership only insofar as it withdraws and conceals some thing from common use without the license of the superior, presumed or express, so that the superior cannot dispose of it, as various Authors argue at Suarez in the place cited, who warns that the custom of the Religion must be stood by in this matter, as also the permissions of superiors, who can either inhibit or concede it;

> *VERUM certum est, in se clavem non proprietatis, sed custodiae signum esse, ut bene notat Suarez* lib. 8. de paupertate, cap. 12. *unde in tantum proprietatem indicat, in quantum rem aliquam communi usui absque superioris licentia, praesumpta vel expressa, subtrahit, et occultat, ita ut de ea nequeat superior disponere, ut varii arguunt Authores apud Suarez loco citato, qui monet religionis consuetudini in hac re standum, sicut et superiorum permissionibus, qui id possunt vel inhibere, vel concedere;*

6 But whether it argues ownership to obtain a thing with an unreasonable, or unjust license of the superior; Suarez denies, with the others whom he cites; because although such permission be badly granted, since nevertheless it is not a dispensation from poverty, but a concession concerning remote matter of poverty, the subject can licitly use it, and with the stronger right, that he always has a mind prepared to remit such a thing at the nod, and pleasure, of the superior.

> *An autem proprietatem arguat, rem aliquam obtinere cum irrationabili, seu iniusta superioris licentia; negat Suarez cum aliis, quos allegat; quia licet talis venia male concessa sit, cum tamen non sit paupertatis dispensatio, sed concessio circa materiam paupertatis remotam, potest subditus licite ea uti, et eo potiori iure, quod mentem semper paratam habeat rem talem ad nutum, et libitum superioris remittere.*

Disputation V: On the Vow of Chastity

1 You have the INCORRUPTIBLE Lily of Chastity, at once fragrant with the odor of purity and aflame with the ardor of heavenly things, in the Seraphic Doctor in the *Dieta, tit. 4. cap. 4.*, where he pours forth the snowy leaves of this most beautiful flower, and the kindled crocus glinting among golden grains, into the chastity of the body and the cleanness of the mind; for unless the mind, kindled within by divine ardor, be made clean, in vain is chastity boasted of outwardly in the body: on account of this twofold purity of heart, and of flesh, Chastity is compared in the *Songs* to a garden enclosed, and a fountain sealed, as the Saintly Doctor notes at the place cited; for as nothing enters a well-closed garden except from on high, so into a chaste soul entrance plainly opens only from above, from Heaven: this closing of the soul is obtained especially by cloistered Chastity. I shall treat, therefore, here of this most preeminent dowry of the heavenly spouse, insofar as it is consecrated by Vow; but below, where I treat of temperance, I shall weigh it as a virtue moderating pleasure about touch. Here also I shall add certain things on the observance of the Cloister, which is the guardianship of Chastity.

> *INCORRUPTIBILE Castitatis Lilium, simul et puritatis odore fragrans, et caelestium ardore flagrans habes apud Seraphicum in* Dieta, tit. 4. cap. 4. *ubi spectatissimi huius floris nivea folia, et accensum crocum, aureis granis intersplendentem, in corporis pudicitiam, et mentis munditiam refundit; nisi enim divino ardore mens intus succensa mundetur, frustra foris in corpore pudicitia iactatur: Propter duplicem hanc puritatem cordis, et carnis, Castitas horto concluso, ac fonti signato in* Canticis *comparatur, ut loco citato, notat S. Doctor; nam sicut in hortum bene clausum nihil, nisi de alto intrat, ita in castam animam non nisi desuper e Caelo patet ingressus: Haec autem animae clausura claustrali Castitate praecipue obtinetur, Agam igitur hic de hac praestantissima caelicae sponsae dote, quatenus Voto consecratur; inferius vero, ubi de temperantia, eam, ut virtutem, voluptatis circa tactum moderativam, expendam. Hic etiam quaedam de observantia Claustri, quae Castitatis est custodia, adiungam.*

Question I: What difference there is between cloistered and clerical chastity

1 The FIRST opinion is of certain Theologians, and of almost all the Canonists, whom *Suarez lib. 9. on the vow of chastity reports, with Sancio lib. 7. disp. 27.*: that the difference between the chastity professed by Clerics and by Religious is this: that the obligation of the latter is by force of the vow, but of the former by the virtue of an Ecclesiastical statute alone.

> *PRIMA sententia est quorundam Theologorum, et omnium fere Canonistarum, quos refert* Suarez lib. 9. de voto castit. cum Sancio lib. 7. disp. 27. *eam esse differentiam inter castitatem, quam profitentur Clerici, et Religiosi; ut horum obligatio sit ex vi voti, illorum vero ex virtute sola statuti Ecclesiastici.*

2 The SECOND opinion is that of D. Bonaventure, and of as many Ecclesiastical writers as wrote on the 37th *distinction of the Sentences*: that Ecclesiastical Chastity differs from that which is vowed solemnly in Cloisters in that the former is at once by reason of the statute and of an implicit vow; the latter, however, arises from an explicit vow alone. To this opinion *Suarez subscribes at the place cited, Azor. tom 1. lib. 7. cap. 12. question 6. Vasquez tom. 3. on the 3. part, disp. 246. cap. 3. Sancius loc. cit.*, to whom add others reported everywhere by these authors.

> *SECUNDA sententia est D. Bonaventurae, et quotquot in 37.* dist. sententiarum *scripserunt Ecclesiasticorum Castitatem in eo differre ab ea, quae solemniter in Claustris vovetur, quod prior sit simul ratione statuti, et voti*

impliciti; posterior vero oriatur ex voto solum explicito: Huic sententiae subscribit Suarez loco citato, Azor. tom 1. lib. 7. cap. 12. quaestio 6. Vasquez tom. 3. in 3. partem, disp. 246. cap. 3. Sancius loc. cit. *quibus adiice alios, apud hos passim relatos.*

3 I ASSERT with this opinion that Religious chastity differs from Ecclesiastical in this: that the latter had its origin from the statute of the Church, but now draws its obligation both from a vow and from the precept of the Church: but Religious Chastity has its origin and progress from solemn and express profession.

ASSERO cum hac sententia, in eo differre Religiosam castitatem ab Ecclesiastica, quod haec habuit ortum ex Ecclesiae statuto, sed iam obligationem contrahit, et ex voto, et ex Ecclesiae praecepto: Religiosa vero Castitas ex solemni, et expressa professione ortum quoque et profectum habet.

4 It is *PROVED by the Saintly Doctor here in the body, and in the doubts litt.* by an efficacious reason, which the others who hold this opinion bring forward: He who receives the habit of Religion without any further express promise vows implicitly the chastity annexed to such a habit; therefore he who receives the Clerical order, to which perpetual continence is annexed by precept, vows it implicitly.

PROBATUR a Sancto Doctore hic in corpore, et in dubiis litt. *ratione efficaci, quam caeteri huius sententiae proferunt: Qui suscipit Religionis habitum absque ulterioris promissione expressa, implicite vovet castitatem, quae tali habitui est annexa; ergo qui suscipit ordinem Clericalem, cui ex praecepto annexa est perpetua continentia, implicite eam vovet.*

5 It is *PROVED secondly from S. Bonaventure: where there intervenes* a spontaneous promise, and the precept of a superior, there is found a twofold obligation, of vow and of statute; But in the continence of clerics there is a spontaneous promise, and a precept. The minor is proved by D. Bonavent. *foundation 3.*, where he reports from Gregory, as is had in the letter: *Let Bishops presume to make no Subdeacon except one who has promised that he will live chastely:* Therefore the Saintly Doctor infers, he who promises himself into the hand of the Bishop vows continence: Hence of old they were not promoted to sacred Orders except those who, asked about keeping chastity, would promise it, as is clear from the Second Council of Arles *cap.* 2. Toledo II, *cap. 1.* Orange I. *can.* 22.

PROBATUR secundo a S. Bonavent. ubi intervenit *spontanea promissio, et superioris praeceptum, ibi invenitur duplex obligatio voti, et statuti; Sed in continentia clericorum est spontanea promissio, et praeceptum. Minor probatur a D. Bonavent.* fundam. 3. *ubi refert e Gregorio, ut habetur in littera:* Nullum Subdiaconum facere praesumant Episcopi, nisi qui promiserit se caste victurum: *Ergo infert S. Doctor, qui se promittit in manu Episcopi, continentiam vovet: Hinc antiquitus non promovebantur ad sacros Ordines, nisi qui interrogati de servanda castitate, eam promitterent, ut patet e Concilio Arelatensi II.* cap. 2. *Toletano II,* cap. 1. *Arausicano I.* can. 22.

6 MOREOVER, in a Cleric the violation of Chastity has the malice of sacrilege, not precisely by reason of the Order — otherwise the Presbyters of the Eastern Church would be guilty of sacrilege as often as they approached their wives, which S. Bonaventure here in the body disapproves, since they use them licitly; nor yet precisely by reason of the precept, because thus only disobedience is committed: Therefore this malice is by reason of the Vow.

PRAETEREA in Clerico, violatio Castitatis habet sacrilegii malitiam, non praecise ratione Ordinis, alias Praesbyteri Ecclesiae Orientalis toties essent sacrilegi, quoties ad uxores accederent, quod improbat S. Bonavent hic in corpore; cum licite eis utantur; non etiam praecise ratione praecepti, quia sic committitur tantum inobedientia: Ergo haec malitia est ratione Voti.

7 ADD that many Canons speak of the solemnization of the vow through the reception of Order, as Suarez notes after the Saintly Doctor in the body at the place cited, *cap. 17. num. 4.*, as is clear from *cap. unico on the vow, in 6.*, where a twofold solemn vow is enumerated, namely one of Order; another of Profession.

> *ADDE, multos Canones loqui de solemnizatione voti per susceptionem Ordinis, ut post S. Doctorem in corpore notat Suarez loco citato,* cap. 17. num. 4. *ut patet ex* cap. unico de voto, in 6. *ubi duplex votum solemne recensetur, scilicet unum Ordinis; aliud Professionis.*

8 HENCE you have that in reality there is no difference between the Chastity of Clerics and of Religious, except that the former vow it implicitly, and by annexation; but these expressly, and with a certain principal intention.

> *HINC habes in re nullam esse differentiam inter Castitatem Clericorum, et Religiosorum, nisi quod illi eam voveant implicite, et ex annexione; hi vero expresse, et principali quadam intentione.*

9 There is however one notable difference: that from the beginning of the Church, the vow of religious chastity not only impeded a marriage to be contracted, but severed one already contracted; not so the Chastity annexed to the order made, as Bellarmine proves at the place cited, citing Suarez.

> *Est tamen una notabilis differentia, quod a principio Ecclesiae, Castitatis religiosae votum non solum matrimonium contrahendum impediit, sed contractum diremit; non sic Castitas Ordini facto annexa, ut probat Bellarminus loco cit. cum Suarez citando.*

10 Likewise, that Religious Chastity is of such virtue that, while it is vowed, it dissolves a ratified marriage; not so the Chastity of sacred Order, nor even of the Episcopate itself; as is clear in the sole Extravag. on the vow under Ioan. XXII., as also all Theologians hold with D. Bonavent. in 4. dist. 27. The reason of this difference shines forth principally from the will of the Church, which, as it could determine one, so also the other, and with the stronger right, because the Clerical state, at least in the Episcopate, is more perfect than the Monastic profession.

> *Item quod tantae sit virtutis Religiosa Castitas, ut dum vovetur, ratum matrimonium dissolvat; non sic Castitas Ordinis sacri, nec etiam ipsius Episcopatus; ut patet in Extravag. unica, de voto apud Ioan. XXII. ut etiam habent omnes Theologi cum D. Bonavent. in 4. dist. 27. Ratio huius differentiae ptincipaliter elucet ex voluntate Ecclesiae, quae uti unum, ita et alterum potuit determinare, et eo potiori iure, quod status Clericalis, saltem in Episcopatu, perfectior sit professione Monachali.*

11 There are nevertheless several congruences why Chastity, which one vows in sacred Orders, is not of such efficacy as it is in Religion, for dissolving a ratified and unconsummated marriage. The first is taken from the repugnance of the Religious state with the use of marriage; since it makes its professor dead to the world: not so the Ecclesiastical state.

> *Sunt tamen plures congruentiae cur Castitas, quam quis vovet in sacris Ordinibus, non sit tantae efficaciae, ut est in Religione, ad dissolvendum matrimonium ratum, et non consummatum. Prima sumitur ex repugnantia status Religiosi cum usu matrimonii; quippe qui mortuum saeculo facit sui professorem: Non sic status Ecclesiasticus.*

12 The second is taken from the perpetual tending of the Religious toward perfection, which would be too much retarded by the use of a wife. But Order, although out of the reverence due to it it requires separation from carnal acts, nevertheless does not of itself place man on the way, and in the tending, toward the state of perfection; and so it was not fitting that it should dissolve the bond of a ratified

marriage; and although the Episcopate be at the very summit of perfection both exercised and acquired, since nevertheless it does not prescribe of itself the means for acquiring perfection, but only for exercising it; hence it is that it has not the virtue of vowing chastity to the prejudice of a ratified marriage; add that in Episcopal, or Priestly ordination no civil death intervenes through the abdication of one's own will.

> *Secunda sumitur ex perpetua tendentia Religiosi ad perfectionem, quae nimis retardaretur usu uxoris. Ordo autem, licet ob reverentiam sibi debitam exigat separationem ab actibus carnalibus, non ponit tamen per se hominem in via, et tendentia ad perfectionis statum; ideo non decuit, ut vinculum rati matrimonii solveret, et licet Episcopatus sit in ipso culmine perfectionis exercendae, et acquisitae, cum tamen ex se non praescribat media ad perfectionem acquirendam, sed solum exercendam; hinc est ut virtutem non habeat in praeiudicium rati connubii castitatem vovere; adde quod in Episcopali, seu Sacerdotali ordinatione mors nulla civilis per abdicationem propriae voluntatis intervenit.*

13 There are also several other accidental differences in the modes, and means, by which the Chastity of either state is preserved unsullied, which are evident in practice.

> *Sunt et aliae plures differentiae accidentales in modis, et mediis, quibus utriusque status Castitas intemerata conservatur, quae praxi patent.*

Question II: From what time the solemn vow of chastity began to make a subsequent marriage invalid

1 Those who deduce the incapacity for contracting marriage from the very nature of the solemn vow, by which the whole man is so alienated from himself and devoted to the divine service that he can do nothing regarding marriage, show that the antiquity of this diriment impediment is equal to that of the Religious state itself. Thus Sotus, de Iustitia, lib. 7, quaest. 2, art. 3, where he holds that he is not truly a Religious whose cause for dispensation from Chastity rests with the Supreme Pontiff; in such a way that he excludes from this state the Knights of S. John, who indeed observe Celibacy from a special Constitution of the Pontiff, not from the force of a vow.

> A quo tempore coepit votum Castitatis solemne, subsequens matrimonium dirimere.
>
> *Qui inhabilitatem ad matrimonium contrahendum deducunt ex ipsa natura voti solemnis, quo totus homo ita alienatur a se ipso, et divinis obsequiis devovetur, ut nihil possit circa matrimonium, ostendunt parem esse antiquitatem huius dirimentis impedimenti, ac ipsius status Religiosi. Ita Sotus de Iustitia, lib. 7. quaest. 2. art. 3. ubi sentit non esse vere Religiosum, cuius Castitatis dispensanda ratio stet penes Summum Pontificem; ita ut ab hoc statu excludat Milites S. Ioannis, observantes quippe Caelibatum ex speciali Pontificis Constitutione, non ex vi voti.*

2 But whatever may be said of this opinion, which we discussed above, where we treated of the dispensation of a vow.

> *Verum quicquid sit de hac opinione, quam supra, ubi de dispensatione voti, discussimus.*

3 The other opinion is that from the time of Innocent II alone, who obtained the Pontificate in the year 1140, this vow constantly dissolved marriage, whereas before it only impeded contracting it; so Suarez reports, cap. 21, where he adduces various Fathers and decrees of councils seemingly supporting this.

> *Altera sententia est a tempore tantum Innocentii II. qui Pontificatum obtinuit anno 1140. hoc votum constanter matrimonium diremisse, ante vero solum contrahendum impediisse; ita refert Suarez cap. 21. ubi varios patres, et*

conciliorum affert decreta, in speciem huic adstipulantia.

4 I assert, however, that from time immemorial, and therefore from the very beginning of the Church, this vow has had the force of dissolving a subsequent marriage.

Assero tamen a tempore immemorabili, ac proinde ab ipsius Ecclesiae principio votum hoc habuisse vim matrimonium subsequens dirimendi.

5 It is proved by various Councils and Fathers, whom I shall cite in tomo 7, tract. ult., disp. 7, quaest. 7; which Fathers and Councils existed before Innocent II, and notably Innocent I, who in cap. 12 and 13, epist. 2, recalls that by the vow of solemn profession a subsequent marriage is made void.

Probatur variis Conciliis, et Patribus, quos referam tomo 7. tract. ult. disp. 7. quaest. 7. qui quidem Patres, et Concilia extiterunt ante Innocentium II. et signatim Innocentius primus, qui cap. 12. et 13. epist. 2. memorat, solemnis professionis voto matrimonium subsequens irritum iri.

6 It is proved secondly, because the adverse opinion is gathered from nothing else than a certain text of Innocent II, which reads thus: *But such a union, which is known to have been contracted against the Ecclesiastical Rule, we do not judge to be marriages*. But it is badly inferred from this text: Therefore. The minor is proved. Because wherever a declarative word is employed in some law, no new constitution is understood, but either a declaration or a renewal of the old: but in that text only a declarative word is employed; for instance, *we judge* (Censemus), therefore.

Probatur secundo, quia non aliunde colligitur adversa sententia, quam ex textu quodam Innocentii II. qui sic legitur: Huiusmodi autem copulationem, quam contra Ecclesiasticam Regulam constat esse contractam, matrimonia non esse censemus. *Sed ex hoc textu male colligitur: Ergo. Minor probatur. Quia ubi in aliqua lege adhibetur verbum declarativum, non censetur nova aliqua constitutio, sed veteris vel declaratio, vel renovatio: Sed in illo textu adhibetur tantum verbum declarativum; verbi gratia,* Censemus *ergo.*

7 Nor does it stand in the way that the word *Censeo* in the Gloss on Clement. 1, de concess. praeb. suggests a new law; and also to censure (censere) in the law ff. de verborum signif. indicates the same as I command. For in the former passage the urgency is not pressing; because it signifies indeed a new law, which it supposes the old one to have been extinguished; and thus it can declare that it revived anew, and therefore constitute it anew.

Nec impedit, quod vox Censeo *apud Glossam in Clement. 1. de concess. praeb. novum ius insinuet; et etiam lege censere ff. de verborum signif. idem indicat ac praecipio. Nam in priori loco non urget instantia; quia significat quidem novum ius, quod supponit vetus extinctum; et sic potest declarare illud denuo revixisse, ac proinde de novo constituere.*

8 But that in civil law *Censeo* signifies the same as I command cannot be drawn by any consequence to canonical law, in which the propriety and simplicity of words is more observed: properly, moreover, *Censeo* among Cicero and other experts of the Latin tongue denotes to opine, or to judge: Besides, I urge that strong Authority of D. Augustine: *What the whole Church holds and is not held to have been instituted by any Council, is believed to be derived from Apostolic tradition;* as is found in lib. 4, de Baptismo, cap. 24; but not even a trace is found in any Council in which this Chastity first dissolves marriage by Ecclesiastical institution; therefore it must be believed to be derived from the Apostles themselves: that the Church has always believed and held this is evident from the Council of Trent, sess. 24, can. 9, saying of it that it has always been retained.

Quod autem in lege civili Censeo *significet idem ac praecipio; non potest ulla consequentia trahi ad ius canonicum, in quo proprietas et simplicitas verborum magis obsetvatur: Proprie autem* Censeo *apud Ciceronem, et alios Latinae linguae peritos, denotat arbitrari, vel iudicare: Praeterea urgeo validam illam D. Augustini Authoritatem:* Quod universa tenet Ecclesia nec ullo Concilio habetur institutum, ab Apostolica traditione derivatum creditur; *Ita habetur lib. 4. de Baptismo, cap. 24. sed nec vestigium quidem habetur in ullo Concilio, in quo primo haec Castitas dirimat matrimonium ex institutione Ecclesiastica; ergo credendum est id ab ipsis Apostolis derivatum esse: Quod autem semper hoc Ecclesia crediderit, et tenuerit patet e Concilio Trident. sess. 24. can. 9. de hoc dicente, quod semper retentum est.*

9 Nor is it credible that the Fathers, who cultivated chastity with such severity, could have, up to Innocent II, celebrated marriage, undissolved, for those bound by vows, or have been ignorant of its excellence: *It is confirmed* from D. Basil, lib. de vera virgine, where he upbraids adulteries and deflorations to women marrying after the profession of Virginity. Likewise from Chrysostom, epistola 6, ad Theodorum, where he speaks thus, *for if a woman has not power over her own body, but the man; much more they who live more safely for Christ than for themselves cannot have the condition of their own body,* which words splendidly show that before the times of Chrysostom it was in use that the profession of Chastity would leave no way open to marriage; and moreover that from the very origin of the Religious state this was customary: nor does the S. Doctor seem to me to disagree with this last opinion, who in dist. 37, art. 1, quaest. 2, teaches that sacred Order has the virtue of dissolving a subsequent marriage, with the reason of a vow, rather than by the obligation of an Ecclesiastical statute; as we saw in the preceding question, which difference he would not have indicated so expressly unless he had judged it to be intrinsic to the vow, that from the very instant at which it is solemnly emitted it draws with itself, by its own force, every incapacity for marriage: the opposite, however, I shall indicate probabiliter from his own mind in tomo 7, tract. ult., where we treat of the impediments of marriage.

Nec credibile est, Patres, qui tanta severitate castitatem coluerant, usque ad Innocentium II. potuisse indiremptum matrimonium votis obstrictos celebrare, aut tantam eius excellentiam ignorasse: Confirmatur *e D. Basilio lib. de vera virgine, ubi adulteria, et stupra improperat foeminis, post professionem Virginitatis nubentibus. Item e Chrysostomo epistola 6. ad Theodorum, ubi sic loquitur,* nam si mulier proprii corporis non habet potestatem, sed vir; multo magis, qui Christo tutius, quam sibi vivunt, conditionem corporis sui habere non possunt, *quae verba praeclare ostendunt ante Chrysostomi tempora fuisse in usu, ut Castitatis professio nullam matrimonio viam relinqueret; et insuper quod ab ipso exordio status Religiosi id consuetum esset: nec dissentire huic ultimae sententiae mihi videtur S. Doctor, qui dist. 37. art. 1. quaest. 2. docet, sacrum Ordinem habere virtutem dirimendi matrimonium subsequens, cum ratione voti, quam obligatione statuti Ecclesiastici; ut quaestione praecedenti vidimus, quam differentiam non ita expresse indicasset, nisi intrinsecum esse voto iudicasset, ut ab ipso instanti, quo solemniter emittitur omnimodam inhabilitatem ad matrimonium secum virtute propria trahat: oppositum tamen probabiliter ex ipsius mente indicabo tomo 7. tract. ult. ubi de impedimentis matrimonii.*

10 Nor can it be objected that the aforesaid Fathers understood this of the simple vow of Chastity, whose violation even in a valid marriage can be called adultery, insofar as it alienates the faith given to Christ. I say this cannot be objected: For, as Suarez remarks, cited above, D. Ambrose, who spoke in the mind of the other Fathers, is understood signally of the solemn vow of virgins, *cap. 5, ad virginem lapsam*, where he has thus: *She who has promised herself to Christ, and has received the sacred veil, has already married, has already been joined to an immortal spouse*, where *sacred veil* denotes solemn and Religious Chastity; for in the simple vow no veil intervenes; as is known to all.

Nec obiici potest, quod praefati Patres intellexerint de voto simplici Castitatis, cuius violatio etiam in matrimonio valido potest appellari adulterium; quatenus fidem Christo datam alienat. Non inquam hoc opponi potest: Nam, ut advertit Suarez, citatus supra, D. Ambrosius, qui locutus est ad aliorum Patrum mentem, signanter, de voto solemni virginum intelligitur cap. 5. ad virginem lapsam*, ubi sic habet:* Quae se spopondit Christo, et sanctum velamen accepit, iam nupsit, iam immortali coniuncta est viro*, ubi* sanctum velamen *denotat solemnem, et Religiosam Castitatem; non enim in voto simplici velamen intervenit; ut omnibus notum est.*

11 And although some Fathers, and Councils, even ancient ones, speak of the marriages of made Virgins only as illicit, not as void, as is seen in the Councils, Toletanum I, Arelatense II, and others in Suarez, loco cit., nevertheless nothing is concluded from that against the antiquity of this Chastity, since their authorities are only negative, not positive: Besides, it could happen that in the first centuries, while the power of pagan princes was flourishing and luxuriating, such marriages were tolerated; but that they were approved is found nowhere.

Et quamvis nonnulli Patres, et Concilia, etiam antiqua, loquantur de matrimonio factarum Virginum tantum, tanquam illicito, non ut irrito, ut videre est in Conciliis, Toletano I. Arelatensi II. et aliis apud Suarez loco cit. *inde tamen nihil concluditur contra antiquitatem huius Castitatis, cum illorum authoritates sint tantum negativae, non positivae: Praeterea fieri potuit, ut primis saeculis, vigente, et luxuriante paganorum principum potestate, talia matrimonia tolerata sint; quod autem approbata sint; nusquam invenitur.*

Question III: Whether one who solemnly vows chastity dissolves a marriage, whether consummated or ratified, and by what law and from what time this began to be done

1 Heretics, who always dwell in extremes, are accustomed to harass the Church on both sides, as she holds the mean of virtue: for there were some, as Bellarmine reports, *lib. 2, de Monach., cap. 38*, who absurdly dreamt that not only a consummated but also a ratified marriage could be dissolved by the vow of religious chastity. But undeservedly is Justinian involved with those professing the former error, *leg. ult., Cod. de Episcop. et Clericis*, since that law can be understood either of sponsi de futuro, or of a marriage merely ratified; nor does anything sound there which by any legitimate consequence can be drawn to a consummated marriage.

An solemniter vovens Castitatem, dissolvat matrimonium vel consummatum, vel ratum, et quo iure, et tempore id fieri coeperit.

Haeretici, qui in extremis semper versantur, utrinque solent Ecclesiam, virtutis medium tenentem, infestare: fuere enim nonnulli referente Bellarmino lib. 2. de Monach. cap. 38. *qui et ratum matrimonium religiosae castitatis voto non soldi, et consummatum solvi posse impertinenter somniarunt. Immerito autem cum postetiorem errorem profitentibus involvitur Iustinianus* leg. ult. Cod. de Episcop. et Clericis*, cum ea lex possit intelligi vel de sponsis de futuro, aut de matrimonio tantum rato; nec ibi aliquid sonat, quod ad matrimonium consummatum legitima ulla consequentia trahi queat.*

2 Moreover, since almost this whole question pertains to the treatise on Marriage, I shall remit its former part to *eo quaest. 16*, where I shall prove that a consummated marriage is insoluble in every way: I shall treat the other part also in *quaestione 15*, in the same place, where I shall show that by natural and divine law the profession of Religious Chastity dissolves, or rather dissolves a ratified marriage.

Caeterum, cum tota fere haec quaestio ad tractatum de Matrimonium pertineat, Priorem eius partem eo quaest. 16. *remittam, ubi consummatum matrimonium omnimode insolubile probabo: Alteram etiam partem* quaestione 15.

ibidem tractabo, ubi iure naturali, et divino Castitatis Religiosae professionem dirimere, seu potius ratum matrimonium solvere ostendam.

3 There remains therefore one thing to be examined here, namely from what time it has been customary in the Church that the solemn and Religious vow of Chastity be of such virtue as to dissolve a ratified marriage. Now this can be established only by some example of antiquity, or by the Decree of some Pontiff. You have several examples in Suarez, *cap. 24*, but serving the matter little: For that D. John was sponsor at the marriage in Galilee, and rejected them, already ratified, in order to follow Christ, is not credible, since it rests on very slight conjectures; and from it would follow that Christ went there rather to condemn the marriage than to honor it with his presence: which repugns the whole catalogue of Fathers disputing against the heretics. Grant that D. Bonan. be adduced by S. Hieronym., *4. dist. 27, art. 3, quaest. 2*; for he speaks not assertively but disputatively.

Restat itaque unum hic examinandum, a quo scilicet tempore usitatum sit in Ecclesia, ut votum Castitatis solemnis, et Religiosae, tantae sit virtutis, ut ratum solvat matrimonium. Hoc autem solum constare potest, vel aliquo antiquitatis exemplo, vel alicuius Pontificis Decreto. Exempla plura habes apud Suarez cap. 24. *sed ad rem parum deservientia: Nam quod D. Ioannes fuerit sponsus in nuptiis Galileae, easque iam ratas repudiaverit, ut Christum sequeretur, non est credibile, cum tantum levibus coniecturis nitatur; et inde sequeretur, Christum eo ivisse potius ad nuptias damnandas, quam sua praesentia honestandas: Quod toti patrum catalogo, contra haereticos disputantium, repugnat. Esto pro hoc D. Bonan. referat S. Hieronym.* 4. dist. 27. art. 3. quaest. 2. *non enim assertive, sed disputative loquitur.*

4 Nor likewise do the examples of Iphigenia, failing from the embraces of Hirtacius, press, since no marriage followed, but a preceding vow, which had impeded the ensuing marriage. Say the same of D. Caecilia, bound by a simple vow of Chastity; for by a Divine inspiration she foresaw that the marriage to be entered into with Valerian would serve only for his conversion, but would not break out into any carnal act: of Macarius, indeed, and Alexius it can be said that, through zeal for a more perfect life, embracing Celibacy or the hermitage, not religion, they left their spouses: For nowhere is it read of them that they professed the Religious life.

Nec similiter urgent exempla Iphigeniae ab amplexibus Hirtaci deficientis, cum non fuerit matrimonium secutum, sed votum antecedens, quod sequendas nuptias impediverat. Idem dic de D. Caecilia, voto simplici Castitatis obstricta; Divino enim afflatu praevidit, matrimonium, cum Valeriano ineundum, profuturum solum ad ipsius conversionem, non autem prorupturum in carnalem aliquem actum: De Macario vero, et Alexio dici potest, quod perfectioris vitae studio, in Caelibatu, aut eremo, non in religione amplectendo, sponsas reliquerint: Non enim usquam de ipsis legitur, quod vitam Religiosam sint professi.

5 Nevertheless, not absurdly is it gathered from this that the examples of these induced posterity to send a messenger to a ratified marriage, and to pursue themselves with vows of higher perfection; although simpliciter, for the sake of greater perfection, no one can at his pleasure bid farewell to ratified nuptials; otherwise this would be licit even on account of the pursuit of simple celibacy; whereas it is not licit on account of the Episcopate, which in the apex of perfection surpasses the others.

Non tamen hinc absurde colligitur, horum exempla posteros induxisse, ut rato matrimonio nuntium remitterent, seque altioris perfectionis votis consectarent; licet simpliciter ob maiorem perfectionem nequiat unusquisque ad libitum ratis nuptiis valedicere; alias id liceret etiam propter studium simplicis caelibatus; cum tamen non liceat propter Episcopatum, qui in perfectionis apice caeteris supereminet.

6 Therefore only from the rescript of Eusebius the Pontiff do we have that this custom is most ancient, so that the special time at which it began occurs to no memory: For the said Pontiff says in Gratian, *cap. desponsata, 27, quaest. 2: A betrothed girl may not be given by her parents to another man, yet she may choose a Monastery for herself.* Now this Pope sat before the year 1300, yet that this custom is older is evident from his very words: For he does not speak as one newly statutes, but as one declaring what was already before statutes; otherwise he would not say: *Licet*, but rather, *liceat*, as Suarez subtly remarks, *cap. 24*.

> *Solum igitur ex rescripto Eusebii Pontificis habemus hunc morem esse antiquissimum, ita ut speciale tempus, quo coeperit, nullius memoriae occurrat: Ait enim dictus Pontifex apud Gratianum* cap. desponsatam, 27. quaest. 2. Desponsatam puellam non licet parentibus alii viro tradere, licet tamen sibi Monasterium eligere. *Hic autem Papa sedit ante annos 1300. quo tamen antiquiorem esse hanc consuetudinem, patet ex ipsius verbis: Non enim loquitur, ut de novo statuens, sed iam prius statutum declarans, alias non diceret:* Licet*, sed potius,* liceat*, ut subtiliter advertit Suarez* cap. 24.

7 Some difficulty can arise, from the fact that she is called *desponsata*, which particle can be understood of betrothal for the future, not of marriage for the present: This, however, does not press, if it be noted that the Pontiff there prescribes a single remedy for withdrawing from a marriage, that the girl enter a Monastery; but if she had been betrothed by words de futuro, it would not be so arduous a business as to require the judgment of the supreme Tribunal, since for dissolving betrothals relief is furnished by many other ways for a just cause.

> *Aliqua suboriri potest difficultas, eo quod dicitur* desponsata*, quae particula intelligi potest de sponsalibus pro futuro, non de matrimonio pro praesenti: Hoc tamen non urget, si advertatur ibi Pontificem, unicum remedium a matrimonio deficiendi praescribere, ut puella Monasterium ingrediatur; quod si desponsata esset per verba de futuro, non esset tam arduum negotium, ut supremi Tribunalis iudicium exigeret, cum solvendis sponsalibus, aliis multis modis ex iusta causa subvenium fit.*

8 Add that, by the perpetual consent of the Doctors, and by long custom, which interprets the law best, that text is explained of a ratified marriage, as Suarez notes, *num. 2;* whence it must be concluded, according to the rule of D. Augustine noted in the preceding question, that from Apostolic tradition this custom of dissolving a ratified marriage, annexed to the vows of Religion, has been derived down to our own times.

> *Adde, quod perpetuo Doctorum consensu, et longa consuetudine, quae legem optime interpretatur, ille textus de matrimonio rato explicetur, ut notat Suarez* num. 2. *unde concludendum est iuxta regulam D. Augustini, notatam quaestione praecedenti, ab Apostolica traditione hanc ratum matrimonium dirimendi consuetudinem, votis Religionis annexam, ad nostra usque tempora derivatam esse.*

Question IV: By what law, and from what time, religious chastity began to be sealed by enclosure

1 Caramuel discusses this question in part, *in sua Theologia moral., epist. 34, art. 8*. But the difficulty is not about those promising perpetual enclosure under the fourth vow; for whatever we said above about the law by which vows obliges militates for them: truly, it also seems that the same law can be adduced for those vowing Chastity anew, where enclosure is observed by custom; for since means and end are prescribed by the same law, and by natural and divine precept one is bound to stand by

one's vow, and since enclosure is the most efficacious means of conserving Chastity, it follows that enclosure obliges by an equal law.

> Quo iure, et tempore coeperit Castitas Religiosa clausura obsignari.
>
> *Hanc quaestionem pro parte discutit Caramuel* in sua Theologia moral. epist. 34. art. 8. *Non est autem difficultas de perpetuam clausuram pro quarto voto promittentibus; pro illis enim militat quicquid de iure, quo vota obligent, supra diximus: Verum etiam pro Castitatem noventibus, ubi clausura ex consuetudine observatur, idem ius proferri posse videtur; nam cum eadem lege praecipiantur media, et finis, et ex praecepto naturali, et divino teneatur quis suo voto stare, et cum clausura sit medium efficacissimum conservandae Castitatis, sequitur, clausuram pari iure obligare.*

2 That enclosure is a most efficacious means for professing the vow of unspotted Chastity the Seraphic Doctor demonstrates excellently, *de professu Relig., lib. 1, cap. 39, et lib. 2, cap. 54*. For the alienation and separation of women from men; and the companionship of the chaste, by whose example one is led by the hand to purity, is a most present remedy against the allurements of luxuriating flesh: But this is furnished by enclosure, in which no occasion either of touching or of seeing meets one, by which modes chastity is especially assailed; for as the S. Doctor notes excellently, *lib. 2 cited: A coal, which seems extinguished, covered with a little ash, if touched, burns; but if left solitary, at last it is extinguished; truly if joined to another, both are kindled.*

> *Quod autem clausura sit valde efficax medium ad intemeratae Castitatis votum profitendum, demonstrat optime Seraphicus Doctor* de professu Relig. lib. 1. cap. 39. et lib. 2. cap. 54. *Nam Alienatio, et separatio foeminarum a viris; et contubernalis castorum societas, quorum exemplo ad puritatem manuducitur, est remedium praesentissimum contra luxuriantis carnis illecebras: Hoc autem praestatur per clausuram, in qua nec tangendi, nec videndi occasio ulla obuiat, quibus praecipue modis castitas temeratur; nam ut eximie notat S. Doctor* lib. 2. citato, Carbo, qui videtur extinctus, modica fauilla opertus, si tangatur, urit, si vero solitarius relinquatur, tandem extinguitur, verum si alteri adiungitur, ambo accenduntur.

3 Besides, natural reason has always so persuaded all peoples that the wanderings of girls be curbed, that they may dwell more securely within than without; nor did the very Ethnici, or Heretics, who assailed the other rights of nature, praise the exits and excursions even of secular virgins; nor have the sectaries of our own time, who heaped the crimes of all centuries into the impiety of their heresies, inveighed against enclosure, insofar as it is a seal of Chastity; although against it, insofar as it casts aside every hope of future marriage so that the vow may be kept, they ejaculate not a few insults.

> *Praeterea ratio naturalis ita omnibus gentibus semper suasit, ut puellarum divagationes coerceantur, ut securius intus, quam foris versentur; nec ipsi Ethnici, aut Haeretici qui caetera naturae iura impugnarunt; saeculatium etiam virginum exitus, et excursus laudarunt; nec ipsi nostri temporis sectarii, qui omnium saeculorum scelera in suarum haeresum impietatem congessere, in clausuram, quatenus Castitatis est signaculum, invehuntnr; licet in ipsam, quatenus omnem futuri connubii spem abiicit, ut votum conservet, convitia nonnulla eiaculentur.*

4 I assert, however, with the scandal of one's neighbor set aside, and the danger of falling, that enclosure is in precept only by Ecclesiastical law; it is evident from the Councils and Fathers to be cited below.

> *Assero tamen secluso proximi scandalo, et lapsus periculo, clausuram iure tantum Ecclesiastico esse in praecepto; patet ex Conciliis, et Patribus infra citandis.*

5 *It is proved*, because besides the solemnity of the vow, which pertains to the Church, the obligation before God is equal in the simple and in the solemn vow: But to the simple vow enclosure is not required. Therefore. *It is confirmed*, because although enclosure is a means conducive to this, we are not held to employ every means.

> Probatur, *quia praeter voti solemnitatem, quae ad Ecclesiam spectat, par est obligatio coram Deo in voto simplici, ac solemni: Sed ad votum simplex clausura non requiritur. Ergo*. Confirmatur, *quia licet clausura sit medium ad hoc conducens, non tamen tenemur omne medium adhibere*.

6 *It is proved* secondly from the various and frequent dispensations of this enclosure, by which nuns are indulged so as to remain for whole months and years in the houses of their parents for congruous causes only; indeed, some even, devoted for their whole lifetime to works of piety, serve in Zenodochia and other places.

> Probatur *secundo ex variis, et frequentibus dispensationibus huius clausurae, quibus moniales indulgentur ut integris mensibus, et annis ob congruas tantum causas in parentum aedibus commorentur; imo et nonnullae toto vitae tempore pietatis operibus impensae, in Zenodochiis, et aliis locis deserviunt*.

7 As to the time at which enclosure was joined to the life of Monks, although it is most ancient, as is evident from the Rules of D. Basilii, D. Augustini, S. Benedicti, and the ancient Fathers; as we saw, *d. 1, q. 2*, nevertheless it does not seem to be a precept of any law other than legal justice, by which a subject is bound to stand by the mandates of his Superior; for thus all the Rules are interpreted by long custom. There are nevertheless held certain decrees of Councils which speak more strictly of this matter, as of the Council of Chalcedon, *cap. 4*, where it commands Monks, *to remain in the places to which they have dedicated themselves to God*, to which words it adds below: *But those passing beyond these, we decree to be outside communion, lest the name of the Lord be blasphemed.* To these consonant is the Decree of Alexand. II, cited in Suarez, *tom. 4, tract. 8, lib. 1, cap. 6*, in which it reads thus: *According to the tenor of the excellent Council of Chalcedon, we command Monks, though Religious, to remain within the cloister according to the norm of S. Benedicti; we prohibit them to wander through villages, castles, cities.*

> *Quantum ad tempus, quo Monachorum convictui adiuncta sit clausura, licet antiquissimum sit, ut patet e Regulis D. Basilii, D. Augustini, S. Benedicti, et veterum Patrum; ut vidimus* d. 1. q. 2. *tamen non videtur esse praeceptum alterius legis, quam iustitiae legalis, qua subditus tenetur stare sui Superioris mandatis; ita enim Regulae omnes longa consuetudine interpretantur. Habentur tamen nonnulla Conciliorum decreta, quae de hac re strictius loquuntur, ut Concilii Chalcedon.* cap. 4. *ubi Monachis praecipit,* ut in locis, quibus se Deo dedicaverunt, remaneant, *quibus verbis infra subiungit:* Praetereuntem vero haec, decrevimus extra communionem esse, ne nomen Domini blasphemetur. *His consonat Decretum Alexand. II. citatum apud Suarez* tom. 4. tract. 8. lib. 1. cap. 6. *in quo sic legitur:* Iuxta Chalcedonensis tenorem optimi Concilii, Monachis, quamvis Religiosis, ad normam S. Benedicti intra claustrum morari praecipimus, vicos, Castella, civitates peragrare prohibemus.

8 Although these things are so, nevertheless no one has said that a Religious is held by common law, from which his Prelate cannot dispense, to perpetual enclosure: This is evident if we inspect somewhat more diligently the end and motives of those decrees: For since from the beginning Monks were ordained to a merely contemplative life to be spent perpetually in their cells, and were subject to no Ecclesiastical ministries, since for the most part they were not Priests, some began gradually to withdraw themselves from that discipline, and to lead the active life more freely in villages and districts for the sake of gain, rather to the ruin than to the edification of the people, because they were usurping Ecclesiastical ministries, being destined to them by no authority either of character or

of mission: Whence Pope Eugenius, *cap. placuit, 2, 16, quaest. 2*, thus rescribed: *It pleased our common Council that no one of the Monks should presume, with most nefarious daring, to go out of the Monastery for earthly gain*, where the ministries then illicit for Monks are touched upon in the depraved end, namely earthly gain, and the nefarious motive or means, namely arrogating to themselves the Ecclesiastical ministry: But if the exit from the cloisters had been simply prohibited, it would have been intimated simply, also without specification of end or means.

> *Haec tamen quamvis ita se habeant, nullus dixerit, Religiosum iure communi, in quo nequit Praelatus eius dispensare, ad clausuram perpetuam teneri: Hoc patet, si paulo diligentius finem, et motiva illorum decretorum inspexerimus: Nam cum ab initio Monachi ad vitam tantum contemplativam perpetuo in cellulis agendam ordinati essent, nullisque essent Ecclesiasticis ministeriis mancipati, cum, ut plurimum Sacerdotes non essent, coeperunt nonnulli ab illa se disciplina paulatim subtrahere, vitamque activam lucri causa in vicis, et pagis liberius actitare in ruinam potius quam aedificationem populi, eo quod Ecclesiastica ministeria usurpabant, nulla vel characteris, vel missionis authoritate ad ea destinati: Unde Eugenius Papa* cap. placuit, 2. 16. quaest. 2. *sic rescripsit:* Placuit communi nostro Concilio, ut nullus Monachorum pro lucro terreno de Monasterio exire, nefandissimo ausu praesumat, *ubi illicita illius temporis Monachis ministeria tanguntur in pravo fine, lucro scilicet terreno, et nefando motivo, seu medio, ministerium quippe Ecclesiasticum sibi arrogando: Quod si simpliciter prohibitus esset e claustris exitus, simpliciter etiam absque finis, vel medii specificatione insinuaretur.*

9 *It is confirmed* efficaciously from the same chapter, where it is added, that the Brothers are not to bury anyone except him who has lived with them in the same convent, even if it should chance that another brother, who arrived there, die there; which supposes that the brothers had the faculty of receiving arrivals, as also of peregrinating. But if I were even to concede that enclosure, or the observance of the cloister, is of common law, and therefore indispensable by one's own superior; who would not admit the prescription of so many centuries against such a law, since even common law, by a similar custom duly introduced, lies proscribed: Let these things be said in passing of this matter, which many assail with taunts, but few with arguments.

> Confirmatur *efficaciter ex eodem capite, ubi subiungitur, ut Fratres non sepeliant, nisi illum, qui ipsis in eodem conventu conuixerit, etiamsi alium fratrem, qui eo advenitit, ibi mori contingat; quod supponit, fratres aduentandi, sicut et peregrinandi facultatem habuisse. Quod si etiam concederem illam clausuram, seu claustri observantiam iuris esse communis, ac proinde indispensabilem a proprio superiore; quis tot saeculorum praescriptionem contra tale ius non admittat, cum ius etiam commune simili consuetudine, rite introducta, proscriptum iaceat: Haec obiter dicta sint de hac re, quam plures dicteriis, pauci vero argumentis impugnant.*

10 As to the time at which the enclosure of Nuns began, the same must be stated as of the solemn vow of Chastity, insofar as it dissolves a preceding ratified marriage, or a subsequent one even consummated, as was said in the two preceding questions; for this laudable custom seems to have the very Apostles as its institutors; for in the Council of Carthaginense I, in the year 340 according to Baronius, or 330 according to others, it was declared, *cap. 3: Those who wish to marry, and choose the better part of continence, ought to avoid these things, and not only not dwell together, but not even have access to themselves*, but here by the particle *ought* (debent) it is declared what before seems to have been statutes; before this council, however, no other exists which speaks so expressly of this matter; see what was said of the origin of this vow, *disput. 2, quaest. 3*.

> *De tempore autem, quo clausura Monialium coeperit, idem statuendum est, ac de voto solemni Castitatis, prout matrimonium, vel antecedens ratum, vel subsequens etiam consummatum dirimit, ut in duabus praecedentibus*

quaestionibus dictum est, laudabilis enim haec consuetudo ipsos Apostolos institutores habere videtur, nam in Concilio Carthaginensi I. anno 340 iuxta Baronium, vel 330. iuxta alios, declaratum est, cap. 3. Qui volunt nubere, et pudicitiae meliorem eligere partem, haec vitare debent, et non solum non habitare simul, sed neque ad se habere aliquem accessum*, hic autem per particulam,* debent*, declaratur, quod prius videtur statutum; ante autem hoc concilium, non extat aliud, quod de hac re ita expresse loquatur, vide quae dicta sunt de origine huius voti,* disput. 2. quaest. 3.

11 There follows the Council of Carthaginense III, in which it is enacted that the Bishop take care of those virgins who have vowed Chastity, and contain them in a Monastery, lest, wandering abroad, they be a scandal to the Church.

Sequitur Concilium Carthaginense III. in quo statuitur, ut Episcopus curam gerat earum virginum, quae Castitatem voverint, easque in Monasterio contineat, ne extra diuagantes Ecclesiae sint in scandalum.

12 The same thereafter many Pontiffs renewed, as Leo III in the Council of Foroiuliense, or Adrianus III, as some will. Likewise Bonifacius in *cap. periculo, de statu regular.* enjoins a strict enclosure upon the Chastity of Nuns with these words: *Wishing to provide for the perilous and detestable state of certain Nuns, we sanction by the present constitution, to prevail perpetually and irrefragably, that all and singular Nuns, present and future, of whatever Religion or Order they be, existing in whatever parts of the world, must remain under perpetual enclosure in their Monasteries*, etc.; by which last words he indicates that only those are held by this precept who have emitted their vows in Monasteries where enclosure is kept.

Id ipsum deinceps renovarunt plures Pontifices, ut Leo III. in Concilio Foroiuliensi, seu Adrianus III. ut nonnulli volunt. Item Bonifacius in cap. periculo de statu regular. *Monialium Castitati strictam clausuram iniungit his verbis:* Periculoso, et detestabili quarumdum Monialium statui providere cupientes, praesenti constitutione perpetuo irrefragabiliter valitura sancimus, universas, et singulas Moniales, praesentes, atque futuras, cuiuscumque Religionis sint, vel ordinis, in quibuslibet mundi partibus existentes sub perpetua in suis Monasteriis debere manere clausura*, etc. quibus postremis verbis indicat eas tantum hoc praecepto teneri, quae in Monasteriis, ubi clausura tenetur, vota emiserunt.*

13 But whatever the Councils and ancient Pontiffs left statutes about this, it was strictly renewed again in the Council of Trident., *sess. 25, cap. 5, de regular.*, and more strictly in a certain Diplomate of Pius V, given the Calend. of June, in the year 1566, which begins: *Circa Pastoralis officii*, where he enjoins that they be held to observe rigid enclosure, although by force of the emitted promise they were not obliged to such observance, with these words: *Although by force of the emitted, etc.*, he shows this enclosure to be for them Ecclesiastical, and able to be separated from the vow; as it is truly separated in male Religious.

Quicquid autem Concilia, et antiqui Pontifices de hoc statutum reliquere, stricte renovatum est denuo in Concilio Trident. sess. 25. cap. 5. de regular. *et strictius in quodam Diplomate Pii V. dato Calend. Iunii, anno 1566. quod incipit:* Circa Pastoralis officii*, ubi iniungit, ut Clausuram rigidam observare teneantur, licet ex vi emissae promissionis ad tantam observantiam non fuerint obligatae, ubi his verbis:* Licet ex vi emissae, etc. *ostendit hanc clausuram istis esse Ecclesiasticam, et posse a voto separari; ut in viris Religiosis revera separatur.*

14 And this precept is now observed with such rigor that neither is it licit for Nuns to go out without grave cause with the license of their superiors, nor is it permitted by law for others to suffer to enter them; whence there exists in Chrysostom. Henriquez, *num. 35, pag. 321*, a decree granted to the Mendicants 17 Calend. Septemb. 1567, where the Bishops are gravely reprehended, who are

accustomed frequently to grant this license, or unduly seize it for themselves, since it pertains to other superiors; and these last words were said on account of the Monasteries of S. Clarae, which are subject to Regulars; the tenor of the Decree itself is thus described in Caramuel, loco cit.: *The Bishops, or their Vicars, dare to give at their pleasure a license to whomsoever to enter whatever Monasteries of Nuns, even of S. Clarae, although they be subject to the care of Regulars; somewhat below the words of inhibition thus follow: Since it is dishonest for anyone to send a sickle into another's harvest, and since no one should presume to enter the Monasteries of Nuns except by the license of the Bishop or Superior, and in necessary cases, in sess. 25, can. 5 (supply: of Tridentini), it is prohibited, we will that this hold only in those Monasteries which are subject to the very Ordinaries by full law, in which in necessary cases they themselves can give the license, and not in other Monasteries, etc.*

> *Hoc autem praeceptum eo rigore iam observatur, ut nec Monialibus egredi absque gravi causa cum superiorum licentia liceat, sed nec aliis ad ipsos ingredi pati iure permittitur; unde exstat apud Chrysostom. Henriquez* num. 35. pag. 321. *decretum Mendicantibus concessum 17. Calend. Septemb. 1567. ubi graviter reprehenduntur Episcopi, qui hanc licentiam frequenter solent concedere, vel eam sibi indebite arripiunt, cum ad alios superiores pertinet; et haec ultima verba dicta sunt propter Monasteria S. Clarae, quae Regularibus sunt subdita; Ipsius autem Decreti tenor sic describitur apud Caramuelem loco cit.* Episcopi, seu eorum Vicarii audent ad eorum libitum dare licentiam quibuscumque quaecumque Monasteria Monialium etiam S. Clarae ingredi, etiamsi Regularium curae subdita sint, paulo infra verba inhibitionis sie sequuntur: Cum inhonestum sit quemlibet in alienam messem falcem immittere, cumque Monialium Monasteria non nisi de Episcopi, vel Superioris licentia, et in casibus necessariis aliquis ingredi praesumat, in sess. 25. can. 5. (Supple Tridentini,) prohibeatur, hoc tantum in illis Monasteriis locum habere volumus, quae Ordinariis ipsis pleno iure subsunt, in quibus in casibus necessariis ipsi dare licentiam possunt, et non in aliis Monasteriis, etc.

15 And indeed, although these things have been thus statutes in the service and custody of Chastity, S. Bonavent. shows that other advantages accrue to Nuns from the cloister, *in libello Apolog., quaest. 18*. For better and more easily are the spouses of Christ governed in one society, and are excited to the exercises of virtue by mutual examples; and the longer they are removed from the fruition of the age, the more ardently are they kindled in pious desires.

> *Et hoc quidem licet in obsequium, et custodiam Castitatis ita statuta sint, alia tamen emolumenta e claustura Monialibus provenire ostendit S. Bonavent.* in libello Apolog. quaest. 18. *Melius enim, et facilius in unam societate Christi sponsae gubernantur, et ad virtutis exercitia mutuis exemplis excitantur; quodque diutius a seculi fruitione elongantur, tanto ardentius in pia desideria accenduntur.*

Question V: In what ways enclosure is violated

1 This question touches both Monks and Nuns, since enclosure has been enjoined upon both in favor of Chastity, although it has been prescribed by stricter law to women on account of the greater urgency of danger, and Suarez notes, *tom. 4, de Religione, tract. 9, lib. I, cap. 12, num. 3*. But the difficulty can be divided in two for each sex, because enclosure is violated not only by the exit of those dwelling in the cloister, but by the entrance of others to whom it is prohibited. And first indeed I shall speak of the exit of Religious; afterwards I shall touch upon some things about the entrance of women to the cloisters of men; I shall also discuss similar things regarding the exit and entrance to Nuns.

> ***Quibus modis clausura violatur.***

Haec quaestio tam Monachos, quam Moniales tangit, cum utrisque in gratiam Castitatis indicta sit clausura, licet strictiori iure foeminis ob maiorem periculi instantiam praecepta sit, et notat Suarez tom. 4. de Religione, tract. 9. lib. I. cap. 12. num. 3. *Potest autem difficultas pro utroque sexu bipartiti, eo quod non solum egressu claustra incolentium, sed ingressu aliorum, quibus prohibitum sit, clausura violetur. Et primo quidem de Religiosorum egressu dicam; Postea vero aliqua tangam de ingressu mulierum ad virorum claustra; similia etiam discutiam, quoad egressum, et ingressum ad Moniales.*

Subquestion I: In what ways a religious violates enclosure by going out

[1] I suppose first that the obligation is grave in those who live a cenobitic life under the government of some Prelate, that they do not go out without his license; it is evident from the common practice and custom of all religions; and it is moreover confirmed from the Council of Tridentino, *sess. 25, cap. 4*, where it is thus had: *It is not licit for Regulars to depart from their convents, even under pretext of approaching their Superiors, unless they have been sent or called by them.* Hence Suarez says, *loco citato supra*, that, supposing the institution of this custom and of the Religious life, this obligation of not withdrawing oneself from the custody of the Prelate is not merely positive, but seems natural and divine, even if no depraved intention, or apostasy, or occasion of other danger should arise from it; and he exemplifies in a girl, who by a law more than positive is held, even with danger set aside, not to withdraw herself from the custody of her father or mother; and he concludes that Religious Chastity and its decency are not to be kept less. Besides, as S. Bonavent. says, *lib. II. Pharet. cap. 32, from D. Bernardo: Nothing is more shameful than a Monk running about through cities and castles, unless charity compels this.*

Quibus modis egrediendo violet Religiosus Claustrum.

Svppono primo gravem esse obligationem in his, qui vitam agunt coenobiticam sub alicuius Praelati regimine, ut absque eius licentia non egrediantur, patet ex communi omnium religionum praxi, et consuetudine; et insuper confirmatur e Concilio Tridentino sess. 25. cap. 4. *ubi sic habetur:* Non liceat regularibus a suis conventibus recedere, etiam praetextu ad Superiores suos accedendi, nisi ab eis missi, vel vocati fuerint. *Hinc ait Suarez* loco citato supra*, supposita huius consuetudinis, et Religiosae vitae institutione, hanc obligationem se non subducendi custodiae Praelati, non esse mere positivam, sed videri naturalem, et divinam, licet nulla prava intentio, seu apostasia, seu alterius periculi occasio inde proveniat; et exemplificat in puella, quae iure plusquam positivo tenetur, secluso etiam periculo, se patris, vel matris custodiae non subtrahere; et concludit Castitatem Religiosam, et eius decentiam non esse minus servandam. Praeterea, ut ait S. Bonavent.* lib. II. Pharet. cap. 32. e D. Bernardo, Nihil turpius, quam Monachus per urbes, et castella discurrens, nisi cum hoc charitas cogat.

[2] Hence the determination of Navarrus does not please me, which also displeases Suarez, by whom it is cited in the place cited, that an exit from the cloister has in its nature only a venial fault, and becomes mortal only per accidens by reason of scandal or other similar harm; for the Council of Tridentinum speaks under precept: *It is not licit*, and although it is specified there: *Even under pretext of approaching their Superiors*, that particle *even* (etiam) a fortiori denotes that other modes or pretexts of going out are less licit.

Hinc mihi non placet determinatio Navarri, quae etiam Suarez displicet, apud quem loco citato, citatur, exitum e claustro venialem tantum culpam habere natura sua, et solum per accidens fieri mortalem ratione scandali, vel alterius similis nocumenti; nam Concilium Tridentinum sub praecepto loquitur: Non liceat*, et quamvis specificetur ibi:* Etiam praetextu ad Superiores suos accedendi*, illa tamen particula* etiam *a fortiori denotat, alios modos, seu praetextus egrediendi minus licere.*

3 I suppose secondly that in this matter levity of matter can exist, by which the exit of a Religious without the license of the Prelate is reduced to a venial fault, as if it be done for a short time with the mind of soon returning; and this is true a potiori when it is established from the benignity of the Superior, who easily grants pardon, or if he is accustomed to know of the unlicensed exit and not disapprove: Suarez brings the reason of this thing, *num. 10*, because the withdrawal from the will of the Prelate is not grave; these things being supposed.

> *Svppono secundo posse in hac materia dari levitatem materiae, qua exitus Religiosi absque licentia Praelati ad culpam venialem reducatur, ut si fiat ad modicum tempus cum animo cito revertendi; et hoc a potiori verum est, quando de Superioris benignitate, facile veniam concedente, constat, vel si inconcessam scire soleat, et non improbet: rationem huius rei affert Suarez* num. 10. *quia non est gravis substractio a voluntate Praelati; his suppositis.*

4 I assert that a Religious cannot go out of the Monastery publicly or furtively, for flight or apostasy, without mortal fault.

> *Assero, Religiosum e Monasterio publice, vel furtive, ad fugam, vel apostasiam, absque culpa mortali egredi non posse.*

5 It is evident in itself, for there the grave observance is broken, and grave injury is inflicted on the Prelate; just as enormous scandal also threatens the others; wherefore among the cases reserved to the Supreme Pontiff by Clem. VIII, the third is placed: *Nocturnal and furtive exit from the Monastery, even if done without the intention of apostatizing*; but where there is a reserved case, there the commission of a mortal fault is supposed. But Suarez extends this case, *num. 7*, even to a diurnal exit, done with the intention of passing the night abroad; because in that decree of the Pontiff not the furtive mode of exiting, but the reason of existing outside furtively is reserved.

> *Patet ex se, ibi enim gravis observantia infringitur, gravisque iniuria Praelato infertur; sicut et enorme scandalum caeteris minatur; quare inter casus a Clem. VIII. supremo Pontifici reservatos, tertius ponitur:* Nocturna, ac furtiva e Monasterio egressio, etiam non animo apostatandi facta*, ubi autem est casus reservatus, ibi supponitur lethalis culpae commissio: Hunc autem casum extendit Suarez* num. 7. *etiam ad diurnam egressionem, factam animo foris pernoctandi; quia in illo Pontificis decreto non exeundi modus furtivus, sed extra furtive existendi ratio reservatur.*

6 Hence you have that a Religious going out without license, on some hasty occasion of succoring a neighbor suffering grave spiritual or temporal necessity, does not sin, because in this case license is rightly presumed; although it ought to be asked, if time permits, at least if it be necessary to go farther away and be absent, because then scandal may impend over the other brothers.

> *Hinc habes non peccare Religiosum egredientem absque licentia ex praepropera aliqua occasione subveniendi proximo, gravem patienti necessitatem spiritualem, vel temporalem, quia in hoc casu licentia recte praesumitur; licet peti debeat, si tempus suppetat, saltem si longius abire, et abesse necesse sit, quia tunc potest imminere caeteris fratribus scandalum.*

7 In these cases, however, the custom of each Religion must be weighed: For among the Fratres Minores, on account of the frequent necessity of begging, as also of serving one's neighbor, enclosure is not observed so strictly; indeed often some, destined to such offices, go out at their pleasure, a general license for this having been given.

> *In his tamen casibus praeponderanda est cuiusque Religionis consuetudo: Nam apud Fratres Minores ob frequentem mendicandi necessitatem, sicut et proximo serviendi, non adeo stricte clausura observatur; quin saepe ad libitum nonnulli ad similia officia destinati egrediantur, habita generali ad hoc licentia.*

[8] But a stricter reason must be had of Carthusians, Camaldulenses, and similar ones, serving only God and themselves: For with these one must stand by the rules and constitutions.

> *Vervm strictior ratio habenda est de Carthufianis, Chamaldulensibus, et similibus, Deo, et sibi solum servientibus: His enim iuxta regulas, et constitutiones standum est.*

Subquestion II: In what ways the enclosure of religious men is violated by the entrance of outsiders

[1] Then D. Bonavent. says, *lib. 4. Pharet. cap. 18: Good honor is in the Church, if women are far from the company of Clerics, as D. Hieronymus admonishes in the S. Doctor there: Let the feet of women tread your little hostelry rarely, or never.* But before the Pontificates of Pius V and Gregory XIII, various women of various even states could enter the cloisters of men, either by force of the faculties of prior Pontiffs, or by virtue of the Constitutions of certain Convents: But since from this occasions of scandals easily arose, the aforesaid Pontiffs issued their own Motus proprii (since in the law nothing express exists on this matter), by which entrance is interdicted to all women presuming under pretext of whatever faculty, under penalty of excommunication latae and reservatae, that they no longer attempt to enter the Houses of the Mendicants, or of the Carthusians, or of other whatever Regulars by force of any faculty: The Motus of Pius V is had in *Bullario Roman. Constit.* 22, and begins: *Regularium personarum*, in the year 1566, in which moreover the local Prelates are strictly prohibited, under the penalties of suspension from Divinis, privation of offices, and incapacity for them, that they do not receive the said women: But the Motus more properly of Gregory XIII is had in *Constitut. 36*, beginning: *Ubi gratis.*

> Quibus modis clausura Religiosorum violetur exterorum ingressu.
>
> *Tvnc ait D. Bonavent.* lib. 4. Pharet. cap. 18. bonus honor est in Ecclesia, si a consortio Clericorum longe sint foeminae, ut monet D. Hieronymus apud S. Doctore ibi: Hospitiolum tuum aut raro, aut nunquam mulierum pedes terant. *Ante autem Pontificatus Pii V. et Gregorii XIII. potuere diversae foeminae diversorum etiam statuum ingredi claustra virorum, vel vi facultatum priorum Pontificum, vel virtute Constitutionum quorundam Conventuum: Verum cum hinc scandalorum occasiones facile enascerentur, praefati Pontifices Motus proprios edidere, (cum in iure de hac re nihil expressum sit) quibus omnibus foeminis, ingressum cuiuscumque facultatis praetextu praesumentibus, interdicitur sub poena excommunicationis latae, et reservatae, ut amplius, seu Mendicantium, seu Carthusiensium, vel aliorum quorumcumque Regularium Domos, vi nullius facultatis ingredi tentent: Motus Pii V. habetur in* Bullario Roman. Constit. 22. *et incipit:* Regularium personarum*, anno 1566. in quo insuper Praelatis localibus stricte prohibetur sub poenis suspensionis a Divinis, officiorum privationis, et inhabilitatis ad illa, ut dictas foeminas non recipiant: Motus vero proptius Gregorii XIII. habetur* Constitut. 36. *incipiente:* Ubi gratis.

[2] But a grave doubt arose after those decrees were issued, whether also women entering the Monasteries of men, not by force of any faculty, would incur the censures; since Gregory XIII says, *Inhibiting the same to those who obtained them*. With which words Pius V issued other not dissimilar ones: *Prohibiting the women pretending the aforesaid faculties and licenses*, etc. On account of which words Suarez judged that the censuras regard only the women there noted, not others: But this Doubt was threshed out by another Decree, issued by the same Pius V, where he declares that he comprehends under the censuras the said women and all others whatever; which, when Suarez had seen this, he sang the palinode of the prior opinion, as P. Elizeus noster notes in *methodo rerum Criminal., tract. 10, quaest. 23*, where he teaches that the Decree begins, *Decet Romanum.*

Grave vero dubium fuit post lata illa decreta, an etiam foeminae, virorum Monasteria, non vi alicuius facultatis, ingredientes, censuras incurrerent; cum dicat Gregorius XIII. Inhibentes eisdem, qui illas obtinuerunt. *Quibus verbis alia non absimilia protulit Pius V.* Prohibentes mulieribus praedictas facultates, et licentias praetendentibus*, etc. Ob quae verba censuit Suarez, censuras tantum respicere foeminas ibi notatas, non alias: Verum Dubium hoc excussit Decretum aliud, ab eodem Pio V. editum, ubi dictas illas foeminas, et alias quascumque se comprehendere sub censuris declarat; quae hoc viso Suarez, prioris opinionis palinodiam cecinit, ut notat P. Elizeus noster in* methodo rerum Criminal. tract. 10. quaest. 23. *ubi docet, Decretum incipere,* Decet Romanum.

3 Hence the assertion is certain, that a Prelate, and a fortiori any other Religious, sins by introducing into interior houses, or into the cloisters themselves, women comprehended in the said Decrees. It is evident from the penalties there indicted; which suppose a grave sin, and from the Council of Trident. granting the faculty of absolving from those censuras when they are occult, *sess. 24, de reform., cap. 6*. Therefore it supposes sin through the censuras.

Hinc assertio certa est, Praelatum, et a fortiori alium quemcumque Religiosum, foeminas dictis Decretis comprehensas introducendo in domos interiores, vel in ipsa claustra, peccare. Patet ex poenis ibi indictis; quae grave supponunt peccatum, et e Concilio Trident. dante facultatem absolvendi ab illis censuris, quando sunt occultae sess. 24. de reform. cap. 6. *Ergo supponit per censuras peccatum.*

4 Although in the aforesaid motus proprii women are specified of whatever status, grade, order, condition, and endowed with whatever dignity and pre-eminence, whether they be Comitissae, Marchionissae, or Ducissae; nevertheless it is not gathered from that that it is prohibited to admit Queens, and their daughters, or granddaughters, or even Foundresses of Coenobia. And this is true to such an extent, although Gregory XIII says, *To whatever even Comitissae, Marchionissae, Ducissae, and others of whatever status*, where the particle *others* (aliis) is ridiculously interpreted by descending, but is rightly understood by ascending to the higher grades, according to the rigor of the law, as Suarez aduerts, *lib. 1, tract. 9, de Relig., cap. 7, num. 5*. For since both Pontiffs speak in nearly the same mode, it is a sign that the intention of each is equal as to the specification of persons: But from Pius V it is in no way gathered that he comprehended foundresses, much less Queens, or their daughters, or granddaughters; since there he named the special persons whom he intended to be understood. Besides, Gregory XIII, below, treating the matter which pertained to Kings and Queens, names them. Moreover, the rule of law is, that in a general clause those things are not comprehended which require a special reason, especially when others of inferior note are specified in the same clause.

Qvamvis autem specificentur in praefatis motibus propriis foeminae cuiuscumque status, gradus, ordinis, conditionis, et quacumque dignitate, ac praeeminentia praeditae, sive sint Comitissae, Marchionissae, vel Ducissae; non tamen inde colligitur prohibitum esse, Reginas, et harum filias, seu neptes, seu etiam Coenobiorum fundatrices admittere. Et hoc eo usque verum est, licet dicat Gregor. XIII. Quibusvis etiam Comitissis, Marchionissis, Ducissis, et aliis cuiuscumque status*, ubi particula,* aliis*, ridicule interpretatur descendendo, sed recte intelligitur ad altiores gradus ascendendo, iuxta iuris rigorem, ut aduertit Suarez* lib. 1. tract. 9. de Relig. cap. 7. num. 5. *Nam cum uterque Pontifex eodem fere modo loquatur, signum est parem esse utriusque intentionem, quantum ad personarum specificationem: Ex Pio autem V. nullo modo colligitur eum fundatrices comprehendisse, multo minus Reginas, aut harum filias, seu neptes; cum ibi speciales personas nominauerit, de quibus se intelligi intenderit. Praeterea Gregorius XIII. infra materiam tractando, quae ad Reges, et Reginas spectabat, ipsos nominat. Insuper Iuris regula est, in generali clausula non comprehendi ea, quae specialem rationem exigunt, praesertim cum alia inferioris notae in eadem clausula specificantur.*

5 But that Queens and Foundresses have a special cause is evident first of all from the custom, which custom seeks out these Monasteries.

> *Qvod autem Reginae, et Fundatrices specialem habeant causam, patet imprimis ex consuetudine, quae consuetudo his Monasteria apetit.*

6 Then, Suarez verifies, according to the mind of the moderns, that after the Religious of the Order of Minimorum had consulted the Supreme Pontiff and the S. Congregation of Cardinals whether the aforesaid Decrees would exclude Queens and foundresses, they received the answer that no derogation had been made from the privileges which Queens and foundresses enjoyed.

> *Deinde, verificat Suarez iuxta mentem modernorum, postquam Religiosi Ordinis Minimorum Summum Pontificem, et S. Cardinalium Congregationem consuluissent, num praefata Decreta excluderent Reginas, et fundatrices, responsum accepere, non esse derogatum privilegiis, quibus gaudebant Reginae, et fundatrices.*

7 Reason also favors these privileges as regards foundresses (for as regards Queens it is nowhere disputed). For since they are in a certain manner the Dominae and Patronae of the Monasteries which they themselves built, and since the Ius patronatus enjoys privileges in many places in law, it was becoming that they not be involved in the same prohibition as other women: But this presses more among the Minores, since the places constructed for them are under the Dominion of those who took care that they be constructed, unless by special mention such dominion be abdicated, and thus pass into things whose property pertains to the Pontiff; but the use alone pertains to the Brothers themselves.

> *Ratio etiam his privilegiis fauet quoad fundatrices, (quoad Reginas enim nullibi controuertitur.) Nam cum sint quodammodo Dominae, et Patronae Monasteriorum, quae ipsae extruxerint, et cum Ius patronatus pluribus in iure gaudeat privilegiis, decens erat, ut pari cum aliis foeminis prohibitione non involuentur: Hoc autem magis urget apud Minores, cum loca pro ipsis extructa sint sub Dominio illorum, qui illa extrui curauerunt, nisi speciali mentione tale dominium abdicetur, et sic transeat in res, quarum proprietas ad Pontificem pertinet; solus vero usus ad ipsos Fratres attinet.*

8 And although the Monasteries be in the dominion of those Brothers who can truly possess them in common, nevertheless laws are not to be so interpreted as to wish benefactors to be withdrawn from benefacting, or the Brothers themselves to incur so great a note of ingratitude.

> *Et licet Monasteria sint in dominio illorum Fratrum, qui vere in communi ea possidere possunt, non sunt tamen leges ita interpretandae, ut velint benefactores retrahi a benefaciendo, aut ipsos Fratres tantam ingratitudinis notam incurrere.*

9 Hence one may conclude that women entering, with fraud, malice, presumption, or temerity set aside, do not violate the law of enclosure; because the Pontiff in the said Decrees uses the particle *presuming* (praesumentes), so that if they enter even from culpable ignorance, they are not judged to sin, and therefore to undergo no censure, as Pater Elizaeus notes excellently in the place cited, *numero 2*; a fortiori, say the same, if they enter on account of the infirmity of some Religious whom they can succor, or for Masses, sermons, and similar things: they are held, however, to go and return by the straight way, as the cited Elizaeus has, saying that even an ingested boy not pubescent does not violate this law, since in them the end of the law ceases, and the occasion of impudicity, against which these things are statutes.

Hinc concludere licet, foeminas, praeciso dolo, malitia, praesumptione, vel temeritate, intrantes, non violare ius clausurae; quia Pontifex in dictis Decretis utitur particula praesumentes, *quate si ex ignorantia etiam culpabili intrent, non censentur peccare, ac proinde nullam censuram subire, ut optime notat Pater Elizaeus loco citato,* numero 2. *idem a fortiori, dic, si ingrediantur ob infirmitatem alicuius Religiosi, cui subuenire possunt, vel ad Missas, conciones, et similia: tenentur tamen recto tramite ire, et redire, ut habet Elizaeus citatus dicens, etiam ingestum puellatum impuberem hoc ius non violare, cum in ipsis cesset finis legis, et occasio impudicitiae, ad quam arcendam haec statuta sunt.*

10 But by CONSUETUDINE it is received that, the cloisters being destroyed, or lying open through grave fracture, that rigor is not observed; although it is advisable that, with the greater diligence that can be done, every access be precluded to seculars on account of the decency of the Religious state. Which decency also can oblige Prelates, that they do not admit even men into the interior houses at fixed times; although no special precept is given about this.

CONSUETUDINE autem receptum est, ut claustris dirutis, vel fractura gravi patentibus, iste rigor non observetur ; quamvis consultum sit, ut maiori qua fieri potest diligentia, omnis aditus ob decentiam status Religiosi saecularibus praecludatur. Quae etiam decentia obligare potest Praelatos, ut etiam viros statis temporibus in interiores domos non admittant ; licet nullum speciale praeceptum de hoc detur.

Subquestion III: How the enclosure of nuns is violated by going out

1 I SUPPOSE the rigid precept given to Nuns, that once professed they contain themselves within the cloister, as was proved in quaest. 4, both from the ancient Constitutions of the Church and from the Council of Tridentino, which thus precepts: *But let it be licit for no one of the Sanctimoniales after profession to go out of the Monastery, even for a brief time, under whatever pretext, except for some legitimate cause to be approved by the Bishop, any indults and privileges notwithstanding.* Hence you have that only Nuns who have emitted the three vows are comprehended in this decree, not Tertiaries, or even Novices, as Suarez shows at length above; although regarding Tertiary Nuns there must be observed the Constitutio of Pius V, beginning: *Circa pastoralis officii*, namely that they be admonished by Prelates to emit the essential vows of Religion, and thereupon to observe enclosure; but if they should refuse to render this, let them be interdicted from admitting any more into their Congregation.

Quomodo Monialium clausura egressu violetur.

SUPPONO rigidum praeceptum datum Monialibus, ut semel professae, intra claustra se contineant, ut probatum est quaest. 4. tam ex antiquis Ecclesiae Constitutionibus, quam e Concilio Tridentino quod sic praecipit : Nemini autem Sanctimonialium liceat post professionem exire e Monasterio, etiam per breve tempus, quocumque praetextu, nisi ex aliqua legitima causa, ab Episcopo approbanda, indultis, et privilegiis quibuscumque non obstantibus : *Hinc habes solas Moniales, quae tria vota emiserunt, non Tertiarias, aut etiam Novitias, hoc decreto comprehendi, ut late ostendit Suarez supra ; licet circa Moniales Tertiarias servanda sit Pii V. Constitutio, incipiens :* Circa pastoralis officii, *ut scilicet moneantur a Praelatis ad essentialia Religionis vota emittenda, et subinde ad clausuram observandam ; quod si praestare noluerint, interdicantur, amplius aliquas in suam Congregationem adsciscere.*

2 You HAVE also that Convers Sisters, duly professed, are included by that decree; since they are truly Nuns, differing from the others only as to certain servile ministries and the want of the Veil.

HABES etiam, Sorores conversas, rite professas, eo decreto includi ; cum vere sint Moniales a caeteris tantum quoad quaedam ministeria servilia, et Veli carentiam differentes.

3 Yet Pius V, by the said Constitution, limited certain things around these, namely that in places where the other Nuns have need of being sustained by the alms of the faithful, certain ones from the conversae be deputed to collect those alms, and therefore may go out and dwell in a certain contiguous house, four conditions being kept. The first is, that they be at least in their fortieth year. The second, that the place in which they dwell be very near to the other nuns. The third, that they do not enter the Cloister of the Nuns (whom they are accustomed to call Choriste by difference from the Conversae) except in the cases named in that constitution. The last is, that they do not go out of their domiciles except with the license of the Superiors.

> *Pius tamen V. dicta Constitutione, circa has quasdam limitabat, ut scilicet in locis ubi caeterae Moniales fidelium eleemosynis sustentari indigeant, quasdam e conversis deputentur ad eas eleemosynas colligendas, ac proinde valeant exire, et in domo quadam contigua habitare, quatuor conditionibus servatis. Prima est, ut agant, ad minus, annum quadragesimum. Secunda, ut locus, in quo degant, sit valde caeteris monialibus vicinus. Tertia, ut non ingrediantur Claustrum Monialium, (quas Choristas ad Conversarum differentiam solent vocare) nisi casibus in illa constitutione nominatis. Ultima est, ut non exeant e suis domiciliis, nisi cum Superiorum licentia.*

4 But if the religious women cannot be sustained otherwise than by the collection of alms, this faculty of going out ceases: wherefore Gregory XIII in his Constitution, beginning: *Deo sacris*, enjoins upon the Bishops or Ordinaries that they provide: for as S. Bonavent. relates, lib. 1, phar., cap. 37, from D. Cypriano: *She is not to be counted a Virgin of Christ who so lives and goes about that she can be loved by men.*

> *QUOD si aliter, quam eleemosynarum collectione sustentari valeant religiosae, cessat haec exeundi facultas : quare Gregorius XIII. in sua Constitutione, incipiente :* Deo sacris, *iniungit Episcopis, seu Ordinariis, ut provideant : nam ut refert S. Bonavent. lib. 1. phar. cap. 37. e D. Cypriano,* non est computanda Virgo Christi, quae sic vivit, et vadit, ut ab hominibus possit amari.

5 From these you have it concluded that a Nun going out against the tenor of the Decree of Tridentino and the limitations of Pius V sins most gravely; and that this is true also of the militant Orders, as P. Elizzus notes, tract. 10, de poenis et delictis, cap. 23, and Rodriguez, tom. 1, quaest. 49, art. ult., and Lezana, tom. 1, cap. 25, num. 19; for the Virgin seeking Christ (says D. Bonav., cited below, from D. Ambrosio) *ought not to be vulgar, ought not to be in the forum, not in the streets.*

> *Ex his conclusum habes, Monialem egredientem contra tenorem Decreti Tridentini, et limitationes Pii V. gravissime peccare ; et hoc verum esse etiam de Ordinis militantium, ut notat P. Elizzus tract. 10. de poenis, et delictis, cap. 23. e Rodriguez tom. 1. quaest. 49. art. ult. et Lezana tom. 1. cap. 25. num. 19. nam Virgo Christum quaerens (ait D. Bonav. infra cit. e D. Ambrosio)* non debet esse vulgaris, non debet esse in foro, non in plateis.

6 But the CAUSES of going out are specified by Pius V in Constitutio 100, *Decori*, and are reduced to a great fire and infirmity, which is there called *Epidemia*, under which name Suarez understands not only that sickness which for the most part infects and kills others by its contagion, but any other whatsoever which can be a scandal or danger to the community. Likewise under the name of fire other dangers cognate to this can come, as war impending, a sudden inundation, and similar ones, which are scarcely met otherwise than by exit.

> *CAUSAE autem egrediendi specificantur a Pio V. in Constitutione 100.* Decori, *et reducuntur ad magnum incendium, et infirmitatem, quae ibi* Epidemia *dicitur, cuius nomine intelligit Suarez non solam illam aegritudinem, quae sua contagione, ut plurimum, alios inficit, et interimit, sed aliam quamcumque, quae potest esse communitati scandalo, vel*

periculo. Item nomine incendii possunt venire alia huic cognata pericula, ut bellum imminens, inundatio repentina, et similia, quibus aliter, quam egressu, vix occurritur.

7 But P. Elizzus noster observes, in the place cited, from Gregory XIII, that a professed woman having gone out with both feet and body beyond the door violates the enclosure, even if it be for a short time; yet Diana excuses such a one, if she has gone out only by two or three palms, as is had in tract. 5, part. 5, resol. 22.

OBSERVAT autem P. Elizzus noster loco citato, e Gregorio XIII. professam, utroque pede, et corpore extra Ianuam egressam, violare clausuram, licet sit ad modicum tempus ; talem tamen excusat Diana, si tantum per duos, aut tres palmos sit egressa, ut habet tract. 5. part. 5. resol. 22.

8 MOREOVER the aforesaid Constitutions are to be observed, according to the doctrine delivered by me in the treatise on laws, tomo 4; for they are not received everywhere, since in several Provinces, from even light causes, the exit of nuns and their dwelling for a long time in the houses of their parents is tolerated by the Ordinaries, I know not by what custom: And it seems iniquitous to the laws that they be more easily borne than cared to be kept, since nevertheless, as D. Bonavent. has in the cited place, it does not befit, is not expedient for, is not incumbent upon a Religious to be implicated in the obligations of his parents, or to be bound by the pernicious familiarity of strangers.

CAETERUM praefatae Constitutiones observandae sunt, iuxta doctrinam a me traditam tract. de legibus, tomo 4. non enim ubique locorum recipiuntur, cum pluribus in Provinciis ob leves etiam causas monialium egressus, et habitatio in parentum aedibus longo tempore, nescio qua consuetudine ab Ordinariis toleretur : Et legibus id inaequum videtur, ut facilius ferantur, quam servari curentur, cum tamen, ut habet D. Bonavent. citato loco, Religiosum non deceat, non expediat, non oporteat parentum suorum obligationibus implicari, aut extraneorum perniciosa familiaritate constringi.

Subquestion IV: On entrance into the enclosure of nuns

1 SINCE chastity is endangered not only by the exit of Nuns, but also by the entrance of others to them, therefore both are prohibited with an equal rigor of the laws; whence in the Council of Malisconense I, cap. 2, Arelatense IV, cap. 7, the Seventh Synod, sess. 7, can. 20, and before in the Council of Agathense, cap. 28, it was statutes under various limitations that the Monasteries of Nuns be guarded from the access and speech of men; that they be placed farther from the Monasteries of Monks, and that all be barred from access and entrance, unless paternal or fraternal urgency of kinship. But Bonifacius VIII, cap. unico, de statu regularium, in 6, more universally and strictly bore the precept on this matter, with these words: *To no one whatsoever of dishonest person, nor even of honest, unless a reasonable and manifest cause exists, and with the special license of him to whom it pertains, let entrance or access lie open to the same.* But since this law at length failed by custom, it is held renewed in the Council of Tridentino, sess. 25, cap. 5, where it is thus said: *But let it be licit for no one to enter within the walls of the Monastery, of whatever kind or condition, sex, or age they be.* And although the Council at the beginning of the said chapter says: The holy Synod renewing the Constitution of Bonifacii VIII, nevertheless afterwards it shows in what it renews, namely as to exit and entrance; but not as to access, as Suarez notes, loco citato, numero 26, where he also shows that other Constitutions observing a similar mode of speaking renew or intimate nothing about access. Much less are the Minores barred from approaching by force of the rule, since it only says: *Let them not enter Monasteries, etc.* Nevertheless the counsel of D. Bernardi is most excellent, in the S. Doctore, cap. 38, in the place cited, having regard to the virgin, that she beware of things to be feared, even to dread safe things.

De ingressu in claustra Monialium.

CUM pudicitia non solum egressu Monialium, sed et aliorum ad illas ingressu periclitetur. Ideo utrumque pari legum rigore prohibetur ; unde in Concilio Malisconensi I. cap. 2. Arelatensi IV. cap. 7. Septima Synodo sess. 7. can. 20. et prius in Concilio Agathensi cap. 28. sub variis limitationibus statutum est, ut Monasteria Monialium a virorum accessu, et alloquio custodirentur ; ut a Monasteriis Monachorum longius locarentur, et ab accessu, et ingressu, nisi paterna, vel germana urgente necessitudine, omnes arcerentur. Bonifacius vero VIII. cap. unico de statu regularium in 6. universalius, et strictius de hac re praeceptum tulit, his verbis : Nulli aliquatenus inhonesta personae, neque etiam honestae, nisi rationabilis, et manifesta causa existat, ac de illius, ad quem pertinuerit, speciali licentia ingressus, vel accessus pateat ad easdem : *verum cum haec lex tandem consuetudine deficeret, renovata habetur in Concilio Tridentino sess. 25. cap. 5. ubi sic dicitur :* Ingredi autem intra septa Monasterii nemini liceat, cuiuscumque generis, aut conditionis, sexus, vel aetatis fuerint. *Licet autem Concilium initio dicti capitis dicat : Bonifacii VIII. Constitutionem renovans sancta Synodus, postea tamen ostendit, in quo renovar, scilicet quoad egressum, et ingressum ; non autem quoad accessum, ut notat Suarez loco citato, numero 26. ubi etiam ostendit alias Constitutiones similem loquendi modum observantes, nihil de accessu renovare, vel insinuare. Multo minus vi regulae ab accedendo arcentur Minores, cum tegula tantum dicat :* Non ingrediantur Monasteria, etc. *Consilium tamen optimum est D. Bernardi apud S. Doctorem cap. 38. loco citato ad virginem spectato, ut caveat timenda, etiam tuta pertimescere.*

2 Therefore only the entering within the walls of Nuns is prohibited by the said Decree. But there went out a Decree of the S. Congregat. in the year 1590, prohibiting not only entrance but access for the sake of speaking, to all Regulars, under penalty of privation of offices and of active, and at the same time passive, voice, to be incurred ipso facto; which prohibition is extended even to all Regulars wishing to address any other women whatsoever dwelling within the walls of the monastery: The same very prohibition, obliging under penalty of mortal sin even for a brief time, the sacred Congregation again declared on 11 Maii, in the year 1669, with the approval of the Supreme Pontiff Clemente IX.

Solum itaque ingredi septa Monialium dicto Decreto prohibetur. Verum exiit Decretum S. Congregat. anno 1590. non solum ingressum, sed et accessum loquendi causa prohibens omnibus Regularibus sub poena privationis officiorum, et vocis activae, simul et passivae, ipso facto incurrenda; quae prohibitio extenditur etiam ad omnes regulares, volentes alloqui alias quascumque foeminas intra monasterii septa degentes: Eandem ipsam prohibitionem sub poena peccati mortalis obligare etiam ad modicum tempus declaravit iterum sacra Congregatio 11. Maii, anno 1669. approbante supremo Pontifice Clemente IX.

3 Moreover, although the Council says, *of whatever age*, nevertheless it must not be believed that boys still infants are comprehended there, since they are incapable of precept; but those words seem to be employed on account of others, who by reason of old age or of more advanced age thought no danger impended over themselves or others. But boys, although they have not the liberty of sinning, can nevertheless fall under the end and motive of the law, wherefore those admitting or introducing them are not excused from sin, any more than from the censure, especially if they be of greater age, since by carrying themselves scurrilously and jocosely they can act against due honesty and decency.

Porro licet dicat Concilium, cuiuscumque aetatis*, non tamen credendum est, pueros adhuc infantes ibi comprehendi, cum sint incapaces praecepti; sed ea verba videntur adhibita propter alios, qui ratione senectutis, vel provectioris aetatis nullum sibi, vel aliis periculum imminere putabant: Fatui vero licet peccandi libertatem non habeant, possunt tamen sub legis finem, et motivum cedere, quare eos admittentes, vel introducentes, a peccato, sicut nec a censura, non excusantur,*

praesertim si grandioris sint aetatis, cum scurriliter et iocose se gerendo contra debitam honestatem, et decentiam agere queant.

4 But that precept also involved the prelates of the nuns themselves, as also of other Regulars, that they do not enter except under due conditions; wherefore the prelates of nuns entering in an undue mode, even if they flourish in pontifical dignity, are the first time interdicted from the church; for the second they are suspended; for the third truly they are excommunicated: But the prelates of Regulars are deprived of all offices and excommunicated, according to the Bull of Gregory XIII of the year 1581, which begins: *Dubiis, quae emergunt*; see Lezanam cited, *cap. 16, num. 27, with Elizeo cit., num. 5.*

Praeceptum autem illud etiam praelatos ipsarum monialium; sicut et aliorum regularium involuit, ut non intrent nisi debitis conditionibus; quare praelati monacharum indebito modo intrantes, etiamsi pontificali vigeant dignitate, prima vice ab ecclesia interdicuntur; pro secunda suspenduntur, pro tertia vero excommunicantur: Regularium vero praelati omnibus privantur officiis, ac excommunicantur, iuxta Bullam Gregorii XIII. anno 1581. quae incipit: Dubiis, quae emergunt: *vide Lezanam citatum* cap. 16. num. 27. cum Elizeo cit. num. 5.

5 Although it is strictly prohibited to the fratres Minores by the rule that they not enter the monasteries of Nuns; nevertheless Leo X conceded to them that, provided they were invited by the visitators of the nuns, they could enter there with the license of their superiors; which privilege P. Elizaeus shows still to prevail, notwithstanding every revocation by the oracle of the living voice, made by Urbano VIII, 2 decembris 1627, because Paulus V, in 1569, and Clemens VIII, in 1597, confirmed with various Bulls the privileges of the Capucins, so that they are no longer reckoned among the oracles of the living voice.

Quamvis autem stricte fratribus Minoribus per regulam inhibeatur, ut non ingrediantur monasteria Monacharum; ipsis tamen concessit Leo X. ut dummodo a visitatoribus monialium invitarentur, possent cum superiorum licentia illuc ingredi; quod privilegium adhuc valere ostendit P. Elizaeus non obstantes omni vivae vocis oraculi revocatione, facta ab Urbano VIII. 2. decembris 1627. eo quod Paulus V. 1569. et Clemens VIII. 1597. variis Bullis ira Capucinorum privilegia confirmarunt, ut amplius non reputentur inter vivae vocis oracula.

6 Moreover, in the same place P. Elizaeus reports that the said Urban VIII, before the then General of our order Ioan Maria a Nuto, declared that he had willed to innovate nothing as to the privileges granted to us.

Praeterea ibidem refert P. Elizaeus, Dictum Urbanum VIII. coram tunc nostri ordinis Generali Ioan Maria a Nuto, declarasse, se nihil quoad privilegia nobis indulta innovare voluisse.

7 Finally, it must be observed that he or she who, by entering or exiting, should attempt to surmount the claustral walls, although he would sin gravely, nevertheless does not incur the censures until he reaches the place in which he would truly be said to be within the cloister; because only then is that sin held to be consummated: but that place is held to be all the space deputed to enclosure, in which the nuns can freely station themselves, and outside of which they cannot remain without violation of the enclosure. Thus Bonacina, *tract. de Clausura, q. 4*, with others in common.

Observandum denique est, illum, vel illam, qui ingrediendo, vel egrediendo attentaret muros claustrales superare, quamvis graviter peccaret, non tamen censuras incurrere, donec attingeret locum, in quo vere diceretur esse intra claustrum; quia tunc tantum illud peccatum censetur consummatum: locus autem ille censetur omne spatium clausurae deputatum, in quo moniales libere se sistere possunt, et extra quod absque violatione clausurae nequeunt stare. Ita Bonacina tract. de Clausura, q. 4. *cum aliis communiter.*

8 Hence you have that, whether a garden (viridarium) or other places even most remote from the coenobium of the nuns, they cannot be approached if they are within the walls of the monastery and deputed to enclosure; I say *deputed to enclosure*, because if the Monastery is only built, or the common accesses lie open and permit, such places are not held to be deputed to enclosure.

> *Hinc habes sive viridarium, sive alia loca etiam remotissima a coenobio monialium, non posse adiri, si sint intra monasterii septa, et clausurae deputata; Dico* clausurae deputata*, quia si Monasterium tantum construitur, vel communes aditus pateant, et patiantur, non censentur talia loca clausurae deputari.*

9 And although the end of the law ceases in a certain mode in women wishing to enter the monasteries of nuns, nevertheless they are not excluded from this law, even if they should wish to enter under religious habit; since it was said: *to no one whatsoever of dishonest person, or even of honest, let entrance lie open*, and this is extended to the nuns of other orders also, so that they can enter no cloister other than their own. The reason is, because they are externs to such a convent, and against them the same reason militates which excludes the other women; namely that the discipline of each convent be the better conserved without suspicion or scandal among the persons of the same order; wherefore if there be a nun not of another order, that she can licitly enter and be received by the Priorissa or Abbatissa, without any other faculty of the superior, Bonacina judges, *loco cit., prop. 2, num. 3*.

> *Licet autem cesset finis legis quodammodo in foeminis volentibus intrare monialium monasteria non tamen ab hac lege excluduntur, etiamsi sub habitu religioso ingredi velint; cum dictum sit:* nulli aliquatenus inhonestae personae, vel etiam honestae ingressus pateat*, et hoc extenditur ad aliorum etiam ordinum moniales, ita ut non aliud claustrum, quam suum ingredi possint. Ratio est, quia sunt exetaneae tali conventui, et contra ipsas par ratio militat, quae caeteras foeminas excludit; ut melius scilicet cuiusque conventus disciplina absque suspicione, aut scandalo inter eiusdem ordinis personas conservetur; quare si sit monialis non alterius ordinis, eam posse licite ingredi, et recipi a Priorissa, seu Abbatissa, absque alia superioris facultate, censet Bonacina* loco cit. prop. 2. num. 3.

Question VI: Whether dispensation can be granted in religious chastity, and who can dispense in enclosure

1 The first part of this question is easily resolved from what we said in the *preceding disputation, question 30, where we abundantly* elucidated the mind of the Seraphic Doctor on this matter; who, although he was most devoted to religious Chastity, does not nevertheless defend its indispensability with such tenacity as to deny that it can be released by the supreme power of the Pontiff, when a cause of greater benefit intervenes; see also what we said in the same disputation about the nature of a dispensation; whether it is a relaxation of the law, or rather a declaration; for from these one may easily conjecture whether some grave cause ought to precede a dispensation, so that it may be done licitly and validly.

> Utrum in castitatem Religiosam cadere possit dispensatio, et quis in clausura dispensare potest.
>
> *Prior pars huius quaestionis facile resolvitur ex dictis* disp. praecedenti, quaest. 30. ubi abunde *Seraphici mentem super hanc materiam elucidavimus, qui licet Castitati religiosae fuerit addictissimus, non tamen ea tenacitate eius indispensabilitatem tuetur, ut supremae Pontificis potestati, maioris emolumenti interveniente causa, eam solvendam neget; vide etiam quae eadem disputatione diximus de natura dispensationis; utrum iuris sit relaxatio, num vero declaratio; ex his enim facile coniicere licet, an gravis aliqua causa debeat praecedere dispensationem, ut licite, et valide fiat.*

2 This difficulty Suarez also solves in the same way, by referring to what he had said about the solemnity of vows, so that a valid consequence might allow arguing from genus to species; for if the Pontiff can dispense in solemn profession, which contains the three vows under itself, no one will doubt that he can also dispense in those vows.

> *Hanc difficultatem eodem modo solvit etiam Suarez, remittendo ad ea, quae dixerat de votorum solemnitate, ut sic valida consequentia liceret argumentari a genere ad speciem; si enim Pontifex valet dispensare in professione solemni, quae sub se continet tria vota, nemini dubium erit, quin et in illis votis valeat quoque dispensare.*

3 But there turns upon the pivot of greater difficulty the question there treated by Suarez, *cap. 26.*, namely whether, the other vows remaining, religious chastity can be dispensed in one or another act; a knot indeed hard to untie, and which therefore perhaps almost no Doctor has touched, *as num. 7.* intimates Suarez. But he, having premised the foundations of the negative opinion, which we lightly touched upon for the dispensation of solemn vows in the places already cited, concludes for the affirmative, persuaded by the example of the military religion, whose solemn virginal chastity was changed into conjugal.

> *Verum circa maioris difficultatis cardinem versatur ibi Suarez* cap. 26. *utrum scilicet manentibus caeteris votis, valeat castitas Religiosa in uno, aut altero actu dispensari, qui quidem nodus solutu difficilis est, et quam ideo forsan nullus fere Doctorum attigit,* ut num. 7. *innuit Suarez; Enim vero ipse praemissis sententiae negativae fundamentis, quae nos pro votorum solemnium dispensatione, locis iam citatis libavimus, pro affirmativa concludit, eam quae suadet exemplo religionis militaris, cuius solemnis castitas virginalis in coniugalem commutata est.*

4 But that example, as Suarez himself admits in the same place, militates for those who made profession after that institution, not however for the dispensation of those who had previously vowed religious and integral chastity solemnly, as is clear from the Bulls of Paul III and Gregory XIII.

> *Verum illud exemplum, ut ipse Suarez ibidem fatetur, militat pro professis post illam institutionem, non autem pro dispensatione eorum, qui prius solemniter castitatem religiosam, et integram voverant, ut patet ex Bullis Pauli III. et Gregorii XIII.*

5 Whatever indeed may be said of this opinion, which I remit to be discussed by a better judgment, those reasons can hardly be persuaded which Suarez heaps up at length, who admits two things which strongly impugn him, namely that the three solemn vows are of the essence of the religious state, among which Chastity will yield the last place to none, and no one will count conjugal chastity among those vows; then he confesses that this partial solution of a solemn vow suffers no small diminution of the religious state; whence someone may thus argue: By any addition, or subtraction of those things which pertain to the essence of any thing, the whole essence itself is lost, as is Aristotle's constant rule, who therefore says that essence is after the manner of a number, which with any unit added or subtracted passes wholly into another species, as is evident of itself; but not slightly is something subtracted from the essence of the Religious state, while its chiefest and purest vow, in one or another act, is not only mutilated, but changed wholly into another species: for as he who licitly consummates matrimony, although he excel in every chastity, no longer possesses virginal chastity; because they are two species, of which one is lost by the approach of the other. So, etc.

> *Quicquid quidem sit de hac sententia, quam meliori iudicio disserendam remitto, difficile suaderi potest rationibus illis, quas ample congerit Suarez, qui duo admittit, quae ipsum fortiter impugnant, scilicet tria vota solemnia esse de essentia status religiosi, inter quae nullus postremum locum cedet Castitati, nullusque castitatem coniugalem inter ea vota*

computabit; deinde fatetur hanc partialem voti solemnis solutionem, non mediocrem pati status religiosi diminutionem; unde sic poterit potest aliquis argumentari : Quacumque additione, vel detractione eorum, quia ad essentiam alicuius rei spectant, ipsa totalis essentia deperditur, ut constans est Aristotelis regula, qui ideo essentiam ait esse ad instar numeri, qui quacumque unitate addita, vel detracta, totus transit in aliam speciem, ut ex se patet; sed non modice detrahitur de essentia status Religiosi, dum praecipuum, et purissimum eius votum, uno, vel altero actu, non solum mutilatur, sed totum mutatur in aliam speciem: nam sicut qui matrimonium licite consummat, licet omni pudicitia polleat, non tamen amplius praestat virginali castitate; quia sunt duae species, quarum una alterius accessu deperditur. Ita, etc.

6 QUOD if the Pontiff should decree something similar, which we do not yet note as decreed, it would rather be a dispensation of the whole state for a brief time, and its subsequent reintegration; whence no inconvenience would follow.

QUOD si Pontifex simile quid decerneret, quod adhuc decretum non advertimus, esset potius status totius pro modico tempore dispensatio, et eius postea reintegratio; unde inconveniens nullum sequeretur.

7 QUOAD the other part of the question, it is resolved from those words of Boniface VIII, indicating *that enclosure be kept, unless a grave cause intervene, and the special license of him to whom it pertains.* For there are certain monasteries of nuns immediately subject to the Pontiff himself, who alone can dispense both in these and in the others absolutely and in perpetuity; Bishops, however, for the time being and for a reasonable cause, can dispense in enclosures subject to them, as the Council of Trent enjoins, *sess. 25. de regularibus, cap. 5.* in those words, *without the license of the Bishop or superior, obtained in writing: and a little after: but the Bishop or superior alone ought to grant license in necessary cases, nor can anyone else in any way, etc.* He says, however, *the Bishop or superior*, because certain monasteries are subject to Bishops as well as to regular prelates; and under the name of Bishop is comprehended his Vicar general, provided however that he have a special mandate for this, as the Congregation of Cardinals declares and modifies, cited by Suarez *cap. 10. num. 11. tom. 4. de relig. lib. 1. de obligationibus religios.* whence it is clear that this power is delegable, and therefore ordinary in the Bishop, under whose name comes also the Chapter during a vacant see, just as secular Abbots, holding a quasi-episcopal power in the monasteries subject to them.

QUOAD alteram quaestionisp artem, resolvitur ex illis Bonifacii VIII. verbis, indicantibus, ut clausura servetur, nisi gravi interveniente causa, ac illius ad quem pertinuerit, speciali licentia. *Sunt enim quaedam monialium monasteria immediate ipsi Pontifici subiecta, qui solus tam in his, quam in caeteris absolute, et in perpetuum potest dispensare; Episcopi vero pro tempore, et rationabilem ob causam dispensare possunt in clausuris sibi subiectis, ut imponit Concilium Trident.* sess. 25. de regularibus, cap. 5. *illis verbis,* sine Episcopi, vel superioris licentia, in scriptis obtenta: et paucis interiectis: dare autem tantum Episcopus vel superior licentiam debet in casibus necessariis, neque alius ullo modo possit, etc. *dicit autem,* Episcopus, vel superior, *quia tam Episcopis, quam praelatis etiam regularibus, quaedam monasteria subiiciuntur; nomine autem Episcopi comprehenditur eius Vicarius generalis, dummodo tamen mandatum speciale ad hoc habeat, ut declarat, et modificat Congregatio Cardin. apud Suarez* cap. 10. num. 11. tom. 4. de relig. lib. 1. de obligationibus religios. *unde patet, potestatem hanc esse delegabilem ac proinde ordinariam esse in Episcopo, sub cuius nomine venit etiam Capitulum sede vacante, sicut et Abbates saeculares, potestatem quasi Episcopalem in monasteriis sibi subditis obtinentes.*

8 DE Regular prelates, to whose direction certain exempt nuns are committed, this same thing is certain, since they are truly their superiors, and since the Council says *the Bishop, as superior*; for the verification of either part suffices for the truth of a disjunctive proposition; whence if license be necessary for entering, the approval alone of the regular prelate suffices; but if it be required for going

out, the cause must be approved by the Bishop; since going out demands a graver cause, and sometimes redounds to public scandal, which the Bishop is bound to avert; see Suarez *num. 11.*

> *DE Praelatis regularibus, quorum directioni quaedam moniales exemptae demandantur, idipsum certum est, cum sint vere illarum superiores, cumque dicat Concilium* Episcopus, ut superior*, ad veritatem enim orationis disiunctivae sufficit utriusvis partis verificatio; unde si necessaria sit licentia ad ingrediendum, sola sufficit praelati regularis approbatio; verum si requiratur ad egrediendum, causa approbanda est ab Episcopo; cum egressus graviorem causam postulet, et aliquando redundet in publicum scandalum, quod tenetur Episcopus avertere; vide Suarez* num. 11.

9 FURTHERMORE, although the Council uses the disjunctive particle *vel*, it does not however follow from this that the Bishop can dispense, or grant license for entering or leaving, monasteries whose care the Regulars have; otherwise these also could in turn render the like to them; whence not a few, nor small, inconveniences would follow; as Suarez well observed *num. 15.* Therefore the particle *vel* is to be understood according to an accommodation of division, that each may share and divide his own power; yet if it be otherwise established by custom, that be observed; since in a certain declaration of the Cardinals, cited by Suarez, it was so provided.

> *PORRO licet utatur Concilium particula disiunctiva* vel*, non inde tamen sequitur posse Episcopum dispensare, vel licentiam concedere ad ingrediendum, seu egrediendum monasteriis, quorum curam habent Regulares; alias etiam hi possint vicissim similem ipsis vicem rependere; unde sequerentur non pauca, nec parva incommoda; ut bene animadvertit Suarez* num. 15. *Intelligenda itaque est particula* vel*, iuxta divisionem accomodam, ut cuique patiatur, partiaturque suam potestatem; si tamen aliter consuetudine sit statutum, observetur; cum in declaratione quadam Cardinalium apud Suarez cit. ita provisum sit.*

10 BY the name of regular prelate, more properly comes the Provincial, since he has power as it were episcopal; yet if others by force of rule, constitution, or custom have the care and jurisdiction over the Nuns, they will be superiors accordingly, and according to the mind of the Council will be able to dispense.

> *NOMINE autem praelati regularis magis proprie venit Provincialis, cum hic habeat potestatem tanquam Episcopalem; si tamen alii ex vi regulae, constitutionis, vel consuetudinis, curam, et iurisdictionem habeant super Moniales, erunt proinde superiores, et iuxta mentem Concilii dispensare poterunt.*

11 OTHER several things remain to be said about enclosure, concerning which Bonacina wrote an entire treatise, and Suarez also treats diffusely of the same matter: But since these are of no such weight, and are easily deduced from what has already been said, I remit the reader to the aforesaid Authors, and to others cited by them: What remains to be discussed concerning Chastity, below; where I shall examine it more fitly under Temperance.

> *ALIA nonnulla restant dicenda de clausura, de qua integrum tractatum scripsit Bonacina, sicut et Suarez diffuse de eadem agit materia: Verum cum haec tanti non sint ponderis, et facile ex iam dictis deducantur; lectorem ad praefatos Authores, et ad alios ab ipsis citatos remitto: Quae vero de Castitate remanent discutienda, infra; ubi de Temperantia, aptius expendam.*

Disputation VI: On the Oath

1 NATURE has so instructed MAN, conscious of his scant fidelity, that, that less distrust be placed in him, he presently compels with an oath the divine truth, being of infallible testimony: And if man would follow this guidance of nature with such fidelity as to fulfill in effect what he promises by his sworn word, nor with that levity would bring his Creator in as witness for however small a thing, he would furnish not so much an argument of another's distrust as a most weighty proof of his own trustworthiness: but as the other dictates of rational creature are drawn astray into byways by that foul crookedness of sin, which bends the mind tending straightly toward God into an excessive love of self, so the invocation of the Divine name for bearing witness (which I shall prove below to be not only licit, but to have its exemplar in God) is implicated, because of the depravity of sin, in various labyrinths of errors; we shall therefore endeavor, throughout this whole disputation in several questions, to extricate it, insofar as it takes on the nature of an OATH.

> ***De Iuramento.***
>
> *HOMINEM, modicae suae fidei conscium, adeo natura edocuit; ut, quo minus ei diffidatur, mox divinam veritatem, infallibilis quippe testimonii, iuramento compellet: Quod si hunc naturae ductum ea fidelitate sequeretur homo, ut effectu compleret, quod iurato verbo promittit, nec ea levitate pro quantulacumque re Creatorem suum in testem adduceret, non tam alienae diffidentiae, quam propriae fiduciae gravissimum praestaret argumentum: verum sicut caetera rationalis creaturae dictamina in auia distrahit faeda illa peccati curvitas, quae mentem a recta in Deum tendentia in nimiam sui dilectionem deflectit, ita Divini nominis ad testandum invocatio (quam non modo licitam esse, sed et in Deo habere exemplum infra probabo) propter peccati pravitatem variis errorum labyrinthiis implicatur; eam igitur, quatenus Iuramenti naturam induit, tota hac disputatione per plures quaestiones extricare conabimur.*

Question I: What an oath is, and of how many kinds

1 An OATH is said from ius (law), because it must be held as the equivalent of law, whence it is called Iusiurandum.

> ***Quid sit IURAMENTUM, et quotuplex.***
>
> *IURAMENTUM dicitur a iure, quia instar iuris est habendum, unde Iusiurandum dicitur.*

2 To SWEAR is to call God to witness, as D. Bonaventure teaches in 3. dist. 39. dub. litt. and in the opuscule, first part. Concil. sect. 12. D. Thom. 2. 2. loco cit. and the others follow them: An Oath, therefore, is the invocation of the Divine name in testimony; but this invocation consists in this, that the swearer, as far as in him lies, or rather, manifests to God that which he confirms by oath, as that which is known to God himself, and true, and this either in this or in the other life, as Valencia notes 2. 2. disp. 6. quaest. 7. puncto 1. Sanchez lib. 3. in Decal. cap. 1. and this D. Bonaventure intimates loco cit. Centil. defining, to Swear is to invoke God as witness of one's utterance; and more clearly in 3. dist. 39. art. 2. quaest. 1. in fundamentis.

> *IURARE est Deum in testem adhibere, ut docet D. Bonavent. in 3. dist. 39. dub. litt. et in opusc. prima parte. Concil. sect. 12. D. Thom. 2. 2. loco cit. eosque caeteri sequuntur: Iuramentum igitur est invocatio Divini nominis in testimonium, haec autem invocatio in eo consistit, ut iurans, quantum est in se, vel, Deum manifestare id, quod iuramento confirmat, tanquam id, quod est ab ipso Deo scitum, ac verum, et hoc vel in hac, vel in altera vita, ut*

advertunt Valentia 2. 2. disp. 6. quaest. 7. puncto 1. Sanchez lib. 3. in Decal. cap. 1. et hoc innuit D. Bonavent. loco cit. Centil. definiens, Iurare esse invocare Deum in testem suae locutionis; et clarius in 3. dist. 39. art. 2. quaest. 1. in fundamentis.

3 It is called the Invocation of God, because whether we name God or creatures, God is always brought in as witness, at least indirectly, inasmuch as he is the author of the creature. For one swearing by a creature does not bring it in as witness, since that would be blasphemous, attributing to the creature the first infallible truth, the firmament of all truths, and an inviolable witness, as D. Bonaventure teaches in 3. dist. 39. art. 2. quaest. 2. D. Thom. 2. 2. quaest. 89. art. 6. whom the rest follow, cited by Bassaeus 1. num. 5.

DICITUR Invocatio Dei, quia sive nominemus Deum, sive creaturas, semper adducitur Deus in testem, saltem indirecte, quatenus est author creaturae. Non enim iurans per creaturam, eam adducit in testem, quippe id esset blasphemum, attribuendo creaturae esse primam infallibilem veritatem, firmamentum omnium veritatum, ac inviolabilem testem, ut docet D. Bonavent. in 3. dist. 39. art. 2. quaest. 2. D. Thom. 2. 2. quaest. 89. art. 6. quos reliqui sequuntur apud Bassaeum 1. num. 5.

4 It is called the Invocation of God in witness, to distinguish it from prayer, which is an invocation of God to obtain something. But this invocation of the oath need not be expressed in words, in order to bind before God. So D. Bonaventure in 3. dist. 39. art. 3. quaest. 1. whom others follow in the external forum of the soul. Some, however, deny that words are necessary. So Sanchez lib. 2. de matrimonio, disp. 31. num. 5. and lib. 3. Decal. cap. 1. n. 2. citing Couar. de pactis, p. p. initio, num. 4. Azor Tom. 1. lib. 11. cap. 44. Suarez Tom. 2. de Religione, lib. 1. de Iuramento, cap. 11. Clavis Regia lib. 5. cap. 1. Bassaeus num 4.

DICITUR Invocatio Dei in testem, ad differentiam orationis, quae est invocatio Dei ad aliquid impetrandum. Haec autem invocatio iuramenti non est necesse, exprimatur verbis, ut coram Deo liget. Ita D. Bonavent. in 3. dist. 39. art. 3. quaest. 1. quem alii sequuntur in foro animae externo. Aliqui tamen negant, necessaria esse verba. Ita Sanchez lib. 2. de matrimonio, disp. 31. num. 5. et lib. 3. Decal. cap. 1. n. 2. adducens Couar. de pactis, p. p. initio, num. 4. Azor Tom. 1. lib. 11. cap. 44. Suarez Tom. 2. de Religione, lib. 1. de Iuramento, cap. 11. Clavis Regia lib. 5. cap. 1. Bassaeus num 4.

5 OTHERS assert that words are necessary, at least in those speaking. The Authors are reported by Couar. loco cit. and Zauallo quaest. 406.

ALII asserunt, necessaria esse verba, saltem in loquentibus. Authores referuntur a Couar. loco cit. et Zauallo quaest. 406.

6 QUOAD D. Bonaventure indeed seems to think with these in the third place presently indicated, with the third and fourth: but if it be read attentively, he wants those signs to suffice by which the certainty of the contract shines forth in the external forum.

QUOAD D. Bonavent. videtur quidem cum his sentire in 3. loco mox indicato ad tertium, et quartum: at si attente legatur, vult, ea signa sufficere, quibus certitudo contractus in foro externo eluceat.

7 But whether the touch of some sacred thing be required, for instance the Gospels, S. Bonav. in 3. dist. 39. art. 2. q. 2. in corpore, indeed concedes that it is more frequently customary to swear by the Gospels; as those in which the Divine truth shines forth most; but he does not admit that the touch is necessary: Couar. de pactis 1. part. §. primo. Zauallus quaest. 407. Sanchez loco citato, num. 3. follow him.

AN vero requiratur alicuius rei sacrae contactus, puta Evangelii, S. Bonav. in 3. dist. 39. art. 2. q. 2. in corpore, concedit quidem, consuetum esse per Evangelia iurare frequentius; tanquam ea, in quibus Divina veritas maxime elucet; at non admittit necessarium contactum: Eum sequuntur Couar. de pactis 1. part. §. primo. Zauallus quaest. 407. Sanchez loco citato, num. 3.

8 From these you have that an Oath is formally a single thing, because it is the bringing in of God as witness, and on that account it has the nature of an oath, as Cajetan notes ad art. 1. of D. Thomas, and Valencia disp. 6. quaest. 7. puncto 2. after D. Bonaventure loco citato Centil. where he proves it; for perjury is a lie confirmed with God brought in as witness. Therefore the Oath also according to its essence is the Divine truth brought in as testimony, which governs in all oaths, as Sanchez notes num. 9. with others cited, and therefore it is not to be distinguished in confession.

Ex his habes, Iuramentum formaliter esse unicam, quia est adductio Dei in testem, et ob hoc habet rationem iuramenti, ut notat Caietanus ad art. 1. D. Thomae, et Valentia disp. 6. quaest. 7. puncto 2. post D. Bonavent. loco citato Centil. ubi id probat; nam periurium est mendacium adducto Deo in testem firmatum. Igitur et Iuramentum secundum essentiam est veritas Divina in testimonium adducta, quae in omnibus regitur iuramentis, ut notat Sanchez num. 9. aliis citatis, et ideo in confessione non est distinguendum.

9 MATERIALLY, however, it can be divided, both on the part of the truth, or enunciation, which it is applied to confirm; and also on the part of the mode of signifying that interior invocation of the Divine testimony.

MATERIALITER vero dividi potest tum ex parte veritatis, sive enuntiationis, ad quam confirmandam adhibetur: tum etiam ex parte modi significandi illam interiorem invocationem Divini testimonii.

10 On the part of the invocation the Oath is divided into Promissory and Assertory. So D. Bonaventure loco cit. Centil. and in sermon 3. on the Decalogue, and in 3. dist. 39.

Ex parte invocationis dividitur Iuramentum in Promissorium, et Assertorium. Ita D. Bonavent. loco cit. Centil. et sermone 3. in Decalogum, et in 3. dist. 39.

11 It is ASSERTORY when the Divine testimony is invoked to confirm an enunciation about the present or the past. But when it is invoked to confirm an enunciation about the future, it is called Promissory. Hence D. Gregory of Nyssa homil. 4. in Cant. says there is a double operation of the oath; for either it makes faith in the truth, or it confirms the faith of a promise, as is said in Ps. 131.: *The Lord hath sworn to David in truth, and he will not frustrate it.*

TUNC est Assertorium, quando Divinum testimonium invocatur ad confirmandam enuntiationem de praesenti, aut praeterito. Quando vero invocatur ad confirmandam enuntiationem de futuro, dicitur Promissorium. Hinc D. Gregorius Nyssenus homil. 4. in Cant. ait duplicem esse operationem iuramenti; aut enim facit fidem veritatis, aut confirmat fidem promissi, sicut in Psalm. 131. dicitur: Iuravit Dominus David veritatem, et non frustrabitur eam.

12 OBSERVE here that the promissory oath is so called because, although we may either propose or promise to do something, yet it mostly has a promise joined to it. Or say that even the proposal of doing something has something of a bargain, which differs from a vow, because it brings God as witness of that proposal; and this sense seems more to the mind of D. Bonaventure, who says the promissory oath is that by which we promise something.

OBSERVA hic, votum promissorium dici, quia licet vel proponamus, vel promittamus aliquid facere, plerumque tamen promissionem habet adiunctam. Vel dic, etiam propositum faciendi habere aliquid sponsionis, quod a voto differt, quia

adducit eius propositi Deum testem, et hic sensus videtur magis ad mentem D. Bonaventurae, qui promissorium iuramentum ait esse, quo aliquid promittimus.

13 On the part of the mode S. Bonaventure *in 3. dist. 39. 7 dub. litt.* divides it into an Oath by simple contestation, which lightly, or with moderation, brings God in as witness, inasmuch as it has the nature of a principle, as I swear by God; or as it has the nature of a principle, and of one who knows; as God is my witness, or may he be: And into the oath which invokes God as witness, as one who rewards, either with good things, as God is my witness, who grants life, or as one who rewards with punishments in vengeance, as: May God do so to me, and add more: thus it exhibits one's own will, or oneself, to the Divine vengeance, if it is invoked falsely; and this is called the execratory Oath, which sometimes can be mixed, as was that of the Apostle 2. Corinth. 1. *I call God to witness upon my soul.* Whence the execratory perjury does not include two faults, one of perjury, the other of the malediction invoked; because one who is justly to suffer imprecates the malediction upon himself, as Valencia notes *loco citato,* although Tannerus holds the opposite *disput. 5. quaest. 5. num. 4.* But this kind of oath was frequent in the times of the old law; because then God was *a God of revenges*, and because the law was one of fear, as D. Bonaventure notes *loco citato.*

Ex parte vero modi S. Bonavent. in 3. dist. 39. 7 dub. litt. *dividit in Iuramentum per simplicem contestationem, quae modula, vel adducit Deum in testimonium, quatenus habet rationem principii, ut Iuro per Deum; vel ut habet rationem principii, et cognoscentis; ut Testis est mihi Deus, vel sit: Et in iuramentum, quod invocat Deum in testem, ut retribuentem, aut bona, ut Testis mihi Deus, qui vitam tribuit, vel ut retribuentem poenas in ultionem, ut: Haec faciat mihi Deus, et haec addat: sic suam voluntatem, vel se ipsum exhibet Divinae ultioni, si falso invocatur, et hoc dicitur Iuramentum execratorium, quod aliquando potest esse mixtum, ut fuit illud Apostoli 2. Corinth. 1.* Testem Deum invoco in animam meam. *Unde periurium execratorium non includit duas culpas, alteram periurii; alteram invocatae maledictionis; quia maledictionem iuste petiurus imprecatur sibi, ut notat Valentia* loco citato, *licet oppositum censeat Tannerus* disput. 5. quaest. 5. num. 4. *Hoc autem genus iuramenti frequens erat temporibus legis veteris; quia tunc erat* Deus ultionum, *et quia lex erat timoris, ut notat D. Bonavent.* loco citato.

14 NOTE, however, that it is commonly divided into simple and execratory, because that formula by which God is invoked as rewarding good things is recalled to the simple form of an oath, unless it is so uttered as to include the contrary malediction: As: *So may God help me: So may God do good to me, give me glory*, etc. For in this formula is understood: *May God deprive me of these good things, if this is not true*; So Cajetanus *loco citato*, Sylvester *V. Iuramentum, 1. quaest. 1.* Sotus *lib 8. de iustitia, quaest. 1. art. 1.* Nauar. *summa, cap. 12.* Aleozer *cap. 15.* Lessius *lib. 2. de Iustitia, cap. 42. dub. 2.* Sayrus *lib. 5. cap. 2.* Sanchez *lib. 3. summa, cap. 2. num. 36.* Therefore this oath will be execratory; but if all execration be removed, and God is not brought in as witness, it will not be an oath, as if I were to say: I would have as many golden coins as are those which I say. So Sanchez *num. 39.*

ADVERTE autem, ipsum communiter dividi in simplex, et execratorium, quia illa formula, qua invocatur Deus, ut retribuens bona, ad simplicem formam iuramenti revocatur, nisi ita proferatur, ut includat contrariam maledictionem: Ut: Ita me Deus adiuvet: Ita Deus mihi benefaciat, det gloriam, *etc. Hac enim formula subintelligitur:* His me Deus bonis privet, si hoc non est verum*; Ita Caietanus* loco citato*, Sylvester* V. Iuramentum, 1. quaest. 1. *Sotus* lib 8. de iustitia, quaest. 1. art. 1. *Nauar.* summa, cap. 12. *Aleozer* cap. 15. *Lessius* lib. 2. de Iustitia, cap. 42. dub. 2. *Sayrus* lib. 5. cap. 2. *Sanchez* lib. 3. summa, cap. 2. num. 36. *Itaque hoc iuramentum erit execratorium; Si vero omnis execratio amoveatur, neque Deus adducatur in testem, non erit iuramentum, ut si dicam: Tot aureos haberem, quot sunt ista, quae dico. Ita Sanchez* num. 39.

15 FINALLY, one oath is simple, another solemn; one judicial, another extrajudicial. So D. Bonaventure *in 3. dist. 39. art. 1. part. 3. in resolutione.*

> *TANDEM aliud est iuramentum simplex, aliud solemne; aliud iudiciale, aliud extra iudicium. Ita D. Bonaventura* in 3. dist. 39. art. 1. part. 3. in resolutione.

16 CONCERNING the modes and formulas of swearing, something must be noted.

> *CIRCA modos, et formulas iurandi oportet aliqua adnotare.*

17 FIRST, the intention must be regarded, whether it was to swear in those words or signs. So D. Bonaventure *in 3. dist. 39. art. 3. quaest. 1. in fundamentis, et resp. ad ultimum*, notes that the common usage of that country must be observed, whether those words signify an oath. Valencia follows this rule *2. 2. disp. 6. quaest. 7. puncto 2. col. 1.* Sanchez *lib. 3. cap. 2.* Suarez *lib. 1. de iuramento, cap. 12.* Bassaeus *V. Iuramentum, 1.*

> *PRIMO respicienda est intentio, an fuerit iurandi illis verbis, seu signis. Ita D. Bonavent.* in 3. dist. 39. art. 3. quaest. 1. in fundamentis, et resp. ad ultimum*, advertit, observandum esse usum communem illius patriae, an ea verba significent iuramentum. Hanc regulam sequitur Valentia* 2. 2. disp. 6. quaest. 7. puncto 2. col. 1. *Sanchez* lib. 3. cap. 2. *Suarez* lib. 1. de iuramento, cap. 12. *Bassaeus* V. Iuramentum, 1.

18 SECOND, that the word *I swear* is not necessary for an oath, but that the word, or sign, calling God to witness is sufficient, as *By God*, etc. So S. Bonaventure *in 3. dist. 39. in dub. litt. and in the questions, passim, and in the opuscula in the places cited*, whom the Abbas follows *cap. etsi Christus, num. 3. de iureiurando*, Sylvest. *under the word iuramentum, 1.* Covarr. *de pactis 1. part. num. 7.* Sanchez *same lib. 1. cap. 13.* Sayrus *lib. 5. cap. 1.* Sanchez *loc. cit. num. 2.*

> *SECUNDO, non esse necessarium verbum* Iuro *ad iuramentum, sed satis esse verbum, aut signum vocantis Deum in testem, ut* Per Deum*, etc. Ita S. Bonavent.* in 3. dist. 39. in dub. litt. et in quaestionibus, passim, ac in opusculis locis adductis*, quem sequitur Abbas* cap. etsi Christus, num. 3. de iureiurando*, Sylvest.* verbo iuramentum, 1. *Covarr.* de pactis 1. part. num. 7. *Sanchez* eodem lib. 1. cap. 13. *Sayrus* lib. 5. cap. 1. *Sanchez* loc. cit. num. 2.

19 ¶ THIRD, that it is not necessary for a true oath that the thing brought in as witness be truly such, but it is enough that it be such in the estimation of the swearer; and accordingly the heathens swearing by their Gods truly swear, because they think they bring the true God in as witness, although they err materially. So D. Bonaventure in 3. d. 39. art. 2. quaest. 3. where he also proves it from the oaths described in scripture, made by heathens, *Genes. 31.* by Laban to Jacob. *primo Machab. 8.* by the Romans to the Jews.

> *¶ TERTIO, non esse necessarium ad verum iuramentum, ut res adducta in testem sit vere facta, sed satis est, ut sit talis in iurantis aestimatione; atque adeo ethnici iurantes per Deos, vere iurant, quia putant, verum Deum in testem adducere, etsi materialiter errent. Ita D. Bonavent in 3. d. 39. art. 2. quaest. 3. ubi id etiam probat ex iuramentis, quae describuntur in scriptura, factis ab ethnicis,* Genes. 31. *a Laban Iacobo.* primo Machab. 8. *a Romanis Iudae.*

20 THEN he proves it from D. Augustine *epist. 154.*, and it is reported *cap. Movet, 22. quaest. 1.* the Gloss follows *cap. movet V. sociat.* Sylvest. *V. iuram. 4. quaest. 4.* Covarr. *de pactis 1. part. §. 1. num. 10.* Aragon. *2. 2. quaest. 89. art. 1.* Seraphinus *de privilegio iuramenti prim. 30.* Azor. *T. 2. lib. 11. cap. 2. quaesito 1. and cap. 11. quaesito 11.* Petrus Ledesma *Tom. 2. summae, tract. 11. cap. 1. d. 1.* Philiarc. *de offic.*

Sacerd. Tom. 1. quaest. 2. lib. 3. cap. 13. against many whom Sanchez follows, and cites *lib. 3. cap. 2. num. 5.* where he does not answer the Scriptures cited by D. Bonaventure.

> *DEINDE id probat ex D. Augustino* epist. 154., *et refertur* cap. Movet, 22. quaest. 1. *sequuntur Glossa* cap. movet V. sociat. *Sylvest.* V. iuram. 4. quaest. 4. *Covarr.* de pactis 1. part. §. 1. num. 10. *Aragon.* 2. 2. quaest. 89. art. 1. *Seraphinus* de privilegio iuramenti prim. 30. *Azor.* T. 2. lib. 11. cap. 2. quaesito 1. et cap. 11. quaesito 11. *Petrus Ledesma* Tom. 2. summae, tract. 11. cap. 1. d. 1. *Philiarc.* de offic. Sacerd. Tom. 1. quaest. 2. lib. 3. cap. 13. *contra multos, quos sequitur Sanchez, atque adducit* lib. 3. cap. 2. num. 5. *ubi non respondet Scripturis adductis a D. Bonaventura.*

21 ¶ BUT it is OBJECTED that an oath brings in the true God as witness.

> ¶ *OBIICIT vero, iuramentum adducere Deum verum in testem.*

22 IT IS ANSWERED that it suffices if one intend to bring in the true God. Thus the gentiles intend, although they wander astray; just as if one were to swear upon a profane book, thinking it to be the Gospel, he truly swears.

> *RESPONDETUR, sufficere si intendatur adducere verum Deum. Sic intendunt gentiles, licet aberrent, sicuti si quis iuret super librum prophanum, putans esse Evangelium, vere iurat.*

23 Sanchez ANSWERS that it is not similar, because here one intends to swear by the true Gospels, nor does he attribute anything to that book.

> *RESPONDET Sanchez, non esse simile, quia hic intendit iurare per vera Evangelia, nec ei libro aliquid factum adscribit.*

24 BUT it is not to the point that the worship of latria is not paid to it; for then it is an invocation in witness, although subordinate; the thing, however, is diverse, as D. Bonav. notes *loc. cit.* because it suffices that the heathen judge and intend the true God.

> *AT non est ad rem, quod cultus latriae illi non adhibeatur; tunc est enim invocatio in testem, licet subordinata, res tamen est diversa, ut notat D. Bonav.* loc. cit. *quia sufficit ethnicum existimare, et intendere in verum Deum.*

25 THEREFORE if a Christian were to swear by false Gods, he would not be bound by the religion of an oath, because the creature is brought in as witness from knowledge and intention. Whence I wonder that some, cited by Sanchez *numero 6.* have said this. Therefore to swear falsely by BACCHUS is not perjury; but to swear by him seriously is blasphemy.

> *IDEO si Christianus per falsos Deos iuraret, non cogeretur iuramenti religione, quia ex notitia, et intentione adducitur creatura in testem. Unde miror, aliquos apud Sanchez* numero 6. *hoc dixisse. Iurare ergo per BACCHUM falso, non est periurium; serio autem, est blasphemia.*

26 ¶ FOURTH, it is to be noted that it makes no difference in an oath whether the thing brought in as witness be invoked by the preposition *In*, or by the preposition *Per*; as I swear in God, or by God. So D. Bonaventure in *3. d. 39. dubio litt. num. 5.* at the end, whom Sylvest. *V. Iuram. 1. quaest. 5.* Aragon: *2. 2. quaest. 89. art. 1.* Petrus Ledesma *2. Tomo, tract. 1. cap. 1.* Valencia *2. 2. disp. 6. quaest. 7. puncto 2.* Azor. *Tom. 1. lib. 11. cap. 3. quaesito 1.* Manuel *1. Tomo summae, cap. 19.* Suarez *lib. 1. de Iuram. cap. 13. num. 14.* Clavis Reg. *lib. 5. cap. 1. num. 13.* Lessius *lib. 2. de iust. cap. 42. dub. 1.* Sanchez, with others cited *loc. cit. num. 8.* follow. Thus *Matth. 5.* it is said: *Swear not at all, neither by heaven, nor by the earth.*

> ¶ *QUARTO notandum, nil referre in iuramento, sive res in testem adducta invocetur per praepositionem* In, *sive per praepositionem* Per*; ut iuro in Deo, vel per Deum. Ita D. Bonavent. in* 3. d. 39. dubio litt. num. 5. *in fine, quem*

sequuntur Sylvest. V. Iuram. 1. quaest. 5. *Aragon:* 2. 2. quaest. 89. art. 1. *Petrus Ledesma* 2. Tomo, tract. 1. cap. 1. *Valentia* 2. 2. disp. 6. quaest. 7. puncto 2. *Azor.* Tom. 1. lib. 11. cap. 3. quaesito 1. *Manuel* 1. Tomo summae, cap. 19. *Suarez* lib. 1. de Iuram. cap. 13. num. 14. *Clavis Reg.* lib. 5. cap. 1. num. 13. *Lessius* lib. 2. de iust. cap. 42. dub. 1. *Sanchez, aliis adductis* loc. cit. num. 8. *Sic* Matth. 5. *dicitur:* Non iurare omnino, neque per caelum, neque per terram.

27 ¶ FIFTH, note from D. Bonaventure in that *dist. art. 2. quaest. 2. in corpore, and ad argumenta;* that an oath by creatures, asserting them to be infallible witnesses of truth, is blasphemy, and consequently a species of Idolatry; but truly to swear by creatures, as they are effects of the Creator, whom we bring in as witness, is an oath, of which we shall treat *quaest. 3.* So all.

¶ *QUINTO adverte ex D. Bonavent. in ea* dist. art. 2. quaest. 2. in corpore, et ad argumenta; *Iuramentum per creaturas, eas asserendo veritatis testes infallibiles, esse blasphemiam, et speciem Idolatriae consequenter; at vero iurare per creaturas, ut sunt effectus Creatoris, quem in testem inducimus, est iuramentum. de quo agemus* quaest. 3. *Ita omnes.*

28 But Sanchez NOTES *num. 10.* that only those creatures brought in as witnesses form an oath, in which the majesty of God shines forth specially, as man, heaven, etc. Unless God be added to the others, as *by the field of God:* He cites Sylvester for himself. *V. Iuram. 1. quaest. 4.* Nauar. *in summa, cap. 12.* Suarez *lib. 1. cap. 13. num. 23.* and others.

OBSERVAT autem Sanchez num. 10. *eas solas creaturas adductas in testes iuramentum formare, in quibus specialiter relucet Dei maiestas, ut homo, caelum, etc. Nisi caeteris addatur Deus, ut* per agrem Dei: *Adducit pro se Sylvestrum.* V. Iuram. 1. quaest. 4. *Nauar.* in summa, cap. 12. *Suarez* lib. 1. cap. 13. num. 23. *et alios.*

29 BUT D. Bonaventure in the place cited *ad ultimum* says one also swears by a stone, which he proves first from *Matth. 5.* where swearing by the earth is prohibited, which nevertheless is the lowest corporeal substance, in which the Divine goodness does not shine forth for a special reason. For it will be the same as to swear by stones, etc.

AT D. Bonavent. loco adducto ad ultimum *etiam per lapidem ait iurari, quod probat primo ex* Matth. 5. *ubi prohibetur iurare per terram, quae tamen est infima substantia corporea, in qua non elucet speciali ratione Divina bonitas. Idem enim erit ac iurate per lapides, etc.*

30 THEN he proves the same thing *ex dist. 2. 2. quaest. 1. which see.*

DEINDE idipsum probat ex dist. 2. 2. quaest. 1. quem vide.

31 FROM these follow the solutions of many difficulties, which Sanchez reports from *num. 13.*

EX his sequuntur multarum difficultatum solutiones, quas refert Sanchez a num. 13.

32 FIRST, it follows from the fourth Notando, that the oath is the same whether you say: By God it is so; and in God it is so; for Paul used this second mode of swearing, *Rom. 9. I say the truth in Christ, I lie not.* So D. Bonaventure and others cited there.

PRIMO sequitur ex quarto Notando, idem iuramentum esse, si dicas: Per Deum ita est; et in Deo ita est; hoc enim secundo modo iurandi usus est Paulus, Rom. 9. Veritatem dico in Christo, non mentior. *Ita D. Bonavent. et alii ibi adducti.*

33 ¶ SECOND, I deduce from the first Notando that, although these words sound: I vow to God a vow, yet by usage they are to be judged an oath. The same must be said of these: I promise God,

although considered in themselves they are a vow, not an oath; which indeed I readily concede to Valasco *consil. 99. num. 14.* Say the same of these: as I have the Christian faith, both by usage; and because, in the opinion of D. Bonav. and others, being certain of the truth of faith, I have true faith: Otherwise it seems of these: as I am baptized, a religious, upright; because it seems that only the fidelity and truth are brought in as witness, which a Christian, a Religious, or an upright man is bound to profess. But these: *God knows: God sees that it is so*, some say are oaths, as D. Augustine *epist. 89. and serm. 28. de verbis Apostoli.* And it is reported *cap. si peccatum. 22. quaest. 1. and D. Thom. loc. cit. ad 3.*

> ¶ *SECUNDO deduco ex primo Notando, tametsi haec verba: Voveo Deo votum, resonent, tamen ex usu esse censenda iuramentum. Idem dicendum de his: Promitto Deo, licet in se spectata sint votum, non iuramentum, quod sane libenter concedo Valasco* consil. 99. num. 14. *Idem dic de his: sicut habeo fidem Christianam, tum ex usu; tum quia in sententia D. Bonav. et aliorum, certus sum veritate fidei, me habere fidem veram: Aliter videtur de his: sicut baptizatus sum, religiosus, probus, quia videtur solum adduci in testem fidelitas, ac veritas, quam Christianus, Religiosus, vel vir probus profiteri tenetur. Haec autem:* Scit Deus: Videt Deus, ita esse*, aliqui dicunt esse iuramenta, ut D. Augustinus* epist. 89. et serm. 28. de verbis Apostoli. *Et refertur* cap. si peccatum. 22. quaest. 1. et D. Thom. loc. cit. ad 3.

34 BUT D. Bonaventure *dist. cit. in dub. litt. holds* that God must necessarily be invoked as witness, as knowing, in order that it be an oath. Wherefore if it be simply enunciated, it will not be an oath, as Sanchez notes *num. 20. and* this D. Augustine holds. So also teach Cajetanus *ad 3.* Tabiena under the word *iurare, quaest. 32.* Sorus *lib. 8. de Iust. quaest. 1. art. 1.* Suarez *lib. 1. de voto, cap. 13. num. 7.* Less. *lib. 2. de Iust. cap. 2. d. 2.* Clauis Regia *lib. 5. cap. 1.* Pedeaza *summa, praecepto 2. §. 1.* Aragon. *2. 2. quaest. 89. art. 1.* Manuel *1. Tomo summae, cap. 191.* Valencia *d. 6. quaest. 7. puncto 2. § a V. Iuram.* Petrus Ledesma *2. tom. tract. 11. cap. 1.* whom Sanchez cites and follows *num. 20.* Therefore these words: *God knows, sees*, can be simple enunciations; but this must be determined by usage and the intention of the swearer. But these words: God is my witness, S. Bonaventure asserts *loc. cit.* to be an oath. So also D. Thomas, Sotus, Aragon, Manuel, cited just above, Sylvest. *V. iuramentum* against Sanchez *num. 21.* and Azorius *loco citato*, who say they are equivocal words, like the former ones: *God knows*, and so can be uttered both invocatively and enunciatively.

> *AT D. Bonavent.* dist. cit. in dub. litt. vult*, necessario invocandum esse in testem Deum, ut scientem, ut sit iuramentum. Quare si simpliciter enuncietur. Non erit iuramentum, ut notat Sanchez* num. 20. et *hoc vult D. Augustinus. Ita docent etiam Caietanus* ad 3. *Tabiena verbo* iurare, quaest. 32. *Sorus* lib. 8. de Iust. quaest. 1. art. 1. *Suarez* lib. 1. de voto, cap. 13. num. 7. *Less.* lib. 2. de Iust. cap. 2. d. 2. *Clauis Regia* lib. 5. cap. 1. *Pedeaza* summa, praecepto 2. §. 1. *Aragon.* 2. 2. quaest. 89. art. 1. *Manuel* 1. Tomo summae, cap. 191. *Valentia* d. 6. quaest. 7. puncto 2. § a V. Iuram. *Petrus Ledesma* 2. tom. tract. 11. cap. 1. *quos adducit, et sequitur Sanchez* num. 20. *Itaque haec verba:* Deus scit, videt*, possunt esse simplices enunciationes; hoc vero ex usu, intentioneque iurantis dimetiendum est. Haec autem: Testis est mihi Deus, asserit S. Bonavent.* loc. cit. *esse iuramentum. Ita etiam D. Thom. Sotius, Aragon, Manuel, proxime citati, Sylvest.* V. iuramentum *contra Sanchez* num. 21. *et Azorium* loco citato*, qui dicunt esse verba aequivoca, sicut priora:* Scit Deus*, et ita posse et invocative, et enunciative proferri.*

35 INDEED Sanchez confesses that these have a greater likeness of an oath, and are oaths by usage. So also Suarez *eo cap. 13. num. 7.* But Sayrus *lib. 5. cap. 2.* Less. *cap. 42. dub. 2. num. 8.* place among oaths these words: God be my witness. I call God to witness, I testify, which S. Bonaventure says are

the same as the foregoing: God is my witness; for since he called must be a witness, that the witness be legitimate, by the very fact that God is said: *He is witness*, he is invoked.

> *ENIM vero fatetur Sanchez, ea maiorem iuramenti effigiem habere, et ex usu esse iuramenta. Ita etiam Suarez* eo cap. 13. num. 7. *At inter iuramenta ponunt Sayrus* lib. 5. cap. 2. *Less.* cap. 42. dub. 2. num. 8. *haec verba: Testis mihi sit Deus. Deum testor, testificor, quae S. Bonaventura ait idem esse cum superioribus: Testis est mihi Deus; nam cum testis esse debeat vocatus, ut legitimus sit testis, eo ipso, quod Deus dicitur:* Testis est*, invocatur.*

36 ¶ But these words: *As God lives*, are placed as an oath by D. Bonaventure *loc. cit.* whom Sylvester *V. iuramentum* follows, Sotius *de iuramentorum abusu, cap. 4. and lib. 8. de iust. quaest. 1. art. 1. col. 6.* Azor. *Tom. 1. lib. 11. cap. 3. quaesito 1.* Suarez *eo cap. 13. n. 6.* against Petrus de Ledesma *loc. cit. n. 20.* who places them among ambiguous words, as he also places these: *God is truth*, which is so in fact; in this Suarez favors him *loco citato.*

> ¶ *HAEC autem:* Vivit Deus*, ponuntur ut iuramentum a D. Bonavent.* loc. cit. *quem sequuntur Sylvester* V. iuramentum*, Sotius* de iuramentorum abusu, cap. 4. et lib. 8. de iust. quaest. 1. art. 1. col. 6. *Azor.* Tom. 1. lib. 11. cap. 3. quaesito 1. *Suarez* eo cap. 13. n. 6. *contra Petr de Ledesma* loc. cit. n. 20. *qui ea ponit inter verba ambigua, sicuti ponit ea etiam:* Deus est veritas*, quod ita res est, cui in hoc fauet Suarez* loco citato.

37 IT IS ALSO DEDUCED that there are oaths by the life of God, or of the Saints, by any members of Christ, or of the Saints. So S. Bonav. loc. cit. and art. 2. quaest. 2. But to swear by certain members of God absolutely, D. Bonav. proclaims blasphemous[1] ad 2. which he proves from the decree of Pope Pius, which is had in 22. quaest. 1. where it is said: *If anyone shall have sworn by the hair of God, or by his head, etc. if he is in the ecclesiastical order, let him be deposed; if a layman, let him be anathematized.* But they are blasphemies, as D. Bonaventure notes in the place cited, if it be believed that the members truly are in God; or that the members of Christ are to be divided, as for example by the head of Christ, by the life of Christ; for this is execratory, as if one said: May God, or Christ, be able to lose life, if it is not so.

1 N. Editor's note: the print reads "proclamaut", an obvious type-corruption for "proclamat".

> *DEDUCITUR etiam, esse iuramenta per vitam Dei, vel Sanctorum, per quaevis Christi, vel Sanctorum membra. Ita S. Bonav. loc. cit. et art. 2. quaest. 2. At iurare per membra aliqua Dei simpliciter, blasphemum proclamat[1] a D. Bonav. ad 2. quod probat ex Pii Papae decreto, quod habetur 22. quaest. 1. ubi dicitur:* Si quis per capillum Dei, vel caput iurauerit, etc. si in Ecclesiastico ordine est, deponatur; si laicus, anathematizetur. *Sunt autem blasphemiae, ut notat D. Bonavent. loco citato, si credatur vere in Deo membra esse; vel per membra Christi dividenda, ut v. g. per caput Christi, per vitam Christi; hoc enim est execratorium, quasi dicat: Possit Deus, seu Christus, amittere vitam, si non est ita.*
>
> *1 N. Editor's note: the print reads "proclamaut", an obvious type-corruption for "proclamat".*

38 SIMILARLY, to swear by the shame-parts of Christ, or of the Saints, is blasphemy, because although they had those members, it was not to contumely, as things to be vituperated; and this S. Bonaventure also indicates in the place cited, with whom very many Doctors agree in all these things, cited by Sanchez lib. 2. sum. cap. 32. from num. 25. to 30.

> *SIMILITER iurare per pudenda Christi, vel Sanctorum, est blasphemia, quia licet ea membra habuerint, non tamen ad contumeliam, tanquam vituperabilia, et hoc indicat etiam S. Bonavent. loco citato, quocum in omnibus sunt Doctores plurimi, adducti a Sanchez lib. 2. sum. cap. 32. a num. 25. ad 30.*

39 SIMILARLY, to swear by the life, or safety, or soul of ourselves, or of our neighbors living together, is a true oath, as S. Bonaventure notes 3. dist. 39. art. 2. quaest. 2. in corpore. Thus Joseph swore by the life and safety of Pharaoh, Genes. 42. The reason is, because God is brought in as author of life, of the soul, etc., which are noble things, in which the Divine majesty shines forth: this is clear even in the opinion of the adversaries whom I reported in Notando quinto. So teach Sylvester V. Iuram. 1. quaest. 5. Sotus lib. 8. de Iust. quaest. 1. Pedraza summa, praecepto 2. §. 1. Azorius tract. 1. lib. 11. c. 3. quaest. 1. Petrus Ledelma 2. Tom. tract. 11. cap. 1. dub. 1. Suarez eo cap. 13. num. 22. against others whom Sanchez reports num. 29. who nevertheless, against Ledesma, says it is not execratory. But it will be the same, as I said above: *In my soul*, unless perhaps you wish to say only: I assert what I have within; for then it will not be an oath, as Sanchez notes.

> *SIMILITER iurare per vitam, vel salutem, aut animam nostram, vel proximorum conviventium, est verum iuramentum, ut notat S. Bonavent. 3. dist. 39. art. 2. quaest. 2. in corpore. Sic Ioseph iuravit per vitam, et salutem Pharaonis Genes. 42. Ratio est, quia adducitur Deus author vitae, animae, etc. quae sunt res nobiles, in quibus elucet Divina maiestas: id patet in opinione etiam adversariorum, quos retuli notando quinto. Ita docent Sylvester V. Iuram. 1. quaest. 5. Sotus lib. 8. de Iust. quaest. 1. Pedraza summa, praecepto 2. §. 1. Azorius tract. 1. lib. 11. c. 3. quaest. 1. Petrus Ledelma 2. Tom. tract. 11. cap. 1. dub. 1. Suarez eo cap. 13. num. 22. contra alios, quos refert Sanchez num. 29. qui tamen contra Ledelmam ait, non esse execratorium. Idem erit autem, ut supra dixi:* In anima mea*, nisi forte velis solum dicere: assero id, quod habeo intus; tunc enim non erit iuramentum, ut notat Sanchez.*

40 SIMILARLY it will be an oath: *My soul lives*, or *yours*, as D. Bonaventure notes in that dub. litt. because God is brought in as author of life. So Sanchez num. 29. Sylvester V. Iurament. 1. quaest. 1. Azor loco cit. But these words *by my conscience*, or *in my conscience;* many assert to be an oath, whom Sanchez reports num. 30. But rather it seems to be said only recitatively: I assert what I feel in conscience. So Sanchez, Sotus *de Iuramentorum abusu*, cap. 41. Petrus Ledesm. 2. Tom. tract. 11. cap. 1. dub. 1. Suarez eo cap. 13. num. 22. Sayrus eo cap. 1. num. 13. Lessius eo dubio citato. It will be the same: *My conscience is my witness;* for conscience testifies of itself naturally, as D. Bonaventure notes in 2. dist. 39. quaest. 1. ad ultimum, and so it is marked: *This my conscience dictates to me.*

> *SIMILITER erit iuramentum:* Vivit anima mea*, vel* tua*, ut notat D. Bonavent. eo dub. litt. quia adducitur Deus, ut author vitae. Ita Sanchez num. 29. Sylvester V. Iurament. 1. quaest. 1. Azor loco cit. Haec autem verba* per meam conscientiam*, vel* in mea conscientia*; multi asserunt esse iuramentum, quos refert Sanchez num. 30. At potius videtur solum recitative dici: assero, quod in conscientia sentio. Ita Sanchez, Sotus* de Iuramentorum abusu*, cap. 41. Petrus Ledesm. 2. Tom. tract. 11. cap. 1. dub. 1. Suarez eo cap. 13. num. 22. Sayrus eo cap. 1. num. 13. Lessius eo dubio citato. Idem erit:* Testis est mihi mea conscientia*; nam conscientia ex se naturaliter testificatur, ut notat D. Bonavent. in 2. dist. 39. quaest. 1. ad ultimum, et ita signatur.* Hoc mihi dictat conscientia.

41 But those words: *In my faith: A fe da quel che son;* I think, with Sanchez lib. 7. de matrim. disp. 79. num. 28., are not an oath, setting aside the peculiar intention of the speaker, who by those words would understand Divine faith; for the sense is: By my fidelity, the human truth by which human words are grounded in the ordinary mode of speaking, as Cajetan notes; and so neither will it be an oath: *In truth it is so.* So many, with Sanchez num. 34.

> *VERBA autem illa:* In fide mea: A fe da quel che son*; puto, non esse iuramentum cum Sanchez lib. 7. de matrim. disp. 79. num. 28. seclusa peculiari dicentis intentione, qui per ea verba fidem Divinam intelligeret; sensus enim est: Per meam fidelitatem, veritatem humanam, qua verba humana fundantur in modo ordinario loquendi, ut notat Caietanus, et ita neque erit iuramentum:* In veritate ita est. *Ita multi cum Sanchez num. 34.*

42 But the rude, confessing that they have sworn, are to be questioned as to what they said, as Bassaeus warns.

> *Sunt autem rudes, confitentes se iurasse, interrogandi, quid dixerint, ut monet Bassaeus.*

Question II: Whether it is lawful to swear by God

1 VERY many heretics deny altogether that an Oath is licit. Among these are the Manichaeans, whom D. Bonav. reports here, and the Apostolici, according to D. Bernard homil. 66. in Cant. and the Cathari, by the testimony of Guido, and the Pauperes de Lugduno according to the same, and the Fraticelli, by the testimony of Turrecremata lib. 4. summae de Ecclesia part. 2. cap. 37. Vuiclephus error 43. from the condemned in the Council of Constance sess. 8. who said that one ought not to swear to confirm human contracts; so also the Anabaptists, according to Cochlaeus against the same, and Erasmus ad 5. Matthaei.

> ***An liceat per DEUM iurare.***
>
> *HAERETICI plurimi omnino negant, Iuramentum licitum esse. Inter hos sunt Manichaei, quos refert D. Bonav. hic, et Apostolici apud D. Bernardum homil. 66. in Cant. et Cathari, teste Guidone, et Pauperes de Lugduno apud eundem, et Fraticelli, teste Turrecremata lib. 4. summae de Ecclesia part. 2. cap. 37. Vuiclephus errore 43. ex damnatis in Concilio Constantiensi sess. 8. qui dixit, non esse iurandum ad firmandos humanos contractus; ita et Anabaptistae apud Cochlaeum contra eosdem, et Erasmus ad 5. Matthaei.*

2 I ASSERT, however, that the Oath is licit.

> *ASSERO tamen, licitum esse Iuramentum.*

3 It is PROVED from D. Bonav. first from 5. Matth. *But thou shalt render to the Lord thy oaths*. The same is had in Deuter. 6. *Thou shalt fear the Lord thy God, and shalt swear by his name*, and cap. 21. where the Magnates of the neighboring places, in which a man had been found slain, are commanded to purge themselves by oath, and Psalm. 62. *All shall be praised who swear by him*, and Heb. 6. where it is said: *An oath is the end of all controversy*, as S. Bonaventure rightly notes serm. 3. Decalogi, and loco cit. after D. Augustine serm. 28. de verbis Apostoli.

> *PROBATUR a D. Bonau. primo ex 5. Matth.* Reddes autem Domino iuramenta tua. *Idem habetur Deuter. 6.* Dominum Deum tuum timebis, et per nomen illius iurabis*, et cap. 21. ubi praecipitur Magnatibus vicinioribus loco, in quo homo occisus fuisset repertus, ut iuramento se expurgent, et Psalm. 62.* Laudabuntur omnes, qui iurant in eo*, et Heb. 6. ubi dicitur:* Omnis controuersiae finis est iuramentum*, ut rite advertit S. Bonavent. serm. 3. Decalogi, et loco cit. post D. Augustinum serm. 28. de verbis Apostoli.*

4 It is PROVED secondly from D. Bonaventure. That which has God and the Saints as exemplars is not sin: But the oath was instituted by God, and the Saints: Therefore. The minor is proved, Genes. 22. *By myself I have sworn, saith the Lord.* Psalm. 119. *The Lord hath sworn.* Heb. 6. *He swore by himself.* Besides, as often as in the old testament he said: *I live*, and in the new: *Amen, amen*, (which is frequent) God swore, as D. Jerome rightly notes also ad 16. Ezech. Chrysostomus homil. 11. in epistolam ad Heb. Oecumenius in cap. 3. ad Heb. and it is had cap. *Etsi Christus, extra de iureiur.*

> *PROBATUR secundo a D. Bonavent. Id, quod habet Deum, et sanctos exemplares, non est peccatum: At iuramentum editum est a Deo, et sanctis: Ergo. Minor probatur, Genes. 22.* Per memetipsum iuraui, dicit Dominus. *Psalm. 119.* Iurauit Dominus. *Heb. 6.* Per semetipsum iurauit. *Praeterea quoties in veteri testamento dixit:* Viuo ego*, et*

in nouo: Amen, amen, *(quod frequens est) Deus iuravit, ut rite advertit etiam D. Hieronymus ad 16. Ezech. Chrysostomus homil. 11. in epistolam ad Heb. Oecumenius in cap. 3. ad Heb. et habetur cap.* Etsi Christus, extra de iureiur.

5 SIMILARLY also the Saints swore: thus Abraham Genes. 21. Jacob and Laban Genes. 31. Moses and Jethro Exodi 2. David 1. Reg. 20. second, Reg. 1. the Apostle Rom. 1. second, Cor. 1. Philip. 1. and in other places, as S. Bonaventure reports serm. 3. Decal. and in 3. dist. 39. passim and in the Bibliis Pauperum, cap. 18. Therefore. It is the argument of D. Augustine loco cit. and lib. 19. cap. 23. contra Faustum, and of other Fathers.

SIMILITER etiam Sancti iurarunt: sic Abraham Genes. 21. Iacob Laban Genes. 31. Moyses Iethro Exodi 2. Dauid 1. Reg. 20. secundo, Reg. 1. Apostolus Rom. 1. secunda, Cor. 1. Philip. 1. et aliis locis, ut refert S. Bonavent. serm. 3. Decal. et in 3. dist. 39. passim et in Bibliis Pauperum, cap. 18. Ergo. Est argumentum D. Augustini loco cit. et lib. 19. cap. 23. contra Faustum, et aliorum Patrum.

6 It is PROVED thirdly. That by which honor is shown to God is licit: such is the oath: Therefore. The minor is proved by D. Bonaventure from the Gloss in 5. Matth. because while we bring God in as witness of the truth, we confess that God is the first infallible truth, on whom we lean, in whom we hope for the truth to be unfolded, whom we fear, whom we love, and therefore we remit ourselves wholly to him. These things Suarez pursues at length lib. 2. de religione, Tract. de iuramento, lib. 1. cap. 4. and 7.

PROBATUR tertio. Id, quo exhibetur Deo honor, est licitum: tale est iuramentum: Ergo. Minor probatur a D. Bonavent. ex Glossa in 5. Matth. quia dum adducimus Deum in testem veritatis, fatemur Deum esse primam veritatem infallibilem, cui innitimur, in quem speramus veritatem pandendam, quem timemus, quem diligimus, et ideo nos totos in eum remittimus. Quae late prosequitur Suarez lib. 2. de religione, Tract. de iuramento, lib. 1. cap. 4. et 7.

7 It is PROVED fourthly from D. Bonaventure. That which has a holy object and end is licit; such is the oath, which has for object the Divine invocation, to unfold the truth, to promote good, to preserve fidelity, to promote peace, to curb malice, to settle controversies, duly to purge infamies, as is had in Heb. 6. Deuter. 21. cited above: Therefore. See D. Bonaventure.

PROBATUR quarto a D. Bonavent. Quod habet obiectum, et finem sanctum, est licitum; tale est iuramentum, quod habet obiectum Divinam invocationem ad pandendam veritatem, ad promovendum bonum, ad conservandam fidelitatem, ad pacem promovendam, ad compescendam malitiam, ad sedandas controversias, ad rite expurgandas infamias, ut habetur Heb. 6. Deuter. 21. supra allatis: Ergo. Vide D. Bonavent.

8 D. Bonavent. also *serm. 3. Decal. et loco cit. Gentil.* On these arguments lean Suarez *loco cit.* Valencia 2. 2. *disp. 6. quaest. 7. puncto 3.* Castro *lib. 8. contra haeres. V. Iuram.* Azor *Tom. 1. lib. 11. cap. 2.*

D. Bonavent. etiam serm. 3. Decal. et loco cit. Gentil. *His argumentis nituntur Suarez* loco cit. *Valentia* 2. 2. disp. 6. quaest. 7. puncto 3. *Castro* lib. 8. contra haeres. V. Iuram. *Azor* Tom. 1. lib. 11. cap. 2.

9 *You will object first Matth. 5.* Christ says: *But I say to you, not to swear at all.*

Obiicies primo Matth. 5. *Christus ait:* Ego autem dico vobis non iurare omnino.

10 *D. Bonaventure answers ad primum, and serm. 3. in Decalogum,* that Christ did not prohibit the oath universally, but only prohibited that we should swear too easily in every affair. For therefore he did not say: *I say to you not to swear at all,* which would render a universal negative: but he says: *I say to you*

not to swear at all, that is, not always, and so easily. For a negation placed before the sign of universality is equivalent to a particular negative. Thus: Not every man runs, is a particular negative: But the negation placed after makes it universally true, as: Every man does not run. Azor receives this response *Tom. 1. lib. 11. cap. 3. quaestio 5.*

> Respondet D. Bonavent. ad primum, et serm. 3. in Decalogum, *Christum non prohibuisse universaliter iuramentum, sed solum prohibuisse, ne in omni negotio facile iuraremur. Propterea enim non dixit:* Ego dico vobis non iurare omnino, *quod universalem negativam redderet: sed ait:* Dico vobis non iurare omnino, *idest, non semper, et ita facile. Negatio enim posita ante signum universalitatis aequipollet particulari negativae. Sic: Non omnis homo currit, est particularis negativa: At postposita negatio facit eam universaliter veram, ut: Omnis homo non currit. Hanc responsionem accipit Azor* Tom. 1. lib. 11. cap. 3. quaestio 5.

11 *Valencia loco citato*, after Gabriel *in 3. dist. 39. quaest. 1.* rejects this response, because the sentences of Sacred scripture are not to be measured by the rules of the Dialecticians, and it is certain that under the same form of speaking there stands in Scripture a universal prohibition, as Exodi 20. *Thou shalt not make to thyself a graven thing, nor any likeness.*

> Valentia loco citato, *post Gabrielem* in 3. dist. 39. quaest. 1. *hanc responsionem respuit, quia sententiae Sacrae scripturae non sunt metiendae regulis Dialecticorum, et constat sub eadem loquendi forma extare in Scriptura prohibitionem universalem, ut Exodi 20.* Non facies tibi sculptile, neque omnem similitudinem.

12 ¶ But what harm does this acute observation of the Seraphic Doctor do, that these men should attempt by no reason to overturn it utterly? Moreover I show it solid: For often, and ever more often, Scripture is expounded by these rules, as is everywhere seen in the SS. PP., especially Augustine; for the rules of Dialectic were handed down to find the truth of propositions; and in this case the text was translated word for word from the Greek, which sounds altogether thus, as is read in the text. But we know that the Greeks use these Aristotelic rules. So also we very often see sacred scripture using figures and Tropes.

> ¶ *At quid oberat haec Seraphici arguta observatio, ut eam funditus evertere nulla ratione conarentur isti? Eam porro solidam ostendo: Nam saepe, ac saepius Scriptura his explicatur regulis, ut passim videre est in SS. PP. praecipue Augustino; Regulae enim Dialecticae ad propositionum veritatem inveniendam traditae sunt; et in hoc casu traductus est textus de verbo ad verbum ex Graeco, quod ita omnino sonat, ut in textu legitur. Scimus autem, Graecos his regulis Aristotelicis uti. Sic et figuris, et Tropis saepissime videmus uti sacram scripturam.*

13 Indeed the *Example* brought forward by Valencia is for us: For there not all images are prohibited universally, for God himself commands the Cherubim to be woven, others to be sculpted; but only those to which the honor of latria is paid, or by which it is paid to other creatures, as Valencia himself confesses *2. 2. disp. 6. quaest. 11. puncto 6. col 1461.* where he says this is the irrefragable sense of all Catholics. Wherefore that is a particular negative proposition.

> Exemplum *vero adductum a Valentia est pro nobis: Ibi enim non prohibentur universaliter omnes imagines, nam et ipse Deus Cherubinos texendos, alios sculpendos iubet; sed illae dumtaxat, quibus honor latriae impendatur, vel per quas aliis creaturis impendatur, ut fatetur ipse Valentia* 2. 2. disp. 6. quaest. 11. puncto 6. col 1461. *ubi hunc dicit esse omnium Catholicorum irrefragabilem sensum. Quare illa est propositio negativa particularis.*

14 *Other* responses therefore having been rejected, Valencia answers from D. Thom. *art. 2. ad 1. and* D. Augustine *lib. 19. contra Faustum, cap. 23. and lib. de mendacio, cap. 15.* that Christ the Lord prohibited the facility, and accordingly the temerity, in swearing, with which the Pharisees abounded. But that

this was Christ's Scope he proves from the beginning of the sermon: *Unless your justice abound more than that of the scribes, and Pharisees, you shall not enter into the kingdom of heaven.*

> Reiectis *igitur aliis etiam responsionibus, respondet Valentia ex D. Thom.* art. 2. ad 1. et *D. Augustino* lib. 19. contra Faustum, cap. 23. et lib. de mendacio, cap. 15. *Christum Dominum prohibuisse facilitatem, atque adeo temeritatem in iurando, qua Pharisaei scatebant. Hunc autem fuisse Christi Scopum probat ex initio sermonis:* Nisi abundaverit iustitia vestra plusquam scribarum, et Pharisaeorum, non intrabitis in regnum coelorum.

15 *Moreover*, for this exposition he could bring forward also S. Bonaventure *loco cit. ad secundum, and in corpore.* But the reason which Valencia adds from his own store is a frivolous invention; for Christ sufficiently assigned the more abundant justice necessary in this respect, blunting their use of swearing by creatures, on this pretext, that swearing by them is not an oath. But that he rather prohibited too great facility in swearing, whence an oath could lack truth also through inconsideration; or prohibited that they should not swear in every light matter without necessity, as S. Bonaventure says in the former exposition, is not gathered even by a word. Add that in the former exposition of D. Bonaventure this second is contained, namely, that it is prohibited that at every third word, from any slight occasion and slight little cause, we precipitately and inconsiderately swear.

> Caeterum *pro hac expositione poterat adducere etiam S. Bonaventuram* loco cit. ad secundum, et in corpore. *Ratio vero, quam de suo penu addit Valentia, frivolum est inventum; satis enim Christus assignavit abundantiorem necessariam iustitiam, quoad hoc retundens eorum usum peierandi per creaturas, hoc praetextu, non esse iuramentum per eas. Quod vero potius prohibuerit facilitatem nimiam in iurando, unde iuramentum posset carere etiam veritate ex inconsideratione; aut prohibuerit, ne in omni re levi absque necessitate iurarent, ut ait S. Bonavent. in priori expositione, ne verbulo quidem colligitur. Adde etiam in priori expositione D. Bonaventurae contineri hanc secundam, nempe, prohiberi, ne tertio quoque verbulo e quavis occasiuncula, levique causula praecipites inconsideranter iuremus.*

16 *You will object secondly, Iacobi 5. But above all, my brethren, do not swear.*

> Obiicies secundo, Iacobi 5. Ante omnia autem fratres mei nolite iurare.

17 *S. Bonaventure answers in corpore, and ad 2.* from D. Augustine *ad Publicolam*, that it forbids the facility of the oath because of the danger of perjury from inconsideration of the truth. So Valencia also answers *loco cit.* The same response from D. Bonaventure *ad secundum*, he gives to the Fathers who frequently inveigh against swearers.

> Respondet S. Bonavent. in corpore, et ad 2. *ex D. Augustino* ad Publicolam, *vetare facilitatem iuramenti ob periurii periculum ex inconsideratione veritatis. Ita respondet etiam Valentia* loco cit. *Idem responsum ex D. Bonavent.* ad secundum, *dat Patribus, qui contra iurantes frequenter invehuntur.*

18 *S. Bonaventure adds* that the Divine James intends also to remove the excessive affection toward oaths; therefore he says: *Do not*, because of the danger which follows from the affection of frequenting the oath without the due conditions; for too great frequency is evil. From which, however, it does not follow that the oath is absolutely evil: As the habit of laughing and playing is evil; yet sometimes to play and laugh moderately is the virtue of Eutrapelia. Whence S. Bonaventure refutes that argument: Every act whose habit is evil, is itself evil; but the habit of swearing is evil: Therefore also the act simply. He adds therefore for this reason that the Oath is not among those goods to be sought for themselves, but that it is licit to use it in necessity alone, which he proves from D. Augustine *de serm. Domini in monte, lib. 1. cap. 30. and it is reported, cap. Ita ergo, 22. quaest. 1. and* D. Thom. *art. 5.* has the same.

Addit S. Bonavent. *Divum Iacobum intendere etiam removere affectum nimium ad iuramenta; ideo ait:* Nolite*, propter periculum, quod ex affectu sequitur frequentandi absque debitis conditionibus iuramentum; nimia enim frequentia mala est. Ex quo tamen non sequitur, absolute malum esse iuramentum: Sicuti consuetudo ridendi, et ludendi est mala; at aliquando moderate ludere, et ridere est virtus Eutrapelyae. Unde redarguit S. Bonavent. illud argumentum: Omnis actus, cuius consuetudo est mala, et ipse malus est; at consuetudo iurandi est mala: Ergo et actus simpliciter. Addit ergo propterea, Iuramentum non esse ex bonis per se appetendis, sed eo in sola necessitate uti licere, quod probat ex D. Augustino* de serm. Domini in monte, lib. 1. cap. 30. et refertur, cap. Ita ergo, 22. quaest. 1. et *D. Thom.* art. 5. *idem habet.*

19 *You will object thirdly*, that it is perverse to invoke God as witness of profane and human things as though it were licit.

Obiicies tertio*, perversum est invocare Deum testem rerum prophanarum, et humanarum in tanquam licitum.*

20 *S. Bonaventure answers serm. 3. Decal. from* the Apostle *Heb. 6.* That this is judged right by God; for peace is a most weighty good, necessary unto salvation, but controversies having been settled, peace is preserved. Therefore the invocation of God is not ordered, as to the last end, to profane affairs, but the end of controversies is peace, which returns into God, and is terminated in him. In the same way answers Valencia *loco cit. and* Azor *Tom. 1. lib. 11. cap. 3. quaestio 5. and* Iurisconsult. *leg. 1. ff. de Iureiurando.*

Respondet S. Bonavent. serm. 3. Decal. ex *Apostolo* Heb. 6. *Id a Deo rectum existimari; nam pax est gravissimum bonum, necessarium ad salutem, sedatis autem controversiis, conservatur pax. Itaque invocatio Dei non ordinatur, tanquam ad ultimum finem ad prophana negotia, sed finis controversiarum est pax, quae in Deum revertitur, ac terminatur. Eodem modo respondet Valentia* loco cit. et *Azor* Tom. 1. lib. 11. cap. 3. quaestio 5. et *Iurisconsult.* leg. 1. ff. de Iureiurando.

Question III: Whether it is lawful to swear by creatures

1 *It was* the opinion of St. Jerome *on Matthew 5* that it was forbidden by Christ to swear by creatures. Alphonsus de Castro followed him, *V. Iuram. haeresi 1. and* it seems Innocent III *cap. etsi Christus, de Iureiurando.*

Fuit *opinio D. Hieronymi* in 5 Matthaei*, vetitum a Christo fuisse iurare per creaturas. Eum secutus est Alphonsus de Castro,* V. Iuram. haeresi 1. et *videtur Innocent. III.* cap. etsi Christus, de Iureiurando.

2 *Yet* the true *sentiment* is that it is lawful to swear by creatures. So St. Bonaventure here, St. Thomas *ad primum*, whom all the others follow, as Azorius says *Tom. 1. lib. 11. cap. 3. quaestio 5.*

Vera *tamen sententia est, licere per creaturas iurare. Ita D. Bonavent. hic, D. Thom.* ad primum*, quos omnes alii sequuntur, ut ait Azorius* Tom. 1. lib. 11. cap. 3. quaestio 5.

3 *But Azorius notes*, from St. Bonaventure *in corpore*, that one can swear by creatures in two ways; first by them as invoked as witnesses of truth, as if divine, in which manner the pagans swore *AEdepol, Mehercule*; and this contains blasphemy, evidently because that is ascribed to creatures which is proper to God, to be the infallible author of truth; and this is forbidden *cap. Clericum, 22. quaest. 1.* by the Fourth Council of Carthage *et cap. si quis per creaturas.*

Notat autem Azorius *ex D. Bonavent.* in corpore*, dupliciter iurari posse per creaturas; primo per eas, tanquam testes veritatis invocatas, quasi divinas, quo pacto ethnici iurabant* AEdepol, Mehercule*, et hoc continet*

blasphemiam, nimirum quia id adscribitur creaturis, quod est proprium Dei, esse veritatis authorem infallibilem, et hoc ideo prohibetur cap. Clericum, 22. quaest. 1. *a Concilio Carthaginensi IV.* et cap. si quis per creaturas.

4 In the other way one swears by creatures, not resting in them, but invoking God, who shines forth in creatures as the workman, as the author of all truth and goodness; in creatures also this is lawful, as I shall show below.

Altero modo iuratur per creaturas, non ipsis sistendo, sed Deum invocando, qui in creaturis opifex elucet, ut author omnis veritatis, et bonitatis; in creaturis etiam hoc est licitum, ut infra ostendam.

5 *I ASSERT*, that it is lawful to swear by creatures.

ASSERO*, licitum esse per creaturas iurare.*

6 *It is PROVED* by St. Bonaventure first. Joseph *Genes. 43.* swore by the health of Pharaoh, and Paul *prima Corinth. 11.* by the glory of the Corinthians: *Daily I die by your glory.* So St. Augustine understands it *serm. 28. de verbis Apostoli in Glossa ordinaria.* Others however read: *I die on account of, etc.* But the Greek text has, *Per.* So St. Bonaventure also reads it in *Bibliis pauperum, cap. 18.*

PROBATUR *a D. Bonavent. primo. Ioseph* Genes. 43. *iuravit per salutem Pharaonis, et Paulus* prima Corinth. 11. *per gloriam Corinthiorum:* Quotidie morior per gloriam vestram. *Ita sentit D. Augustinus* serm. 28. de verbis Apostoli in Glossa ordinaria. *Alii tamen legunt:* morior propter, etc. *At textus Graecus habet,* Per. *Sic legit S. Bonav. etiam in* Bibliis pauperum, cap. 18.

7 *It is PROVED* secondly by St. Bonaventure, because an oath is commonly administered by the Church upon the Gospels; but the Gospel is a creature.

PROBATUR *secundo a D. Bonav. quia communiter ab Eccloesia exhibetur iuramentum per Evangelia; at Evangelium est creatura.*

8 *You will OBJECT* first *Matth. 5.* Christ says: *Swear not by heaven, because it is the throne of God: nor by the earth, because it is the footstool of his feet, etc.* The Gloss says this is superstitious.

OBIICIES *primo* Matth. 5. *ait Christus:* Nolite iurare per caelum, quia thronus Dei est: neque per terram, quia scabellum pedum eius, etc. *Glossa ait, esse superstitiosum.*

9 St. Bonaventure *ANSWERS* that an oath by creatures is forbidden in the first way, by attributing to them something Divine; but that to swear in the second way is lawful, with due moderation, as above.

RESPONDET *S. Bonavent. vetari iuramentum per creaturas priori modo, attribuendo eis aliquid Divinum; at iurare posteriori modo licere, debito moderamine, ut supra.*

10 *You will OBJECT* secondly. Pope Pius forbids swearing by a hair *Dei 22. quaest. 1.*

OBIICIES *secundo. Pius Papa vetat iurare per capillum* Dei 22. quaest. 1.

11 St. Bonaventure *ANSWERS*: he condemns those who ascribe members to God; and those who swear contumeliously by the members of Christ.

RESPONDET *S. Bonavent. damnare illos, qui Deo membra adscribunt; et qui per membra Christi contumeliose iurant.*

Question IV: What is required for an oath

[1] *The QUESTION* concerns the requirements of the Divine natural law for the lawful manner of swearing. The constant *sentiment* of the Theologians is that three things are required, as it were companions, from Jeremiah 4, *Thou shalt swear: The Lord liveth in truth, and in Judgment, and in justice.* So St. Jerome expounds it, and it is cited *caus. 22. quaest. 2. et cap. ultimo 22. quaest. 4.* St. Thomas has this *2. 2. quaest. 89. art. 3.* St. Bonaventure *in 3. dist. 39. quaest. 1. et in dub. lit.* where he observes that an Oath is compared to three things, namely to the one swearing, from whom it proceeds: to the thing, or matter of the oath, about which one swears: and to the cause for which, or through which one swears. In the one who swears (he says) judgment is required, that is, discretion, and a certain prudence necessary for every one swearing. These three things are required, says Valencia. The first is, that what we affirm with an oath cannot be sufficiently proved without the oath; for then it would be an abuse of the oath; for the institution of swearing ought to be referred to contingent and hidden facts alone, which need the proof of Divine testimony, before whose eyes all things are naked and open. The second is, that some pious cause for swearing be present. The third is, that the one about to swear diligently foresee whether what he is about to swear be true or false. But the second condition seems to be reduced to justice by St. Bonaventure. Yet I do not think it so, as I shall say below.

> ***Quenam requirantur ad Iuramentum.***
>
> QUAESTIO *est de requisitis ex iure Divino naturali ad modum licitum iurandi. Constans autem est Theologorum sententia, tres, veluti comites, requiri, ex 4. Hieremiae,* Iurabis: vivit Dominus in veritate, et in Iudicio, et in iustitia. *Ita exponit D. Hieronymus, et refertur* caus. 22. quaest. 2. et cap. ultimo 22. quaest. 4. *Id habet D. Thom.* 2. 2. quaest. 89. art. 3. *D. Bonavent. in* 3. dist. 39. quaest. 1. et in dub. lit. *ubi advertit, Iuramentum ad tria comparari, videlicet ad iurantem, a quo procedit: ad rem, seu materiam iuramenti, de qua iuratur: et ad causam, de qua, seu per quam iuratur. In eo, qui iurat (ait) requiritur iudicium, idest discretio, et prudentia quaedam necessaria omni iuranti. Haec autem tria requirit, ait Valentia. Primum est, ut quod iuramento affirmamus, non possit absque iuramento sufficienter probari, tunc enim esset abusus iuramenti; nam iurandi institutum referri debet ad sola facta contingentia, et occulta, quae egeant probatione Divini testimonii, cuius oculis omnia sunt nuda, et aperta. Secundum est, ut adsit aliqua pia causa iurandi. Tertium est, ut qui iuraturus est, diligenter praevideat, verumne sit, an falsum id, quod iuraturus est: At secunda conditio ad iustitiam videtur reduci a D. Bonavent. Sed non ita esse reor, ut infra dicam.*

[2] *IN* order, however, to the thing about which one swears, truth is required, at least according to the reasonable judgment of the one swearing. Yet Truth is required differently in an Assertory oath and in a Promissory one; for in a Promissory oath a twofold truth is required; one consists in the concordance of the promissory word and the interior intention of doing in its own time what is promised: the other truth is the concord also of the effect, or of the thing promised, with the promise, and this is properly the truth of a promissory oath. But the truth in an Assertory oath is the union, that is, the concord of the assertion with the deliberate mind, as I said.

> IN *ordine autem ad rem, de qua iuratur, requiritur veritas saltem secundum rationabile iudicium iurantis. Diversimode tamen requiritur Veritas in iuramento Assertorio, et in Promissorio; nam in Promissorio requiritur duplex veritas; altera consistit in concordantia promissoriae dictionis, et interioris intentionis faciendi suo tempore, quod spondetur: Altera veritas est concordia etiam effectus, seu rei promissae cum promissione, et haec est proprie veritas iuramenti promissorii. Veritas autem in Assertorio iuramento est unio, idest, concordia assertionis cum mente discreta, ut dixi.*

3 *IN* order to the cause, through which, or about which one swears, justice is necessary, namely that the act of swearing be just, that is, not against the laws, and be done for a just cause. And indeed in a Promissory oath justice is required not only in the act; namely that it not harm one's neighbor, but also in the matter of the oath; namely that it be a just work, reducible to some virtue, even if indifferent in itself, as I shall say *quaest. 13*. But in an Assertory oath justice is not required on the part of the matter; for the crime of one's neighbor is often lawfully uncovered by an oath; but justice is required in the act of swearing alone, namely that it harm no one. St. Bonaventure indicates this, when he says that justice is required, that it be done for a just cause, not on account of a just cause, which pertains to the judgment of discretion; and therefore he says prudently also that justice is required in the cause about which, that is, in the matter of the oath, insofar as it formally has the character of the cause of the oath in the Promissory; and in the act, insofar as it is productive of the oath in the Assertory.

> IN *ordine ad causam, per quam, seu de qua iuratur, necessaria est iustitia, ut scilicet actus iurandi sit iustus, idest, non contra leges, et iusta de causa fiat. Et quidem in Iuramento promissorio requiritur iustitia, non modo in actu; ut videlicet non noceat proximo, sed etiam in materia iuramenti; ut videlicet sit opus iustum, reductum ad aliquam virtutem, esto in se indifferens, ut dicam* quaest. 13. *In Assertorio autem non requiritur iustitia ex parte materiae; saepe enim detegitur licite per iuramentum proximi crimen; sed iustitia requiritur in solo actu iurandi, ne videlicet alicui noceat. Hoc indicat S. Bonavent. dum ait, requiri iustitiam, ut pro iusta causa fiat, non ob iustam causam, quod ad iudicium discretionis pertinet, et ideo prudenter etiam ait, iustitiam requiri in causa, de qua, idest, in materia iuramenti, pro ut formaliter habet rationem causae iurandi in Promissorio; et in actu, pro ut est productivus iuramenti in Assertorio.*

4 *From* the lack, therefore, of any of these circumstances the oath is rendered unlawful; for if justice is lacking, the one swearing makes God, as far as in him lies, a cooperator of evil, and the Oath is called iniquitous, or unjust. If truth is lacking, God is made either ignorant or wicked; for it is necessary that he who is the witness of falsehood be one or the other, and then the oath is called false, or perjury properly speaking. Finally, if judgment is lacking, irreverence is inflicted upon God, since he is dragged forth in testimony without cause, and the oath is called heedless and rash. See St. Bonaventure, especially *sermone 3. in Decalogum.*

> Ex *defectu igitur cuiuscumque harum circumstantiarum redditur iuramentum illicitum; nam si deest iustitia, efficit iurans, quantum in se est, Deum cooperatorem mali, et dicitur Iuramentum iniquum, sive iniustum. Si deest veritas, efficitur Deus vel ignorans, vel improbus; alterutrum enim necesse est esse eum, qui est testis falsitatis, et dicitur tunc iuramentum falsum, sive periurium proprie loquendo. Si denique iudicium deest, irrogatur Deo irreverentia, quippe sine causa trahitur in testimonium, et dicitur iuramentum incautum, et temerarium. Vide D. Bonavent. praecipue* sermone 3. in Decalogum.

5 *From* these is resolved the first question of St. Bonaventure, namely whether in every perjury there is a lie.

> Ex *his resolvitur prima quaestio D. Bonavent. an scilicet in omni periurio sit mendacium.*

6 *For* there can be perjury because it was rashly uttered; yet not a lie, since the one swearing thought from inconsideration that it was true. St. Bonaventure proves this *in corpore, from St. Augustine serm. 23. de verbis Apostoli.* Therefore from the defect of the judgment of discretion there arises a perjury which is not formally a lie.

POTEST *enim esse periurium, quia temere prolatum est; non tamen mendacium, quippe iurans putavit ex inconsideratione, esse verum. Id probat S. Bonavent.* in corpore, ex D. Augustino serm. 23. de verbis Apostoli. *Itaque ex defectu iudicii discretionis fit periurium, quod non est mendacium formaliter.*

7 *FURTHERMORE* the defect of an oath can come from injustice, as if someone should swear to commit murder, rape, or another crime with the intention of fulfilling it; it will not be a lie, and yet it will be perjury broadly; It will nevertheless be a lie, if he swears not with the intention of fulfilling the promise. So St. Bonaventure *loco cit.*; for that is properly perjury which properly opposes the end of the oath, which is to establish truth. Therefore, if only justice is lacking, it will be perjury in the broad mode, as Sanchez notes *cap. 8. num. 5.*

DEINDE *potest defectus iuramenti venire ex iniustitia, ut si aliquis iuret homicidium, stuprum, vel aliud facinus animo adimplendi; non erit mendacium, et tamen erit periurium late; Erit tamen mendacium, si iuret non animo implendi promissum. Ita D. Bonavent.* loco cit. *proprie enim periurium est, quod proprie adversatur fini iuramenti, qui est veritatem stabilitae. Itaque, si desit tantum iustitia, erit lato modo periurium, ut notat Sanchez* cap. 8. num. 5.

8 *The REASON*, therefore, of a lie stands in the defect of Truth, if the falsehood uttered by voice is intended; but if you intend to say what is true, and say what is false from inconsideration, there will be rashness, as I said; for a lie formally ought to be directly voluntary; nevertheless a falsehood uttered also from rashness is in some way a lie, at least broadly.

RATIO *igitur mendacii stat in defectu Veritatis, si falsitas voce prolata intendatur, quod si intendas dicere verum, et dicas falsum ex inconsiderantia, erit temeritas, ut dixi; mendacium enim formaliter debet esse voluntarium directe; attamen etiam dictum falsum ex temeritate, est aliquo modo mendacium, late saltem.*

9 *From* these you have that, taking a lie broadly, in every perjury, as opposed to an assertory oath, there is a lie; but if a lie be taken properly and strictly, it is not found in every promissory oath; nor in every assertory one. See Valencia *quaest. 14. puncto 1.* Tanner *disp. 5. quaest. 8. dub. 1.* Fagundez *in 2. Praec. lib. 2. cap. 51.* Clarum *lib. 5.*

Ex *his habes, sumpto mendacio late, in omni periurio, opposito iuramento assertorio, esse mendacium; at si proprie, ac stricte sumatur mendacium, non reperitur in omni iuramento promissorio; neque in omni assertorio. Vide Valentiam* quaest. 14. puncto 1. *Tanner.* disp. 5. quaest. 8. dub. 1. *Fagundez* in 2. Praec. lib. 2. cap. 51. *Clarum* lib. 5.

10 *The Holy Doctor CONCLUDES*, therefore, from the testimony of Jeremiah and Jerome cited, that there is properly a lie from the violation of the second condition alone, that is, of Truth, but not from the violation of Judgment, or of Justice;

CONCLUDIT *igitur S. Doctor ex testimonio Hieremiae, et Hieronymi allegato, proprie esse mendacium ex violatione solius secundae conditionis, idest, Veritatis, non autem ex violatione Iudicii, vel Iustitiae;*

11 Of Justice; yet from each of them singly it comes about that one sins against the law of the oath, which requires those three conditions. So also in the opusc. declaratorio terminorum Theol.

Iustitiae; ex singulis tamen fieri, ut peccetur contra legem iuramenti, quae tres illas exigit conditiones. Sic et in opusc. declaratorio terminorum Theol.

Question V: Whether, and how, it is a sin to swear without truth

1 I ASSERT first, that an assertory oath in any matter whatsoever, even a very small one, is a mortal sin if it be false, and it can only be excused from mortal sin by a defect of full deliberation. So D.

Bonav. question 3, in the body, and to the third objection, whom Cajetan follows, summa, V. Periur. cap. 1. Sotus lib. 8. de Iust. quaest. 2. art. 3. Toletus lib. 4. summa, cap. 21. Couar. cap. variarum, cap. 1. n. 2. and de pactis 1. p. §. 1. Suarez Tom. 2. de relig. lib. 3. de Iur. cap. 4. Sayrus lib. 5. cap. 4. num. 15. and 16. Azor Tom. 1. lib. 11. cap. 4. quaest. 1. Valentia 2. 2. disp. 6. quaest. 7. puncto 3. Sanchez in summa, lib. 3. cap. 4. num. 6. who says all the others follow him. Nor does any holy end excuse it, nor fear, as Suarez, Sayrus, Sotus, Toletus teach loco cit. Navar. summa, cap. 12. Sanchez loco cit. after D. Thom. art. 3. ad 1. D. Bonavent. quaest. 2. ad ultimum, which he proves, both from the canon in Decr. lib. 2. tit. 24. cap. 15. de Iureiur. *Quod si quis periurat pro vita corporis servanda, quia magis dilexit corpus, quam animam, ieiunet tres quadragesimas;* and because perjuring is intrinsically evil, so that it can never be rendered honorable. So Sanchez argues, num. 7. with others.

> An, et quomodo sit Peccatum iurare absque Veritate.
>
> *ASSERO primo, iuramentum assertorium in quavis materia, etiam parvula, est peccatum mortale, si sit falsum, solumque potest excusari a mortali ex defectu plenae deliberationis. Ita D. Bonau. quaest. 3. in corpore, et ad tertium, quem sequuntur Caietanus summa, V. Periur. cap. 1. Sotus lib. 8. de Iust. quaest. 2. art. 3. Toletus lib. 4. summa, cap. 21. Couar. cap. variarum, cap. 1. n. 2. et de pactis 1. p. §. 1. Suarez Tom. 2. de relig. lib. 3. de Iur. cap. 4. Sayrus lib. 5. cap. 4. num. 15. et 16. Azor Tom. 1. lib. 11. cap. 4. quaest. 1. Valentia 2. 2. disp. 6. quaest. 7. puncto 3. Sanchez in summa, lib. 3. cap. 4. num. 6. qui dicit omnes alios sequi. Nec excusat quicunque finis sanctus, aut timor, ut docent Suarez, Sayrus, Sotus, Toletus loco cit. Nauar. summa, cap. 12. Sanchez loco cit. post D. Thom. art. 3. ad 1. D. Bonauent. quaest. 2. ad ultimum, quod probat, tum ex canone in Decr. lib. 2. tit. 24. cap. 15. de Iureiur.* Quod si quis periurat pro vita corporis seruanda, quia magis dilexit corpus, quam animam, ieiunet tres quadragesimas; *Tum quia peierare est intrinsece malum, ut nunquam valeat honestari. Ita arguit Sanchez num. 7. cum aliis.*

2 The FIRST part of the assertion is proved by D. Bonavent. quaest. 5. from D. Augustine serm. 28. and 30. de verbis Apostoli.

> *PRIMA pars assertionis probatur a D. Bonauent. quaest. 5. ex D. Augustino serm. 28. et 30. de verbis Apostoli.*

3 SECOND, it is proved by D. Bonav. argument 3, which Valencia, Sanchez, and the rest use: because to bring God as a witness to a falsehood is a great contempt of the Divine truth. For thus God is made either ignorant or wicked, as Bassaeus also urges, V. Iuram. 2. num. 3.

> *SECUNDO probatur a D. Bonau. argumento 3. quo utuntur Valentia, Sanchez, et caeteri: quia Deum afferre in testem falsum, est magnus Divinae veritatis contemptus. Sic enim efficitur Deus, vel ignorans, vel improbus, ut urget etiam Bassaeus V. Iuram. 2. num. 3.*

4 HENCE it follows, first, that the Jurists were not right — whom Angelus reports, V. Periurium, teaching that their opinion is probable — in saying that a false oath told in jest is venial. Rather it is a greater sin, because it is a greater contempt, as D. Bonavent. teaches, ad 3. D. Thom. quaest. 98. art. 3. ad secundum, whom the others follow, as adduced by Sanchez num. 7.

> *HINC sequitur primo, non bene Iuristas, quos refert Angelus V. Periurium, docens, eorum sententiam esse probabilem, dixisse, iuramentum falsum ex ioco esse veniale. Imo est maius peccatum, quia est maior contemptus, ut docet D. Bonauent. ad 3. D. Thom. quaest. 98. art. 3. ad secundum, quos alii sequuntur, adducti a Sanchez num. 7.*

5 Yet S. Bonaventure and S. Thomas ADD that it can be excused from mortal sin if the oath is sworn in jest, which removes deliberation; for then the jest is not a grave contempt of the Divine truth.

ADDUNT tamen S. Bonauent. et S. Thom. posse a mortali excusari, si iuretur ex ioco, qui tollit deliberationem; tunc enim iocus non est gravis contemptus Divinae veritatis.

6 It follows SECOND, that he equally sins mortally if he swears to a matter doubtful and uncertain to himself, because he exposes himself to the danger of speaking falsely and of perjuring himself; indeed he perjures himself by bringing God as a certain witness to an uncertain matter, as Sanchez argues, num. 8. from D. Bonavent. quaest. 1. ad 1. Then, because, as S. Bonaventure says, quaest. 2. ad 1. the Divine truth is rashly brought forward and contemned, while it is called as a certain witness to an uncertain thing.

SEQUITUR secundo, eum pariter mortaliter labi, si rem sibi dubiam, et incertam iuret, quia periculo exponitur falsum dicendi, ac periurandi, imo periurat afferens certo rem dubiam, ut arguit Sanchez num. 8. ex D. Bonauent. quaest. 1. ad 1. Deinde quia ut ait S. Bonauent. quaest. 2. ad 1. Divina veritas temere adducitur, et contemnitur, dum vocatur in testem certum rei incertae.

7 S. Bonaventure ADDS another reason, loco citato, quaest. 1. ad 3. because that which is sworn is sworn from a culpably erroneous conscience, which in matters of morals does not excuse a wicked deed. See Bassaeus 3. num. 3.

ADDIT aliam rationem S. Bonauent. loco citato, quaest. 1. ad 3. quia illud iuratur ex conscientia culpabiliter erronea, quae in moribus non excusat factum iniquum. Vide Bassaeum 3. num. 3.

8 For the truth of an assertory oath it is NOT necessary that the matter be so in fact, but it is sufficient, and necessary, that the matter, prudently considered, be so firmly judged. So S. Bonav. in the cited question, whom Azorius follows, Tom. 1. lib. 11. cap. 2. quaest. 5. Valentia disp. 6. q. 7. punct. 3. col. 5. Suarez in the same lib. 3. cap. 5. num. 3. Lessius lib. 2. de Iust. cap. 42. dub. 4. num. 17. Sanchez loco cit. num. 10. Hence he infers, with Valencia col. 11. and D. Bonavent. q. cit. ad argumenta, that one who lightly judges that what he swears is true is not excused from perjury, since he does not sufficiently provide that he swears truly, and it follows as true only by accident. Therefore, even if it be true, he is not excused from mortal sin if the negligence in investigating the truth was grave; but if it was light, the fault will be light also, because such as is the cause, such is the effect, as S. Bonaventure hinted, quaest. 3. ad argumenta, and many affirm with Sanchez num. 14. and with Bassaeus loco cit.

AD veritatem autem iuramenti assertorii non est necesse, ut res ita sit, sed sufficit, ac necessarium est, rem prudenter consideratam ita firmiter aestimari. Ita S. Bonau. quaest. citata, quem sequuntur Azorius Tom. 1. lib. 11. cap. 2. quaest. 5. Valentia disp. 6. q. 7. punct. 3. col. 5. Suarez eodem lib. 3. cap. 5. num. 3. Lessius lib. 2. de Iust. cap. 42. dub. 4. num. 17. Sanchez loco cit. num. 10. Hinc infert cum Valentia col. 11. ac D. Bonauent. q. cit. ad argumenta, non excusari a periurio existimantem leuiter, id esse verum, quod iurat, quandoquidem non sufficienter prouidet, ut verum iuret, et per accidens sequitur verum. Itaque, etiamsi verum sit, non excusatur a mortali, si negligentia gravis fuit in veritate indaganda; si autem levis fuit; erit et culpa levis, quia talis est effectus, qualis est causa, ut innuit S. Bonauent. quaest. 3. ad argumenta, et afferunt multi cum Sanchez num. 14. et Bassaeo loco cit.

9 But the OTHER part of the assertion, namely that assertory perjury is excused from mortal sin by indeliberation. It is proved by D. Bonav. quaest. 3. in the body, because the slipperiness of the tongue is great, which often can, through a slip, not follow the command of the will, and render the act non-human, or imperfectly such; Sanchez uses this reasoning at num. 15. So also think D. Thom. art. 3.

citato, ad 2. Cajetan there, Sylvester V. Iurament. 2. quaest. 6. Navar. summa, cap. 12. Valencia, Suarez, and others cited above.

> *ALTERA vero pars assertionis, scilicet excusari periurium assertorium a mortali ex indeliberatione. Probatur a D. Bonau. quaest. 3. in corpore, quia lubricitas linguae magna est, quae saepe potest ex lapsu non sequi imperium voluntatis, et reddere actum non humanum, aut imperfecte talem; qua ratione utitur Sanchez num. 15. Ita sentiunt etiam D. Thom. art. 3. citato, ad 2. Caietanus ibi, Syluester V. Iurament. 2. quaest. 6. Nauar. summa, cap. 12. Valentia, Suarez, aliique supra citati.*

10 I ASSERT second, that a promissory oath, by defect of the concordance of the will to fulfill with the promise uttered — which is called truth of the present — is wicked. So D. Bonav. quaest. 3. body, and to the third, whom Sylvester follows, V. Iuram. quaest. 1. Armilla there, Cajetan 2. 2. quaest. 89. art. 7. ad 1. and q. 98. art. 2. and 3. and in summa, under the word Periurium, c. 2. and 3. Sotus 8. de Iust. q. 1. art. 7. and quaest. 2. art. 1. and 3. Navar. in summa, cap. 12. Valencia loco cit. puncto 3. concl. 2. Azor Tom. 1. lib. 11. c. 4. q. 1. Suarez lib. 3. citato, c. 15. Clavis Regia lib. 5. cap. 4. n. 27. Lessius lib. 2. de Iust. c. 42. dub. 4. num. 18. Sanchez loco citato, num. 16. Bassaeus n. 1.

> *ASSERO secundo, Iuramentum promissorium ex defectu concordantiae voluntatis exequendi cum promissione prolata, quae dicitur veritas de praesenti, esse prauum. Ita D. Bonau. quaest. 3. corpore, et ad tertium, quem sequuntur Syluester V. Iuram. quaest. 1. Armilla ibi, Caietanus 2. 2. quaest. 89. art. 7. ad 1. et q. 98. art. 2. et 3. et in summa, verbo Periurium, c. 2. et 3. Sotus 8. de Iust. q. 1. art. 7. et quaest. 2. art. 1. et 3. Nauar. in summa, cap. 12. Valentia loco cit. puncto 3. concl. 2. Azor Tom. 1. lib. 11. c. 4. q. 1. Suarez lib. 3. citato, c. 15. Clavis Regia lib. 5. cap. 4. n. 27. Lessius lib. 2. de Iust. c. 42. dub. 4. num. 18. Sanchez loco citato, num. 16. Bassaeus n. 1.*

11 It is PROVED by D. Bonav. argument 3, quaest. 3. and quaest. prima ad 1. because thus the Summa Truth is brought forward as a witness to a known falsehood, and so the gravest injury is inflicted upon God by swearing a lie.

> *PROBATUR a D. Bonau. argumento 3. quaest. 3. et quaest. prima ad 1. quia sic adducitur Summa Veritas in testimonium falsi cogniti, et ita gravissima infertur Deo iniuria iurando mendacium.*

12 HENCE it follows that one also sins mortally who swears to give a thing which he is in doubt whether he can fulfill: likewise to promise with a doubting mind of fulfilling, or to promise a thing which he believes he cannot fulfill. It is proved by D. Bonavent. quaest. 1. ad 1. because he certainly swears to an uncertain thing, and therefore lies, as I said above concerning the assertory oath, with Sanchez.

> *HINC sequitur, peccare mortaliter etiam iurantem dare rem, quam dubius est, an possit implere: Similiter promittere animo dubio implendi, vel promittendo rem, quam credit, se implere non posse. Probatur a D. Bonauent. quaest. 1. ad 1. quia iurat certe rem incertam, et ideo mentitur, ut dixi supra cum Sanchez in iuramento Assertorio.*

13 The GREATER difficulty is when the truth of the future is lacking, namely, in not giving the promised thing, which one swore with the intention of giving. And indeed, when the matter is grave, all maintain it to be mortal. The question is when it is light, which I shall treat in disp. de Periurio, q. 3.

> *MAIOR difficultas est quando deficit veritas de futuro, nempe, non dando promissam rem, quam animo dandi iurauit. Et quidem, quando materia est gravis, omnes sustinent esse mortale. Quaestio est quando est levis, quam reseruabo disp. de Periurio, q. 3.*

14 The FIRST opinion is that it is always mortal. So Valencia disp. 6. q. 7. puncto 3. concl. 3. Gabriel in 3. dist. 39. q. 2. art. 2. concl. 4. Cajetan sum. v. Periurium, cap. 2. Lessius lib. 2. de Iust. cap. 42. dub. 5. num. 25.. Bassaeus 4. num. 3. Lessius lib. 2. cap. 24. Reg. lib. 18. num. 9.

> *PRIMA opinio est semper esse mortale. Ita Valentia disp. 6. q. 7. puncto 3. concl. 3. Gabriel in 3. dist. 39. q. 2. art. 2. concl. 4. Caietanus sum. v. Periurium, cap. 2. Lessius lib. 2. de Iust. cap. 42. dub. 5. num. 25.. Bassaeus 4. num. 3. Lessius lib. 2. cap. 24. Reg. lib. 18. num. 9.*

15 The SECOND opinion distinguishes: if the matter is wholly trifling, it is mortal; but if partial, it is only venial. So Cajetan 1. 2. q. 87. art. 7. dub. 1. Navar. summa, c. 12. n. 10. and c. 18. n. 4. Covarr. lib. 1. variarum lect. c. 1. Philiarc. Tom. 1. p. 2. lib. 3. c. 3. Corduba summa, q. 188. as it seems, Tabiena V. iurare, q. 10. n. 11. Armilla V. Iuram. n. 12. Pedraza praecepto 2. §. 5. But Sayrus lib. 5. cap. 4. expressly, with Sylvius q. 89. art. 3. See Diana part. 4. tract. 4. resol. 70. and part. 5. tract. 5. resol. 4.

> *SECUNDA sententia distinguit; si materia exigua sit totalis, esse mortale: at vero si partialis, esse tantum veniale. Ita Caietanus 1. 2. q. 87. art. 7. dub. 1. Nauar. summa, c. 12. n. 10. et c. 18. n. 4. Couar. lib. 1. variarum lect. c. 1. Philiarc. Tom. 1. p. 2. lib. 3. c. 3. Corduba summa, q. 188. videtur Tabiena V. iurare, q. 10. n. 11. Armilla V. Iuram. n. 12. Pedraza praecepto 2. §. 5. Sayrus vero lib. 5. cap. 4. expresse cum Syluio q. 89. art. 3. Vide Dianam part. 4. tract. 4. resol. 70. et part. 5. tract. 5. resol. 4.*

16 The THIRD opinion is that it is only a venial fault, even if that matter be wholly trifling. So Sanchez lib. 3. summae, cap. 4. num. 23. D. Antoninus 1. part. tit. 10. cap. 4. Angelus V. Iuramentum, 5. num. 41. Sylvester V. iuramentum, 4. quaest. 1. Sotus lib. 8. de Iust. quaest. 1. art. 7. dub. 1. Navar. in summa, cap. 12. and cap. 18. Aragon. 2. 2. quaest. 89. art. 3. fol. 1061. Azor Tom. 1. lib. 5. cap. 27. quaestio 2. and lib. 11. c. 5. quaestio 3. Enriquez lib. 5. de poenitentia, cap. 20. num. 4. Manuel 1. Tomo summae, c. 192. Peter Ledesma 2. Tom. tract. 11. c. 3. dub. 1. Tolet. lib. 4. cap. 21. Diana part. 2. tract. 15. resol. 25. dragging many along with him, saying the opposite opinion is the more severe one. Sà V. Iuram. num. 7. Suarez de Iurament. lib. 3. cap. 16. from num. 9. and they say it is probable — Alcozet summa, cap. 15. fol. 52. Corduba summa, q. 188. at the end. Tanner. indeed, disp. 5. quaest. 5. dub. 1. says, if the thing is very small, some tiny part of what was promised, the oath is judged to be kept; but if it is the whole thing, it is mortal, because God is called as a witness to a falsehood. Finally he says, as probable, that it is only venial. Bassaeus loco cit. says all are probable.

> *TERTIA opinio est, esse solum culpam venialem, etiamsi materia illa sit totalis. Ita Sanchez lib. 3. summae, cap. 4. num. 23. D. Antoninus 1. part. tit. 10. cap. 4. Angelus V. Iuramentum, 5. num. 41. Sylvester V. iuramentum, 4. quaest. 1. Sotus lib. 8. de Iust. quaest. 1. art. 7. dub. 1. Navar. in summa, cap. 12. et cap. 18. Aragon. 2. 2. quaest. 89. art. 3. fol. 1061. Azor Tom. 1. lib. 5. cap. 27. quaestio 2. et lib. 11. c. 5. quaestio 3. Enriquez lib. 5. de poenitentia, cap. 20. num. 4. Manuel 1. Tomo summae, c. 192. Petrus Ledesma 2. Tom. tract. 11. c. 3. dub. 1. Tolet. lib. 4. cap. 21. Diana part. 2. tract. 15. resol. 25. multos secum trahens, oppositam severiorem dicentes. Sà V. Iuram. num. 7. Suarez de Iurament. lib. 3. cap. 16. a num. 9. eamque probabilem dicunt Alcozet summa, cap. 15. fol. 52. Corduba summa, q. 188. in fine: Tanner. vero disp. 5. quaest. 5. dub. 1. ait, si res parva sit minima quaedam pars promissi, servatum censeri iuramentum; at si sit tota res, esse mortale, quia vocatur Deus in testem falsum. Tandem ait probabiliter, esse tantum veniale. Bassaeus loco cit. omnes probabiles dicit.*

17 D. BONAVENTURE seems to me to be with the first opinion. First, because at art. 1. quaest. 3. he places therein the reason for mortality in perjury, because the Divine truth is rashly or falsely brought

forward as a witness, and he excuses only by indeliberation. Then, serm. 3. in *Decalogum*, he places the end of the promissory oath in truth, though ordered to peace, etc. And in *speculo animae* he asserts universally that there is an obligation of fulfilling in the promissory oath; otherwise he would call the transgressor a transgressor of the precept absolutely, but he would not say that if he sinned only venially, because he holds that a venial sin is not against a precept.

> *D. BONAVENTURA mihi videtur esse cum prima sententia. Primo quia art. 1. quaest. 3. in eo ponit rationem mortalis in periurio, quia Divina veritas temere, vel falso adducitur in testem, et excusat solum ex indeliberatione. Deinde serm. 3. in* Decalogum*, finem iuramenti promissorii ponit veritatem, licet ordinatam ad pacem, etc. Et in* speculo animae*, universaliter asserit, in iuramento promissorio obligationem adimplendi; alioqui transgressorem praecepti absolute vocat, non autem id diceret, si tantum venialiter peccaret, quia ipse sustinet, veniale non esse contra praeceptum.*

18 Moreover, in *prima parte Centil. sect. 12.* after making the division of the oath into Assertory and Promissory, he defines Perjury to be a lie confirmed by oath. Or: *Periurium est falsa, vel perversa iuratio*. And he calls it perverse from a defect of justice; false from a defect of truth. Therefore he will be a perjurer who does not exhibit what he swore to promise.

> *PRAETEREA* prima parte Centil. sect. 12. *opposita divisione iuramenti in Assertorium, et Promissorium definit, Periurium esse mendacium, iuramento firmatum. Vel:* Periurium est falsa, vel perversa iuratio. *Vocat autem perversum ex defectu iustitiae; falsum ex defectu veritatis. Quare periurus erit, qui promissum iuratum non exhibet.*

19 I ASSERT that a promissory oath, with the exhibition of anything sworn of light matter failing, is mortal.

> *ASSERO, iuramentum Promissorium, deficiente quaecunque levis materiae iuratae exhibitione, esse mortale.*

20 It is PROVED first by the argument of D. Bonavent. quaest. 3. That which is the cause that God is brought forward as a witness to falsehood inflicts a grave injury upon God: But the failure of the rendering of the thing, even a very small one sworn, is the cause that God has been brought forward as a witness to falsehood: Therefore. The major is proved from D. Bonavent. *locis adductis*, because this gravely obstructs the end of the oath, which is to bring faith to the divine testimony; and what gravely repugns the end of the oath is mortal, as Cajetan disputes, 2. 2. quaest. 88. art. 2. and 3.

> *PROBATUR primo argumento D. Bonavent. quaest. 3. Quod causa est, ut Deus adducatur in testem falsitatis, gravem iniuriam Deo irrogat: Sed defectus redditionis rei, etiam parvulae iuratae, est causa, ut Deus adductus sit in testem falsitatis: Ergo. Maior probatur ex D. Bonavent.* locis adductis*, quia hoc graviter obstat fini iuramenti, quod est adducere fidem divino testimonio, quod autem graviter repugnat fini iuramenti, mortale est, ut disputat Caietanus 2. 2. quaest. 88. art. 2. et 3.*

21 It is CONFIRMED. For to be the cause that God has testified a falsehood is just the same as to make God be judged to testify falsely: But to be the cause that God testifies a falsehood is certainly a grave injury: Therefore. Hence D. Bonavent. wisely condemns both in the same way, without distinction, from this one chapter, because the Divine truth is contemned. The minor is proved, because since man has brought the Lord into testimony to confirm himself in promises he is about to make, already, as much as lies in him, he renders the testimony of God false, not to say empty.

> *CONFIRMATUR. Nam esse causam, ut Deus testatus sit falsum, perinde est, ac facere ut Deus censeatur testari falsum: At esse causam, ut Deus testetur falsum, certe est gravis iniuria: Ergo. Hinc sapienter D. Bonavent. utrunque eodem modo condemnat absque distinctione ex hoc capite solo, quod veritas Divina contemnatur. Minor probatur, quia cum*

homo induxerit in testimonium Dominum ad firmandum se promissis constituturum; iam quantum ex se est, reddit testimonium Dei falsum, nedum inane.

22 It is CONFIRMED by Valencia from D. Bonav. because Perjury is against the religion of the oath, whose essence is to take God as a witness to truth: Therefore, the truth being violated, the oath is gravely injured, even if the matter promised by oath is very small; for it makes no difference to the formal reason of the Divine truth whether it is brought forward as a false witness of this or that thing, great or small. Otherwise, if the matter is to be considered, the same will hold in the assertory oath.

CONFIRMATUR a Valentia ex D. Bonav. quia Periurium est contra religionem iuramenti, cuius essentia est assumere Deum in testem veritatis: Ergo violata veritate, laeditur graviter iuramentum, etiam si materia iuramento promissa parvula sit; nil enim refert ad rationem formalem veritatis Divinae, sine adducatur in testem falsum huius, vel illius rei magnae, vel parvae. Alioqui si materia spectanda est, idem erit in iuramento assertorio.

23 It is CONFIRMED second; for only then does the gravity or levity of the matter pertain to the gravity of the sin, when it is the immediate object of its transgression, as is evident in theft, and indeed also in a vow, in which, because its reason stands in the exhibition of that matter made to God, therefore the gravity or levity of the transgression is taken from it, which stands in denying to God that that thing has been transferred to His service; but in an Oath that matter promised to a man is not the matter of an act of religion when the oath is fulfilled: Therefore neither is it the object of transgression. The consequence is proved, because virtue and sin, its contrary contrary to truth, are concerned with the same object. The antecedent is proved by Valencia from D. Thom.

CONFIRMATUR secundo; nam tunc tantum gravitas, et levitas materiae pertinet ad gravitatem peccati, quando est immediatum obiectum eius transgressionis, ut patet in furto, imo et in voto, in quo quia eius ratio stat in exhibitione illius materiae, facta Deo; ideo ex ea sumitur gravitas, vel levitas transgressionis, quae stat in negando Deo rem illam esse translatam in eius obsequium; at in Iuramento materia illa promissa homini, non est materia actus religionis, quando iuramentum adimpletur: Ergo neque est obiectum transgressionis. Probatur consequentia, quia circa idem obiectum versatur virtus, et peccatum, veritati contrarium. Antecedens probatur a Valentia ex D. Thom.

24 BUT I prove this from D. Bonav. in 4. dist. 38. quaest. 1. at the end, for the promissory oath has as the object of its promise the thing promised to a man, whence that thing promised does not pertain to religion: But a vow regards as its object a thing as sacred to God, and therefore the act is specified by it, or is afterward recognized as specified. Likewise the end of the oath is to establish and confirm the truth by Divine testimony: but the end of a vow is to increase goodness by the exhibition of a new good work. Finally even the means is different, because one swears by God; but one vows by promise. Whence if anyone, while fulfilling what was sworn and promised, should wish to abstract from the circumstance of the divine glory, which redounds from the observance of the oath, and should wish only to execute the work promised, as such a work is, without doubt he would satisfy the oath; provided indeed he made true what he swore: Therefore the thing promised, or the promised act, does not pertain to the virtue of religion: Therefore neither will the opposite deformity be against religion, inasmuch as it is a negation of the exhibition of the thing, but only inasmuch as God has been brought forward as a false witness.

AT ego id probo ex D. Bonav. in 4. dist. 38. quaest. 1. in calce, nam iuramentum promissorium habet pro obiecto suae promissionis rem homini promissam, unde illa res promissa non spectat ad religionem: At votum respicit pro obiecto id, ut sacrum Deo, et ideo ab eo specificatur actus, vel a posteriori dignoscitur specificatus. Similiter finis iuramenti est

astruere, et firmare veritatem Divino testimonio: at finis voti est augere bonitatem per novam boni operis exhibitionem. Tandem etiam medium est diversum, quia iuratur per Deum; at vovetur per promissionem; Unde si quis, dum promissum iuratum adimplet, vellet abstrahere a circumstantia gloriae divinae, quae redundat ex observatione iuramenti, et tantum vellet exequi opus promissum, ut tale opus est, procul dubio satisfaceret iuramento; si quidem efficeret verum, quod iuravit: Ergo res promissa, seu actus promissus non spectat ad virtutem religionis: Ergo neque opposita deformitas erit contra religionem, quatenus est exhibitionis rei negatio, sed solum quatenus Deus in testem falsum adductus est.

25 SANCHEZ n. 23. tries to enervate these arguments. He supposes, however, that failing a promise is not properly a lie, but infidelity; because he who promises something, if he has the mind of doing what he promises, does not lie, since he does not speak against what he holds in his mind. Then, because to lie is intrinsically evil, in such a way that it is never lawful: but not to fulfill a promise is sometimes lawful.

SANCHEZ n. 23. conatur haec argumenta enervere. Supponit autem, non esse proprie mendacium deesse promisso, sed infidelitatem; quia qui promittit aliquid, si habet animum faciendi, quod promittit, non mentitur, quia non loquitur contra id, quod gerit in mente. Deinde, quia mentiri est intrinsece malum, ita ut nunquam liceat: at non implere promissum, aliquando licet.

26 Moreover, although he renders the promise false, nevertheless he does not lie, and so neither does he bring God in as a witness to a falsehood, but he is unfaithful under Divine authority. Therefore, although the defect of primary truth, when he promises but his mind does not accord, is a lie; yet the defect of fulfillment is not a lie; and thus although in the former no smallness of matter can be allowed, yet it can be allowed in the latter.

PRAETEREA licet is reddat falsum promissum, attamen non mentitur, atque adeo neque adducit Deum in testem falsi, sed est infidelis sub Divina authoritate. Licet igitur defectus primariae veritatis, quando promittit, sed mente non consonat, sit mendacium; at defectus impletionis non est mendacium; et ita licet in priori nequeat dari parvitas materiae, potest tamen dari in isto.

27 It is CONFIRMED, because while a man is brought in as a witness to a promise, he intervenes only as a witness of a present contract: but with respect to execution he is not brought in as a witness, but in order to lend authority by way of suretyship: Therefore the same must be said of God. Finally, because in any matter gravely evil that is sworn, the first truth of the oath fails, it is always mortal, as if you swear to a homicide without the intention; but to fail a promise of a thing, even venially evil, is no fault: Therefore this truth is not to be considered independently of the matter promised, as happens in the former truth, but just as when the matter is evil there is no sin, so it will be only venial when the matter is licit but light.

CONFIRMATUR, quia dum homo adducitur in testem promissionis, solum intervenit, ut testis contractus praesentis: at respectu executionis non adducitur in testem, sed ut praestet authoritatem per modum fideiussionis: Ergo idem dicendum de Deo. Tandem quia in quavis materia graviter mala iurata deficit prima iuramenti veritas, semper est mortale, ut si iures homicidium absque intentione; at vero deesse promissioni rei, etiam venialiter malae, nulla est culpa: Ergo haec veritas non est spectanda independenter a materia promissa, sicut sit in priori veritate, sed sicut quando materia est mala, nullum est peccatum; ita erit solum veniale, quando materia est licita, sed levis.

28 YET these reasons are frivolous; for I do not say that he lied in the first truth, if he had the mind of promising; but I say that he lies, while the sworn promise still stands virtually, and he inwardly intends not to fulfill it, and for this concordance he brought God in as a witness; for he did not bring

God in as a witness that he then said in his mind what he spoke, but that he would accord in deed, or by the exhibition of the thing, with what was promised; and therefore he brought God in as a witness that he would preserve that conformity of mind and promise up to the exhibition of the thing; and therefore he is a liar as often as in his mind he discordes from the promise; and therefore that malice, which will never be licit, always endures. Nor indeed ought the excision from lying be made, as Sanchez wrongly takes it, alleging a difference, because lying is never lawful; but failing a promise is often lawful: for he ought to take that defect of execution as grounded in the lie of perjury, and thus it will never be lawful, just as lying itself is not lawful.

> *HAE tamen rationes frivolae sunt; non enim dico, eum mentitum in primam veritatem, si habuit animum promittendi; sed dico, eum mentiri, dum adhuc virtualiter stat promissum iuratum, et intus intendit non implere, et huius concordantiae adduxit Deum in testem; non enim adduxit Deum in testem, se tunc mente dicere id, quod loquitur, sed se facto seu exhibitione rei concordaturum cum promisso, et ideo adduxit Deum in testem, se conservaturum illam conformitatem mentis, et promissionis, usque ad exhibitionem rei, et ideo mendax est, quoties mente discordat a promisso, et ideo semper durat etiam malitia illa, quae nunquam erit licita. Neque vero sumenda est praecisa a mendacio, ut perperam accipit Sanchez, allegans diversitatem, quia mendacium nunquam licet; at deesse promisso saepe licet: debet enim sumere illum defectum executionis, ut nixum mendacio periurio, et sic nunquam licebit, sicuti neque licet ipsum mendacium.*

29 But what he says of the man who assists as a witness to a contract, and surety of execution, is not to the point, for God, as supreme Lord and searcher of hearts, is brought in as a witness to that truth which in the accord of mind with voice is to endure up to the exhibition, etc.; therefore another contracts this security, and God does not intervene as one from whom the creditor could satisfy himself in the case where the debtor fails, but only that He may be a witness; for it is truly a promissory oath, as all confess. Moreover it is defined by all as *Vocatio Dei in testem*, as Sanchez confesses *lib. 3. cap. 1.*

> *QUOD vero ait de homine, qui assistit, ut testis, contractui, et fideiussor executionis, non est ad rem, nam Deus utpote supremus Dominus, scrutator cordium adducitur in testem illius veritatis, quae in consonantia mentis cum voce duratura est usque ad exhibitionem, etc. ideo alius hac securitate contrahit, neque Deus subintrat, tanquam is, ex quo creditor possit sibi satisfacere, casu, quo debitor fallat, sed solum ut sit testis; est enim promissorium vere iuramentum, ut omnes fatentur. Definitur autem ab omnibus* Vocatio Dei in testem, *ut Sanchez fatetur* lib. 3. cap. 1.

30 BUT, even should God assist as surety by His authority, still the injury is grave, because whatever authority in the least truth, even materially opposed to fidelity, is taken from God, the reason of Deity is taken away, and He is rendered false.

> *AT, esto Deus assistat, ut fideiussor sua authoritate, adhuc iniuria est gravis, quia quaecunque authoritas in veritate minima, etiam materialiter opposita fidelitati, Deo adimitur, adimitur ratio Deitatis, et redditur falsus.*

31 But what he says of matter gravely evil, which if deceitfully promised makes perjury; but that if evil light matter in the enunciation is not fulfilled, there is no sin — is not to the point; he ought to have compared both under the same reason; and then I say: just as it is no sin not to fulfill an act venially evil that was sworn, so much less to fulfill an act gravely evil.

> *QUOD vero dicit de materia graviter mala, quae si dolose promittitur, facit periurium; At aequis levis materia mala in enunciatione, si non adimpletur, non sit peccatum, non est ad rem; debuit comparare utrunque sub eadem ratione; et tunc dico; sicut non est peccatum non adimplere actum venialiter malum iuratum; ita multo minus adimplere actum gravem.*

32 Nor ought he to pass from an evil act to a good act; therefore it is no sin to fail a promise of a thing venially evil, because this is not legitimate matter of an oath, and therefore it did not obligate at the outset; indeed an injury was inflicted upon God by that oath, because justice is lacking, as I shall say *quaest. 6.* But a good thing, which we now have at hand, is legitimate matter of an oath; and therefore just as from the truth in the promise it is owed, so also in the exhibition, while that obligation of the accord of intention with the promise endures up to the exhibition of the thing. Therefore, even if he repents having invoked God as a witness, he is still guilty, because the invocation already past perseveres, which cannot not have been.

> *NEQUE debet transire ab actu malo ad actum bonum, ideo non est peccatum deesse promissioni rei malae venialiter, quia haec non est materia legitima iuramenti, et ideo initio non obligavit; imo illata est Deo iniuria eo iuramento, quia deest iustitia, ut dicam* quaest. 6. *At res bona, quam nunc habemus prae manibus, est materia legitima iuramenti, et ideo sicuti ex veritate in promissione est debita, et ita et in exhibitione, cum duret illa obligatio concordantiae intentionis cum promissione, usque ad rei exhibitionem. Itaque, etiamsi poeniteat, Deum invocasse in testem, adhuc est reus, quia perseverat invocatio iam praeterita, quae non potest, non fuisse.*

33 Moreover, our reasons are not on that account shaken, because he was bound to prove that that exhibition of the matter, not only as it constitutes the act, but as it regards that matter, is the object of religion, so that from thence he might prove that the levity or gravity of the matter increases or diminishes the fault of the violated promise. Note, however, that some very small things are sworn which excuse, as when a Father swears to punish his son; for these things are sworn for terror, or from an inordinate affection of vengeance. See Valencia.

> *PRAETEREA non ob id nostrae rationes concutiuntur, quia tenebatur probare, exhibitionem illam materiae, non modo ut dicit actum, sed ut respicit illam materiam, esse religionis obiectum, ut inde coargueret levitatem, vel gravitatem materiae augere, vel minuere culpam violatae promissionis. Observa tamen, aliquas res minutulas iurari, quae excusant, ut cum Pater iurat punire filium; haec enim iurantur ad terrorem, vel ex inordinato affectu vindictae. Vide Valentiam.*

34 From these things, therefore, it is also deduced that he who swears to do many very small things daily for men sins mortally every day by violating the promise; but not so he who vows very small things daily, because the vow regards that matter as the object of religion. Therefore that very small matter will make a small defect against religion.

> *Ex his igitur etiam deducitur, eum, qui iurat plurima minima quotidie facere hominibus, quotidie peccare mortaliter violando promissum; at vero non sic, qui minima quotidie vovit, quia votum respicit materiam illam, ut obiectum religionis. Illa ergo parvula materia faciet parvum defectum contra religionem.*

Question VI: Whether an oath made without justice is a sin, and what sin

1 I ASSERT first, that if the thing promised is gravely evil and deadly, the oath will be mortal against religion from a defect of justice, against the second precept of the Decalogue, besides the mortal sin of the purpose of fornicating, killing, and the like. So teach D. Bonavent. *in 3. dist. 39. quaest. 1. argumento secundo fundamenti*, whom they commonly follow, as Sanchez *cap. 4. num. 26.* Valencia *puncto 3. citato*, Sanchez *lib. 3. cap. 19. a num. 9.*; for it is a grave injury to God to invoke Him as a witness to the perpetration of a crime against His law; for it is a great contempt of the Divine majesty, and perjury from a defect of justice, as S. Bonavent. says *loco citato, and after him the rest.*

> ***An, et quod peccatum sit IURAMENTUM, absque iustitia factum.***

ASSERO primo, si res promissa sit graviter mala, ac lethalis, erit iuramentum mortale contra religionem ex iustitiae defectu, contra secundum Decalogi praeceptum, praeter peccatum mortale propositi fornicandi, occidendi, et similium. Ita docent D. Bonavent. in 3. dist. 39. quaest. 1. argumento secundo fundamenti, *quem sequuntur communiter apud Sanchez* cap. 4. num. 26. *Valentiam* puncto 3. citato, *Sanchez* lib. 3. cap. 19. a num. 9. *est enim gravis Deo iniuria, Eum testem invocare sceleris patrandi, contra eius legem; est enim contemptus magnus Divinae maiestatis, ac periurium ex defectu iustitiae, ut ait S. Bonavent.* loco citato, et post eum reliqui.

2 It will be mortal, however, EVEN IF the intention of fulfilling is not present, because God is brought in as a witness to a falsehood; yet it will be a single sin: but when the mind of fulfilling is present, it will be twofold, namely, perjury from injustice, and the purpose of sinning. So Navar. *summa, cap. 12. num. 13.*

ERIT autem mortale etsi non adsit intentio adimplendi, quia adducitur Deus in testem falsi; erit tamen unicum peccatum: at quando adest animus implendi, erit duplex, nempe, periurium ex iniustitia, et propositum peccandi. Ita Nauar. summa, cap. 12. num. 13.

3 I ASSERT second, that one who swears to commit a venial fault, with the intention of fulfilling, sins mortally from a defect of justice, and thus it will be a twofold sin; so Suarez *lib. 3. cap. 4.* Sanchez *num. 33. against Bassaeus 5. num. 3. and others there.*

ASSERO secundo, Iurans committere culpam venialem, animo implendi, peccat mortaliter ex defectu iustitiae, et ita erit duplex peccatum; ita Suarez lib. 3. cap. 4. *Sanchez* num. 33. contra Bassaeum 5. num. 3. et alios ibi.

4 *It is PROVED*, because therefore one who swears to sin mortally sins deadly, because he makes, as far as in him lies, God a cooperator of that deadly thing; but to make God guilty even of a venial fault is a grave offense contending with the Deity: *Therefore.*

PROBATUR, *quia ideo iurans peccare mortaliter, peccat lethaliter, quia efficit, ut in se est, Deum cooperatorem illius rei lethalis; at facere etiam reum culpae venialis Deum, est gravis offensa pugnans cum Deitate:* Ergo.

5 Sanchez *num. 28.* OBJECTS, because it is not a grave irreverence to God.

OBIICIT *Sanchez* num. 28. *quia non est gravis irreverentia Deo.*

6 It is ANSWERED from our argument, that it is a grave offense to make God cooperate in a venial fault, for this implies a contradiction with the Deity; nor could God sin venially except by losing the Deity, which is said to be the perfection of infinite goodness. So Valencia judges it probable.

RESPONDETUR *ex argumento nostro, esse gravem offensam, facere Deum cooperari culpae veniali, hoc enim implicat Deitati; nec posset Deus venialiter peccare, nisi amittendo Deitatem, quae dicit perfectionem bonitatis infinitam. Ita probabile aestimat Valentia.*

7 HENCE also, it will be mortal to fulfill, by reason of the oath, a thing venially culpable. The reason is the same, because God is asserted to hold the oath as ratified and just. So Hugo holds, as reported by Angelus *V. Iuram. 5.* who laughs with Soto *lib. 8. de Iustitia, quaest. 1. articulo 7.*

HINC etiam, mortale erit implere ratione iuramenti rem venialiter culpabilem. Ratio est eadem, quia asseritur Deus ratum habere, ac iustum iuramentum. Ita tenent Hugo apud Angelum V. Iuram. 5. *qui arridet cum Soto* lib. 8. de Iustitia, quaest. 1. articulo 7.

8 I ASSERT third. If anyone swears not to observe some counsel, e.g. to enter religion, it is probably only venial. So Sanchez *cap. 4. num. 30.* Valencia *loco cit. and others.* Although others say it is mortal,

among whom is Sylvester *loco cit. q. 7.* whom I wonder asserted that to observe a sworn venial thing is only venial: and to commit a venial sin upon oath is only venial. So *V. Iuram. 4. q. 1.* For it is worse to swear a venial sin, and to observe it by oath, since these render God, as far as in them lies, a cooperator of evil.

> *ASSERO tertio. Si quis iuret, non servare aliquod consilium, v.g. intrare religionem, esse probabiliter tantum veniale. Ita Sanchez* cap. 4. num. 30. *Valentia* loco cit. et alii. *Licet alii dicant, esse mortale, inter quos est Syluester* loco cit. q. 7. *quem miror asseruisse, observare iuratum veniale esse tantum veniale: ac iurate committere peccatum veniale, esse solum veniale. Ita* V. Iuram. 4. q. 1. *est enim peius iurate peccatum veniale, et ex iuramento observare, cum haec reddant, quantum in se est, Deum malo cooperantem.*

9 I ASSERT fourth, that to swear an indifferent thing is venial, from a defect of justice, because it is not apt matter for an oath. So commonly, with Sanchez *num. 31.*

> *ASSERO quarto, iurare rem indifferentem esse veniale, defectu iustitiae, quia non est apta iuramenti materia. Ita communiter cum Sanchez* num. 31.

10 I ASSERT fifth, that a defect of justice exists also in an assertory oath, as if anyone uncovers, and confirms by oath, the sin of someone undeservedly, or boasts of himself concerning some mortal sin. So Sotus *lib. 8. de Iustitia, quaest. 1. art. 3.* Aragon. *2. 2. quaest. 89. art. 3.* Peter Ledesma *Tomo 1. summae, Tract. 11. cap. 2.* dub. 4. Toletus *lib. 4. summae, cap. 20. num. 10.* and it seems so to D. Bonavent. in 3. *dist. 39. dub. 1. where:* He gravely requires justice in every oath, that it be done for a just cause, which D. Thom. also confesses *2. 2. quaest. 89. art. 3. ad 2.* and there Cajetan, Valencia *puncto 3. col. 5.* Suarez *lib. 1. de Iurament. cap. 3. num. 6. and lib. 3. cap. 2. num. 5. and cap. 12. num. 7.* Sanchez *loco citato, num. 33.* Yet these two last hold that a defect of justice in an assertory oath is only venial, because it is not opposed to the end of the oath, nor does it make God the witness of a lie, but of a wicked thing, which of itself is not a grave injury. Likewise, because it is accidental to the testification of truth, in which the reason of the oath is situated, to narrate the truth with sinning or without sinning. Therefore they conclude that an oath is mortal only then, when it is assumed as an instrument of that sin, for instance, that the infamy of one's neighbor become more probable, asserted by that assertory oath; because it is a grave injury done to God.

> *ASSERO quinto, defectum iustitiae esse etiam in iuramento assertorio, ut si quis deteget, ac iuramento firmet peccatum alicuius indebite, vel iactando se de aliquo mortali. Ita Sotus* lib. 8. de Iustitia, quaest. 1. art. 3. *Aragon.* 2. 2. quaest. 89. art. 3. *Petrus Ledesma* Tomo 1. summae, Tract. 11. cap. 2. *dub. 4. Toletus* lib. 4. summae, cap. 20. num. 10. *et videtur D. Bonavent. in 3.* dist. 39. dub. 1. ubi: *Iustitiam in omni iuramento graviter exigit, ut pro iusta causa fiat, quod fatentur etiam D. Thom.* 2. 2. quaest. 89. art. 3. ad 2. *et ibi Caietanus, Valentia* puncto 3. col. 5. *Suarez* lib. 1. de Iurament. cap. 3. num. 6. et lib. 3. cap. 2. num. 5. et cap. 12. num. 7. *Sanchez* loco citato, num. 33. *Hi tamen duo ultimi ponant, defectum iustitiae in iuramento assertorio esse tantum venialem, quia non opponitur fini iuramenti, nec facit Deum testem mendacii, sed rei pravae, quod per se non est gravis iniuria. Item quia accidentarium est testificationi veritatis, in qua sita est ratio iuramenti, narrare veritatem peccando, vel non peccando. Quare concludunt, tunc tantum esse mortale iuramentum, cum assumitur, ut instrumentum illius peccati, puta, ut probabilior fiat infamia proximi, eo iuramento asserta; Quia est gravis iniuria facta Deo.*

11 But who does not see that all these things are confirmed by oath, that they may be rendered more certain? For why would anyone swear that he perpetrated that deed, for instance with that woman, that he committed that crime, unless to persuade it? Therefore, since this is the ordinary end of such swearing, they are to be condemned.

> *At quis non videt, ea omnia iuramento firmari, ut certiora reddantur? Quorsum enim aliquis iurat, se id facinus patrasse, puta cum ea muliere; illum id crimen commisisse, nisi ut id persuadeat? Cum igitur hic sit finis ordinarius talia iurantium, damnandi sunt.*

12 But let us grant that it is sworn only so that those crimes are asserted simply by oath, since God is invoked as a witness of a gravely evil thing, will it not be a grave injury to God? For if to bring God in as a witness to a thing to be done against His law is mortal, as Sanchez confesses *num. 26.* why will it not be mortal to bring God in as a witness to a mortal thing already perpetrated, since a grave offense to God intervenes here also? Nor does Sanchez answer sufficiently, that that oath is accidental to the deed; for against him is, first, that in the promissory oath also it is accidental, for one can swear without the intention of not doing, and yet whether the mind of fulfilling be present or not, the oath will be mortal, as Sanchez teaches *num. 34.*

> *At concedamus, ideo tantum iurari, ut asserantur simpliciter ea crimina iuramento, cum Deus invocetur testis rei graviter malae, nunquid non erit gravis Deo iniuria? Si enim adducere Deum in testem rei faciendae contra eius legem est mortale, ut fatetur Sanchez* num. 26. *cur non erit mortale adducere Deum in testem rei mortalis patratae, cum interveniat et hic gravis Dei offensa? Neque satis respondet Sanchez, per accidens esse illud iuramentum facinori, contra enim est primo, quia et iuramento promissorio per accidens est, potest enim iurare absque intentione non faciendi, et tamen siue adsit animus implendi, siue non, erit mortale iuramentum, ut docet Sanchez* num. 34.

13 Moreover, the assertory oath falls upon a past crime just as the promissory upon the future.

> *Praeterea, Ita iuramentum assertorium cadit super scelus praeteritum, sicut promissorium super futurum.*

Question VII: Whether an oath lacking judgment is a sin, and what sin

1 I assert first, that an oath lacking judgment as to the necessary cause of swearing, and reverence, is judged venial. So Valencia *2. 2. disp. 6. quaestio 7. puncto 3.* Suarez *lib. 3. cap. 12.* Sayrus *eodem cap. n. 32.* Lessius *lib. 2. de Iust. cap. 42. dub. 3. num. 17.* D. Antonin. *2. part. tit. 10. cap. 7. §. 1.* Angel. *V. iuram. 3. num. 7.* Sylvester *2. quaest. 8. eodem titulo*, Navar. *sum. cap. 12.* Sanchez *cap. 4. num. 35.* after D. Bonavent. *art. 1. q. 3.* For it does not seem a grave injury.

> ***An, et quod peccatum sit IURAMENTUM, Iudicio carens.***
>
> *Assero primo Iuramentum carens iudicio quoad causam necessariam iurandi, et reverentiam, censeri veniale. Ita Valentia* 2. 2. disp. 6. quaestio 7. puncto 3. *Suarez* lib. 3. cap. 12. *Sayrus* eodem cap. n. 32. *Lessius* lib. 2. de Iust. cap. 42. dub. 3. num. 17. *D. Antonin.* 2. part. tit. 10. cap. 7. §. 1. *Angel.* V. iuram. 3. num. 7. *Syluester* 2. quaest. 8. eodem titulo, *Nauar.* sum. cap. 12. *Sanchez* cap. 4. num. 35. *post D. Bonauent.* art. 1. q. 3. *Non enim videtur gravis iniuria.*

2 I assert second, that if the judgment of due inquiry, gravely omitted, is lacking, it is mortal: So S. Bonavent. *loco cit.* Sanchez, and Valencia, and the rest, in the places adduced.

> *Assero secundo, si desit iudicium debitae inquisitionis graviter omissum, est mortale: Ita S. Bonavent.* loco cit. *Sanchez, et Valentia, ac caeteri locis adductis.*

3 *It is proved* by Valencia *loco cit.* and Sanchez *num. 14.* from D. Bonavent. *dist. 39. quaest. 1. ad argumenta, and quaest. 3. ad ultimum*, because he exposes himself to the danger of bringing God in as a witness to falsehood.

Probatvr *a Valentia* loco cit. *et Sanchez* num. 14. *e D. Bonauent.* dist. 39. quaest. 1. ad argumenta, et quaest. 3. ad ultimum, *quia is exponit se discrimini adducendi Deum in testimonium falsitatis.*

4 Sanchez notes, however, *num. 36.* that these are not perjuries in a confession necessarily to be distinguished — whether he lied, or swore in doubt, or intending not to fulfill; for it is enough to say: I swore falsely so many times.

Advertit autem Sanchez num. 36. *non esse periuria in confessione necessario distinguenda siue mentitus sit, siue dubius iuraverit, siue non implere intendens, satis enim est dicere: Iuravi falsum toties.*

5 He notes also *num. 38.* that it is worse to swear what is true by false gods, than mendaciously by the true God, because the former pertains to Idolatry and blasphemy, which is worse than perjury, as D. Thom. testifies *prima secundae, quaest. 13. art. 3. ad 2.* So holds Sotus *lib. 8. de Iust. quaest. 2. art. 3. concl. 1.* Covarr. *de pactis, p. p. §. 1. num. 10.* Suarez *cap. 3. num. 6.* Sayrus *lib. 5. cap. 3. num. 18.* Azor *tract. 1. lib. 11. c. 12. quaestio 12.* Whence D. Augustine *epist. 154.* and it is reported *cap. movet, 22. quaest. 1.* signifying the opposite is meant, as Azor well explains *loco citat. quaestio 12.* when a Christian swears by false gods, while he judges them false with the sole intention of deceiving; for he, if he does not keep faith, indeed deceives, but is not a perjurer: but one who swears falsely is a perjurer, and thus sins gravely. Or as Sotus says, *dic*, it is graver in the reason of perjury; for to swear falsely by the true God is properly perjury, for a falsehood is said; but by false gods, it is secundum quid, while truth is said, as D. Thom. testifies *1. 2. quaest. 98. art. 1. ad 2.* Sanchez has this from D. Bonavent. *in 3. dist. 39. dub. list. num. 6.* and *lib 3. Phar. cap. 3.* at the end, where he reports the testimony of D. August. *epist. 154. ad Public. Tom. 2.* and gives the reason.

Notat etiam num. 38. *Peius esse iurare verum per falsos Deos, quam mendaciter per verum Deum, quia illud pertinet ad Idolatriam, et blasphemiam, quod peius est periurio, teste D. Thom.* prima secundae, quaest. 13. art. 3. ad 2. *Ita tenet Sotus* lib. 8. de Iust. quaest. 2. art. 3. concl. 1. *Couar.* de pactis, p. p. §. 1. num. 10. *Suarez* cap. 3. num. 6. *Sayrus* lib. 5. cap. 3. num. 18. *Azor* tract. 1. lib. 11. c. 12. quaestio 12. *Quare D. Augustinus* epist. 154. *et refertur* cap. movet, 22. quaest. 1. *significans oppositum intelligi, ut bene explicat Azor* loco citat. quaestio 12. *quando Christianus iurat per falsos Deos, qui eos falsos existimat solo decipiendi animo; is enim, si fidem non servet, decipit quidem, sed non est periurus: at iurans falsum, est periurus, et sic graviter peccat. Vel ut ait Sotus,* dic, *esse gravius in ratione periurii; nam iurare falsum per verum Deum, est proprie periurium, dicitur enim falsum; at per falsos Deos, est secundum quid, dum dicitur verum, teste D. Thom.* 1. 2. quaest. 98. art. 1. ad 2. *Haec Sanchez habet ex D. Bonauent.* in 3. dist. 39. dub. list. num. 6. *et* lib 3. Phar. cap. 3. *in fine, ubi refert testimonium D. August.* epist. 154. ad Public. Tom. 2. *et reddit rationem.*

Question VIII: Whether, and how, a custom of swearing is evil

1 The habit of swearing is not in itself a sin distinct from the very acts of swearing that are frequent. For it is the very act frequently repeated, as Aristotle teaches in 2 *Ethics*; but the effect of the acts, which is a certain habit of swearing, resulting from frequently repeated acts, inclines to evil, and so far is vicious; nevertheless it cannot be a sin, which ought to be found in the acts. So Soto *lib. 8. de Iustitia, quaest. 2. art. 3. concl. 7.* Suarez *lib. 3. cap. 6.* Sanchez *lib. 3. cap. 5. num. 4.* Yet that habit of swearing can be a proximate occasion of mortal sins, and for that reason can place one in a state of mortal sin. The question, therefore, is when this happens.

An, et quomodo Consuetudo iurandi sit mala.

Consvetvdo iurandi non est per se peccatum distinctum ab ipsis actibus iurandi frequentibus. Est enim ipsemet actus frequentatus, ut docet Aristoteles 2. Eth. *effectus vero actuum, qui est quidam habitus iurandi, ex frequentatis actibus resultans, ad malum inclinat, atque adeo est vitiosus; non tamen potest esse peccatum, quod in actibus reperiri debet. Ita Sotus* lib. 8. de Iustitia, quaest. 2. art. 3. concl. 7. *Suarez* lib. 3. cap. 6. *Sanchez* lib. 3. cap. 5. num. 4. *potest tamen ea consuetudo iurandi esse occasio proxima ad mortalia, et propter hoc in statu mortali constituere. Quaestio igitur est, quandonam id eveniat.*

2 ¶ The first opinion is that any habit whatsoever of swearing, even if it is not one of lying under oath, makes one guilty of mortal sin. So Soto *de cavendo iuramentorum abusu, cap. 11.* Sayrus *lib. 5. cap. 9. num. 8.* where he says that such persons are not to be absolved unless they propose to root out the habit.

¶ *Prima opinio est, quamcumque iurandi consuetudinem, etiamsi non sit mentiendi iuramento, reddere mortaliter reum. Ita Sotus* de cavendo iuramentorum abusu, cap. 11. *Sayrus* lib. 5. cap. 9. num. 8. *ubi ait, hos non esse absolvendos, nisi proponant evellere consuetudinem.*

3 The second opinion is that a habit of swearing joined to a habit of lying without an oath places one in danger in this state, and so far is one mortally wounded. So Gregory of Valencia *2. 2. disp. 6. quaest. 7. puncto 3.* Petrus Ledesma *2. Tomo summae, tract. 11. cap. 5. dub. 5. dicto 2.*

Secvnda opinio est, consuetudinem iurandi, iunctam consuetudini mentiendi absque iuramento, in hac constitui ob periculum, atque adeo mortaliter saucium esse. Ita Gregorius de Valentia 2. 2. disp. 6. quaest. 7. puncto 3. *Petrus Ledaesma* 2. Tomo summae, tract. 11. cap. 5. dub. 5. dicto 2.

4 The third opinion is that such a habit of swearing is [evil] when one swears with attention to the oath, but not to the truth or falsity of the thing sworn; but otherwise when one attends to neither, and the emission of the oath outruns the full attention of reason. So Azorius *Tom. 1. lib. 11. cap. 3. quaestio 3.* and Bassaeus *V. Iuramentum 4.*

Tertia sententia est, talem esse huiusmodi consuetudinem, quando est iurandi, advertendo ad iuramentum, non tamen ad veritatem, vel falsitatem rei iuratae; secus autem quando ad neutrum advertitur, sed emissio iuramenti plenam rationis advertentiam praecurrit. Ita Azorius Tom. 1. lib. 11. cap. 3. quaestio 3. *et Bassaeus* V. Iuramentum 4.

5 The fourth opinion is that of Sanchez *lib. 3. cap. 5. a num. 9.* where he says five things. First, that a habit of swearing with due attention to the truth of the thing sworn does not place one in a state of mortal sin; and in this part he has as assertors Scotus *3. dist. 39. quaest. unic. art. 1.* Gabriel *quaest. 2. art. 1. notab. 2.* Sayrus *lib. 5. cap. 5.* Medina *lib. 1. summae, cap. 14. §. 4.* Lopez *p. p. Instruct. cap. 25. et cap. 42.* SECOND, Suarez says that neither a habit of lying joined to a habit of swearing what is true is mortal. For this he also cites Suarez *lo. co citato, num. 6.*

Qvarta sententia est Sanchez lib. 3. cap. 5. a num. 9. *ubi quinque dicit: Primum est, consuetudinem iurandi cum advertentia debita ad rei iuratae veritatem, non constituere in statu peccati mortalis, et in hac parte habet assertores Scotum* 3. dist. 39. quaest. unic. art. 1. *Gabrielem* quaest. 2. art. 1. notab. 2. *Sayrum* lib. 5. cap. 5. *Medinam* lib. 1. summae, cap. 14. §. 4. *Lopez* p. p. Instruct. cap. 25. et cap. 42. *Suarez SECUNDO dicit, neque consuetudinem mentiendi, iunctam consuetudini iurandi verum, esse mortalem. Pro qua adducit etiam Suarez* lo. co citato, num. 6.

6 THIRD, he says that a habit of swearing indifferently, whether what is true or what is false, is mortal. He also cites Suarez *cap. 6. num. 6. et 8.* Petrus Ledesm. *2. Tomo, tract. 11. cap. 5. dub. 4.* Valentia *loco cit.* Vega *loco citato.*

TERTIO ait, consuetudinem iurandi indifferenter, sive verum, sive falsum, esse mortalem. Adducit etiam Suarez cap. 6. num. 6. et 8. *Petrus Ledesm.* 2. Tomo, tract. 11. cap. 5. dub. 4. *Valentia* loco cit. *Vegam* loco citato.

7 FOURTH, he says that when there is a habit of swearing inattentively regarding the truth of the thing sworn, it is mortal. He also cites Aragon *2. 2. quaest. 89. art. 3. dub. ultimo,* Suarez *loco cit. num. 9.* Petrus Ledesma *cap. 5. dub. 4.* Azorius *Tom. 1. lib. 11. cap. 3. quaestio 3.*

QUARTO dicit, quando est consuetudo iurandi inadvertenter circa rei iuratae veritatem, esse mortalem. Adducit etiam Aragonem 2. 2. quaest. 89. art. 3. dub. ultimo, *Suarez* loco cit. num. 9. *Petrus Ledesma* cap. 5. dub. 4. *Azorium* Tom. 1. lib. 11. cap. 3. quaestio 3.

8 FIFTH, the same must be said when the habit is of swearing without attention, whether one swears or not, against the third opinion; and he also cites Suarez *num. 8.*

QUINTO, idem dicendum, quando consuetudo est iurandi absque advertentia; an iuretur, necne, contra tertiam sententiam, et adducit etiam Suarez num. 8.

9 AS REGARDS St. Bonaventure, in the following assertions I shall state what he thought about this matter.

QUOAD D. Bonaventuram, dicam in sequentibus assertionibus, quid de hac re senserit.

10 I ASSERT first, that the habit of swearing is then lethal when it is a proximate occasion of mortal sin, namely, of swearing what is false, or rash, according to what was said in the *preceding question.*

ASSERO primo, tunc esse lethalem consuetudinem iurandi, quando est occasio proxima casus mortalis, nempe, iurando falsum, vel temerarium, iuxta dicta quaest. praecedenti.

11 It is PROVED from St. Bonaventure *in 3. dist. 39. quaest. 3. in fine, and serm. 3. in Decal.* from that text of Ecclesiasticus 23: *Let thy mouth be not accustomed to swearing, for there are many falls in it. A man that sweareth much shall be filled with iniquity.*

PROBATUR a D. Bonav. in 3. dist. 39. quaest. 3. in fine, et serm. 3. in Decal. ex illo Ecclesiastici 23. Iurationi non assuescat os tuum, sunt enim multi casus in illa. Vir multum iurans, replebitur iniquitate.

12 HENCE it follows that not every habit whatsoever of swearing is of this kind, for instance swearing what is true out of slight necessity, or small reverence. For these are habits evil only venially. It is proved from Scotus. For a habit draws its whole malice from the acts from which it is generated; and so it cannot be worse than the acts themselves. If, therefore, the acts are venial, such also will be the habit.

HINC fit, talem non esse consuetudinem quamcunque iurandi, puta verum ex modica necessitate, vel parva reverentia. Hae enim sunt consuetudines venialiter malae. Probatur a Scoto. Habitus enim totam suam malitiam ex actibus haurit, ex quibus generatur; atque adeo nequit esse peior ipsis actibus. Si igitur actus sunt veniales, talis erit etiam habitus.

13 I ASSERT next, that a habit of swearing, through inattention to a known false matter, in such a way that one deliberates only about the simple lie, but the oath slips out besides, is mortal: because that inattention, once known and foreseen, becomes voluntary in whatever act; and so far it is mortal perjury. And this is what St. Bonaventure says *quaest. 3. in corpore:* if one deliberates about the saying only, and not about the oath added over it, it can be venial, but it comes very near to the mortal; that is, if one deliberates only to speak a lie in his saying, not attending that he confirms it by an oath, it

can be venial, namely a simple lie; yet it can become mortal, if that heedless slip of an oath passes into a habit that is known, or is foreseen.

> *ASSERO deinde, consuetudinem iurandi ex inadvertentia rem cognitam falsam, ita ut deliberet tantum mendacium simplex, sed elabatur etiam iuramentum, esse mortalem, quia illa inadvertentia cognita, et praevisa, redditur voluntaria in quocunque actu; atque adeo periurium mortale. Et hoc est quod ait S. Bonavent.* quaest. 3. in corpore, *si deliberat de dicto tantum, non tamen de iuramento superaddito, potest esse veniale, sed multum appropinquat ad mortale, idest, si deliberat tantum dicere mendacium in suo dicto, non advertens, se illud firmare iuramento, posse esse veniale, nempe simplex mendacium; tamen posse fieri mortale, si ille lapsus iuramenti incautus in consuetudinem cognitam abeat, vel sit praevisum.*

14 It is PROVED, because inattention, whether regarding the oath, or regarding the truth, is a grave defect of judgment, as we said in *question 7,* and it exposes one to the danger of perjury, which according to St. Bonaventure *in the place there cited,* and others, is a grave injury done to God.

> *PROBATUR, quia inadvertentia, sive circa iuramentum, sive circa veritatem, est defectus gravis iudicii, ut diximus* quaest. 7. et *se discrimini periurandi exponit, quod secundum D. Bonavent.* loco ibi adducto, et *alios, est gravis iniuria, Deo facta.*

15 THEREFORE if a habit involves the danger of grave lapses against the oath, according to what was said in *questions five and the following,* it will also be a habit gravely evil. Because such a habit is such as are the acts produced by it: but if the acts produced, or resulting from it, are venial from the defect of some reverence, it will itself also be lightly evil, as St. Bonaventure indicates *quaest. 3. ad 3.*

> *ITAQUE si consuetudo periculum affectat lapsus graves contra iuramentum, iuxta dicta* quaestionibus, quinta, et sequentibus, *erit et consuetudo graviter mala. Quia talis ea est, quales sunt actus ab ea producti: quod si actus producti, seu resultantes ab ea sint veniales ex defectu alicuius reverentiae, erit et ipsa leviter mala, ut indicat S. Bonavent.* quaest. 3. ad 3.

16 HENCE it follows that one is bound to root out a habit that is the cause of perjury; otherwise one sins by the sin of omission. Therefore absolution must be denied to him if he does not propose to extirpate a habit gravely evil; not so the man who abounds in a light habit, who is improperly a perjurer, with judgment failing, or justice failing but lightly.

> *HINC fit, teneri eum evellere consuetudinem, quae est causa periurii, alioqui peccato omissionis peccat. Itaque neganda est ei absolutio, si non proponit eam graviter malam consuetudinem extirpare; Non sic ille, qui levi consuetudine scatet, qui improprie sit periurus, deficiente comite iudicio, vel iustitia leviter.*

Question IX: When one who swears incautiously from habit sins mortally

1 IT IS ASKED here whether rash oaths, emitted out of habit without full investigation of the truth, are mortal.

> ***Quandonam incaute iurans ex consuetudine mortaliter peccet.***
>
> *QUAERITUR hic, an iuramenta incauta absque plena veritatis indagatione ex consuetudine emissa, sint mortalia.*

2 IT IS ASSUMED, moreover, that oaths of this kind arise from a habit that has not been retracted; for if you have the resolve to uproot it, the oaths are not judged to remain formally out of habit, but only materially, and involuntarily, and hence it matters nothing for culpability. So notes Sanchez *lib. 3.*

cap. 5. Suarez *lib. 3. de Iuram. cap. 6. num. 8.* Manuel *primo Tomo summae, cap. 191. n. 12. et* others with Bassaeus *V. Iur. 4.*

> *SUPPONO autem, iuramenta huiusmodi oriri ex consuetudine, quae non sit retractata; nam si habeas propositum, eam evellendi, non censentur iuramenta formaliter ex consuetudine manere; sed tantum materialiter, ac involuntarie, atque adeo nil refert ad culpam. Ita advertit Sanchez* lib. 3. cap. 5. *Suarez* lib. 3. de Iuram. cap. 6. num. 8. *Manuel* primo Tomo summae, cap. 191. n. 12. et *alii cum Bassaeo* V. Iur. 4.

3 THE FIRST opinion says that such oaths are lethal, because, if they are false, they are perjuries of themselves; and if they are true, this is still only per accidens; and as far as the swearer's side is concerned, they were undertaken with the danger of falsity. So Francis, and Didacus Victoria, in certain rules of the confraternity of the name of Jesus, Alcozer *cap. 15. fol. 50.* Medina *lib. 1. summae, cap. 14. §. 4.* Manuel *primo Tomo summae, cap. 191. num. 11.* Petrus Ledesma *2. Tomo, tract. 11. cap. 3. dub. 4. dicto 2.* Lopez, citing Ioannes de Penna *p. p. Instruct. cap. 42.* Raphael de Turri *2. 2. quaest. 88. art 3. dub. 3.* Tannetus *hic, num. 10. et disput. 1. quaest. 8. dub. 7.* Azorius *tract. 1. lib. 11. cap. 3. quaest. 3. et* others cited by Diana; Caietanus *2. 2. quaest. 89. art. 3.* Navar. *summae, cap. 12. num. 6.* Valentia *2. 2. disp. 6. quaest. 7. puncto 3.* Sayrus *lib. 5. cap. 5. num. 10.* Armilla *V. Periurium, ubi et Caietanus, et Angles flor. 2. part. quaest. unica de voto, art. 1. diffic. 3.*

> *PRIMA opinio ait, ea iuramenta esse lethalia, quia, si falsa sunt, sunt ex se periuria, quod si vera sunt, adhuc id per accidens est; et quantum est ex parte iurantis, fuere probata cum periculo falsitatis. Ita Franciscus, et Didacus Victoria, in quibusdam regulis confraternitatis nominis Iesu, Alcozer* cap. 15. fol. 50. *Medina* lib. 1. summae, cap. 14. §. 4. *Manuel* primo Tomo summae, cap. 191. num. 11. *Petrus Ledesma* 2. Tomo, tract. 11. cap. 3. dub. 4. dicto 2. *Lopez, allegans Ioannem de Penna* p. p. Instruct. cap. 42. *Raphael de Turri* 2. 2. quaest. 88. art 3. dub. 3. *Tannetus* hic, num. 10. et disput. 1. quaest. 8. dub. 7. *Azorius* tract. 1. lib. 11. cap. 3. quaest. 3. et *alii apud Dianam; Caietanus* 2. 2. quaest. 89. art. 3. *Navar.* summae, cap. 12. num. 6. *Valentia* 2. 2. disp. 6. quaest. 7. puncto 3. *Sayrus* lib. 5. cap. 5. num. 10. *Armilla* V. Periurium, ubi et Caietanus, et Angles flor. 2. part. quaest. unica de voto, art. 1. diffic. 3.

4 THE SECOND opinion is that oaths of this kind, by force of habit, are not mortal. So Maior *3. dist. 39. quaest. 4.* Scotus there *quaest. unic. art. 1.* Pitigianus there *art. 7.* Angel. *V. Iuram. 3.* Sylvest. *V. blas. quaest. 4.* Antonin. *p. p. tract. 10.* Sotus *de abusu iuram. cap. 12.* Suarez *lib. 3. cap. 7. de Iuram.* Reginald. *tract. 2. lib. 18. cap. 6. sect. 3. num. 85.* Sanchez *sum. Tom. 1. lib. 3. cap. 5. num. 28.* Ioan. Sancius *select. dub. 10.* who bring forward D. Thom. *quaest. 98. art. 3. ad 2.* Durandus *3. dist. 39 q. 5.* Richardus there *art. 3. quaest. 2.* Paludanus *quaest. 2. art. 1.* Rubio *quaest. 1. art. 2. et* others, whom Diana heaps up *part. 3. tract. 5. miscell. resol. 62. ubi ait,* a grave burden falls, not only on penitents, but also on confessors of the opposite opinion. And they assert the same entirely also of one who blasphemes out of habit. For my part I would not refuse this, if some displeasure at least had preceded, as with Layman *lib. 5. tract. 1. cap. 3.* Tanner *in the place cited, and* Bassaeus above.

> *SECUNDA sententia est, iuramenta huiusmodi ex vi consuetudinis non esse mortalia. Ita Maior* 3. dist. 39. quaest. 4. *Scotus ibi* quaest. unic. art. 1. *Pitigianus ibi* art. 7. *Angel.* V. Iuram. 3. *Sylvest.* V. blas. quaest. 4. *Antonin.* p. p. tract. 10. *Sotus* de abusu iuram. cap. 12. *Suarez* lib. 3. cap. 7. de Iuram. *Reginald.* tract. 2. lib. 18. cap. 6. sect. 3. num. 85. *Sanchez* sum. Tom. 1. lib. 3. cap. 5. num. 28. *Ioan. Sancius* select. dub. 10. *qui adducunt D. Thom.* quaest. 98. art. 3. ad 2. *Durandum* 3. dist. 39 q. 5. *Richardus ibi* art. 3. quaest. 2. *Paludanus* quaest. 2. art. 1. *Rubionem* quaest. 1. art. 2. et *alios, quos aggerat Diana* part. 3. tract. 5. miscell. resol. 62. ubi ait, *grave onus, non modo poenitentibus, sed etiam confessariis ex opposita sententia advenire. Idem omnino asserunt etiam de*

blasphemante ex consuetudine. Equidem id non renuerem, si aliqua saltem displicentia praecessisset, cum Layman lib. 5. tract. 1. cap. 3. *Tannero* loco citato, et *Bassaeo supra.*

5 AS FOR D. Bonaventure, first, he speaks thus *in the place cited:* There is a certain kind of oath that is not deliberate, as when one swears in common speech, not attending to whom he invokes, nor to what, but out of a certain habit; thus it is not a mortal sin but venial, because of this, that the tongue is set on slippery ground. So the Holy Doctor *in the body of that question.* But in the reply *to the third,* where the *number 24* is marked, he says: When someone swears out of a certain habit, or in jest, not deliberating about the excellence of the truth in testimony of the one invoked, he does not properly contemn, because there it is rather a due omission of honor, and a certain negligence, than the infliction of insult.

QUOAD D. Bonavent. primo ita loquitur loco cit. *Iuratio quaedam est non deliberata, sicut quando quis iurat in communi sermone, non attendens quem invocat, et ad quid, sed ex quadam consuetudine; sic non est peccatum mortale, sed veniale, propter hoc, quod lingua in lubrico posita est. Haec S. Doctor in* corpore illius quaestionis. *In responsione vero* ad tertium, *ubi signatur* numerus 24. *ait: Quando aliquis iurat ex quadam consuetudine, vel ioce, non deliberans de excellentia veritatis in testimonium invocatae, proprie non contemnit, quia potius est ibi debita honoris omissio, et quaedam negligentia, quam illatio contumeliae.*

6 WHENCE D. Bonaventure seems to intend only that one is then excused from mortal sin by reason of habit, when one swears because of a slipperiness partly natural, partly contracted, and of such a kind that it cannot morally be retained. Thus he also seems to understand *dist. 28. quaest. 3. in corpore,* where he explains the slipperiness of the tongue by that saying of D. James 3: *He who offends not in word, the same is a perfect man.* Thus D. Thomas also seems, who says: *He who swears falsely from a slip of the tongue, if he does not advert to it, does not seem to have the intention of swearing, and therefore is excused from the crime of perjury.* Thus both seem to be for the first opinion.

QUARE illud tantum videtur intendere D. Bonavent. tunc excusari a mortali, ratione consuetudinis, quando ex lubricitate partim naturali, partim contracta, eaque tali, quae moraliter retineri non possit, iuratur. Sic videtur intelligere etiam dist. 28. quaest. 3. in corpore*, ubi lubricitatem linguae explicat eo dicto D. Iacobi 3.* Qui non offendit in verbo, hic perfectus est vir. *Sic videtur etiam D. Thom. qui ait:* Ille, qui ex lapsu linguae falsum iurat, si non advertat, non videtur habere intentionem iurandi, et ideo a crimine periurii excusatur. *Ita uterque videtur pro prima sententia.*

7 THEREFORE I ASSERT with the first opinion that such oaths are mortal.

ASSERO igitur cum priori sententia, ea iuramenta esse mortalia.

8 *IT IS PROVED* first from D. Bonaventure *lib. 3. Pharetrae, cap. 3. in fine* from D. Augustine *lib. contra mendacium, cap. 15.* where he says: *I say to you, do not swear at all, lest by swearing once, one comes to facility in swearing, from facility to habit, and from habit falls into perjury.*

PROBATUR *primo a D. Bonavent.* lib. 3. Pharetrae, cap. 3. in fine *ex D. Augustino* lib. contra mendacium, cap. 15. *ubi ait:* Dico vobis non iurare omnino, ne scilicet iurando semel, ad facilitatem iurandi veniatur, ex facilitate ad consuetudinem, et ex consuetudine in periurium decidatur.

9 THE LIKE things are had from D. Chrysostom *homil. 14. ad populum,* where he says: *it is evident that one who swears much will of necessity fall into perjury*; D. Isidore *lib. 10. Synon. cap. 10.* where he says: *Assiduity in swearing makes perjury*, and *lib. 2. de summo bono, cap. 31. While we make use of the habit of*

swearing, we incur the crime of perjury. D. Bernard *Libro de modo bene vivendi serm. 31.* where he says: *The use of swearing leads a man to perjury.*

> *SIMILIA habent D. Chrysostomus* homil. 14. ad populum*, ubi ait:* apertum esse, ut necessario multum iurans incidat in periurium*, D. Isidorus* lib. 10. Synon. cap. 10. *ubi ait:* Assiduitas iurandi periurium facit*, et* lib. 2. de summo bono, cap. 31. Dum usum iurandi facimus, periurii crimen incurrimus. *D. Bernardus* Libro de modo bene vivendi serm. 31. *ubi ait:* Usus iurandi ducit hominem ad periurium.

10 FINALLY D. Bonaventure, at the end of the question cited, appends that of Ecclesiasticus 23: *Let not thy mouth be accustomed to swearing, for in it are many falls.*

> *TANDEM D. Bonav. in fine citatae quaestionis, apponit illud Ecclesiastici 23.* Iurationi non assuescat os tuum, sunt enim multi casus in illa.

11 *IT IS PROVED* secondly. Those sins that are willed in their cause are infected with their natural malice, if they have been foreseen, or ought to have been foreseen: and their malice is increased even by the subsequent evils; as I showed in the first part of the second part concerning sins committed in drunkenness, *Tract. 3. disput. 1. quaest. ultima:* but willed perjuries are in a habit which the swearer does not will to uproot: Therefore they have the malice of their perjury, which is a sin mortal by genus. The minor is proved, because he voluntarily deprives himself of due discretion, and of the necessary examination and scrutiny of the truth, and so exposes himself to the danger of perjury; and consequently, even if he says the truth, he is still guilty of perjury, according to the rules handed down with *Sanchez quaest. 7.*

> PROBATUR *secundo. Ea peccata, quae sunt in causa volita, sunt infecta sua malitia naturali, si praevisa sint, vel debuerint praevideri: et augetur eorum malitia etiam ex sequentibus malis; ut de peccatis commissis in ebrietate ostendi prima secunda,* Tract. 3. disput. 1. quaest. ultima: *at periuria volita sunt in consuetudine, quam non vult iurator evellere: Ergo habent suam malitiam periurii, quod est peccatum ex genere mortale. Minor probatur, quia voluntarie privat debita discretione, et necessario examine, ac scrutinio veritatis, atque adeo discrimini exponit periurii, ac proinde, etiamsi verum dicat; adhuc reus est periurii, iuxta regulas traditas cum* Sanchez quaest. 7.

12 SANCHEZ *num. 28.* answers our argument, and from it erects his own reason; for these rash oaths are not directly voluntary, as is clear, because that inadvertence was invincible; for if it were vincibilis, it would by no means excuse even him who swears not out of habit, which is false; nor are they voluntary indirectly, for what is indirectly willed he seeks, so that one can and is bound to avoid it: but at the time at which one swears inadvertently, he cannot avoid it.

> *SANCHEZ* num. 28. *respondet nostro argumento, et suam inde erigit rationem, nam haec iuramenta incauta, non sunt directe voluntaria, ut patet, quia illa inadvertentia fuit invincibilis; nam si esset vincibilis, minime excusaret etiam eum, qui iurat non ex consuetudine, quod est falsum; Neque sunt voluntaria indirecte, nam indirecte volitum petit, ut quis possit, et teneatur vitare: At eo tempore, quo quis inadvertenter iurat, non potest evitare.*

13 THEN, sins arising from ignorance culpable at the beginning, and foreseen in their cause, as happens in the foreseen sins of drunkards, are affected with no new malice, but are denominated evil by sole extrinsic denomination from their cause. So also these inconsiderate oaths have malice only in their own cause.

> *DEINDE peccata ex ignorantia initio culpabili consurgentia, et praevisa in sua causa, sicut contingit in peccatis ebriorum praevisis, nulla nova malitia afficiuntur, sed sola denominatione extrinseca denominantur mala ex causa sua. Sic etiam haec iuramenta inconsiderata, in sola sua causa habent malitiam.*

14 BUT these do not solve the problem; for that inadvertence in customary swearing is vincibilis, being foreseen, and can be removed together with the habit itself itself, and so it draws from it new malice, as we said of the sins of drunkards, and proved at length *in the first part of the second part, in the place adduced*. Therefore he who is accustomed to swear thus, and does not care to uproot that habit of swearing inadvertently, wills that inadvertence; and the perjury that follows from it; as the drunkard wills the loss of the use of reason, and fornication, blasphemies, and other things committed inconsiderately in it, which, since they were foreseen, or ought to have been foreseen, add new malice to drunkenness, as I said *in the place cited.* And so it follows that it is a mortal sin, if the willed habit of swearing be the whole cause, or gravely influencing, while, adverting to the habit, he does not try to uproot it, does not grieve, does not resolve to abstain. Indeed, that I may grant the opposite opinion for the quiet of conscience, I shall admit it *in the dispute on Perjury, quaest. 3.*

> *AT haec non solvunt, nam illa inadvertentia in consueto iurare est vincibilis, quippe praevisa, et removeri potest simul cum ipsa consuetudine, atque adeo ex illa haurit novam malitiam, sicut de peccatis ebriorum diximus, atque late probavimus* prima secunda, loco adducto. *Igitur consuetus sic iurare, nec curans evellere eam consuetudinem iurandi inadvertenter, vult eam inadvertentiam; et periurium, quod inde sequitur; sicut ebrius vult amissionem usus rationis, et fornicationem, blasphemias, aliaque in ea inconsiderate patrata, quae cum vel praevisa fuerint, vel debuerint praevideri, addunt novam ebrietati malitiam, ut dixi* loco citato. *Itaque sequitur, mortale esse peccatum, si consuetudo volita iurandi sit tota causa, vel graviter influens, dum advertens consuetudinem non conatur evellere, non dolet, non proponit abstinere. Enim vero oppositam sententiam ad quietem conscientiae admittam* disput. de Periurio, quaest. 3.

Question X: What sin it is to swear deceitfully

1 He NOTES first, from D. Bonaventure *in the body, and the end of the question*, that one swears deceitfully in two ways. First, when the mind does not accord with the words of the oath. Secondly, when they do not accord with the will of him to whom the oath is given, in that we elude by amphibologies, or by windings of words, although the words and the mind of the swearer accord among themselves.

> *NOTAT primo a D. Bonavent.* in corpore, et fine quaestionis, *dupliciter iurari dolose. Primo, cum animus verbis iuramenti non concordat. Secundo, cum non concordant voluntati eius, cui praestatur iuramentum, eo quod amphibologiis, aut verborum anfractibus eludimus, licet inter se concordent verba, et mens iurantis.*

2 He NOTES secondly, that the mind is wanting in three ways. First, if you swear with the mind of swearing, and not of giving, and consequently also not of promising; for if you have the mind of promising, you have also the mind of giving, as is gathered from D. Bonaventure, who constituted a single defect from these two. And Valentia notes this *disput. 6. quaest. 7. puncto 4. col. 1415.* against Sotus *lib. 8. de Iustitia, quaest. 1. art. 7.* Caietanus *2. 2. quaest. 89. art. 7.* Sanchez *lib. 3. cap. 6. num. 3. et cap. 10. num. 2.* who distinguish these two: to have the mind of promising, but not of fulfilling; and the mind of promising and of fulfilling. And indeed Sanchez *cap. 10. num. 5.* places this distinction also as the mind of D. Bonaventure *art. 3. quaest. 2.* because he says, the Church does not compel oaths extorted by fear, because it presumes that they were emitted with the mind of escaping danger, not of fulfilling the oath. But Sanchez does not show this for that reason, because the Holy Doctor presupposes it, absque animo even of obligating himself; nevertheless I judge this mode possible, which is the same according to what was handed down *in the preceding question.*

NOTA secundo, tribus modis deesse animum. Primo, si iures animo iurandi, et non dandi, atque adeo etiam non promittendi; nam si habes animum promittendi, habes etiam animum dandi, ut colligitur ex D. Bonavent. qui unicum defectum ex his duobus constituit. Et notat Valentia disput. 6. quaest. 7. puncto 4. col. 1415. *contra Sotum* lib. 8. de Iustitia, quaest. 1. art. 7. *Caietanum* 2. 2. quaest. 89. art. 7. *Sanchez* lib. 3. cap. 6. num. 3. et cap. 10. num. 2. *qui distinguunt haec duo: habere animum promittendi, sed non implendi; et animum promittendi, et implendi. Et quidem Sanchez* cap. 10. num. 5. *ponit hanc distinctionem etiam ex mente D. Bonavent.* art. 3. quaest. 2. *quia ait, Ecclesiam non cogere ad iuramenta, metu extorta, quia praesumit ea emissa ex animo evadendi periculum, non implendi iuramentum. At Sanchez non ob id hoc ostendit, quia S. Doctor subintelligit, absque animo etiam se obligandi; attamen hunc modum possibilem reor, quod idem est iuxta tradita* quaestione praecedenti.

3 The SECOND mode is, if the mind of swearing is absent. The third, if the mind of obligating oneself is absent, even if you wish to swear; yet this mode, which Sanchez posits, suffers some difficulty; for he who wishes to undergo an oath, and knowingly wills it, knowing its bond, seems necessarily to will also the consequence of the bond of obligation. That such a one does not swear, Azor teaches *p. p. lib. 11. cap. 4. quaestio 2.* Sanchez *lib. 5. cap. 11. num. 8.* Sylvius *quaest. 89. art. 7. quaestio 3. cap. 1.* Sylvester *V. Iuram. 4. quaestio 20.* Bonacina *de Iuram. puncto 7.* nor does Bassaeus refuse it *V. Iuram. 2. num. 2.*

SECUNDUS modus est, si abest animus iurandi. Tertius si abest animus obligandi se; etiamsi velis iurare; hic tamen modus, qui ponitur a Sanchez aliquam patitur difficultatem; nam qui vult iuramentum subire, et sciens vult, sciens eius vinculum, videtur necessario etiam velle consequens vinculum obligationis. Hunc sane non iurare docent Azor p. p. lib. 11. cap. 4. quaestio 2. *Sanchez* lib. 5. cap. 11. num. 8. *Sylvius* quaest. 89. art. 7. quaestio 3. cap. 1. *Sylvester* V. Iuram. 4. quaestio 20. *Bonacina* de Iuram. puncto 7. *nec renuit Bassaeus* V. Iuram. 2. num. 2.

4 Valentia adds a FOURTH mode, when the swearer has neither the mind of swearing, nor of obligating himself by the oath. But this mode too is superfluous, for by the very fact that he does not swear, nor obligates himself by the oath; the will excluding swearing excludes also obligating oneself, which is the effect of the oath.

QUARTUM modum adiicit Valentia, quando iurans nec habet animum iurandi, nec se obligandi ex iuramento. Verum et hic modus superfluus est, nam eo ipso, quod non iurat, neque ex iuramento se obligat; voluntas enim excludens iurare, excludit etiam se obligare, qui est effectus iuramenti.

5 The FIRST mode indeed makes perjury mortal by the consent of all. So D. Bonaventure *in the body*, and others cited by Sanchez *cap. 4. num. 16.* for he truly deceitfully brings forward God as witness.

PRIMUS quidem modus omnium consensu periurium facit mortale. Ita D. Bonavent. in corpore*, et alii apud Sanchez* cap. 4. num. 16. *is enim vere mendaciter adducit Deum testem.*

6 AS FOR the second mode, some judge it mortal. So Caietanus *2. 2. quaest. 89. art. 7.* Armilla *V. Periurium, num. 3.* Couar. *de pactis 1. part. §. 5.*

QUOAD secundum modum aliqui censent, esse mortale. Ita Caietanus 2. 2. quaest. 89. art. 7. *Armilla* V. Periurium, num. 3. *Couar.* de pactis 1. part. §. 5.

7 The SECOND opinion is that to utter words sounding an oath, with the mind of not swearing, is then mortal, when that oath concerns false matter, whether of the present, or of the future: Next, if it concerns true matter, and the oath is legitimately required, whether by a Judge, or by a contracting party; but if it concerns true matter, yet is not legitimately required, it is not, he says, mortal, but a simple lie. So Sotus lib. 8. de Iustitia, quaest. 1. art. 7. ad 4. Aragon. 2. 2. quaest. 89. art. 7. ad 4.

concl. 6. Petrus Ledesma 2. Tom. tract. 11. cap. 3. dub. 6. Lessius lib. 2. de Iustitia, cap. 42. et 43. Suarez tom. 2. de religione Tract. de iuram. lib. 3. cap. 17. and although Sotus speaks of one compelled to swear, yet his reason proves it of everyone not obligated to swear.

SECUNDA sententia est proferre verba sonantia iuramentum, animo non iurandi, tunc esse mortale, quando id iuramentum est circa materiam falsam, sive de praesenti, sive de futuro: Deinde, si est circa materiam veram, iuramentum legitime exigitur sive a Iudice, sive a contrahente; at vero si sit circa materiam veram, sed non legitime exigatur, non esse, ait, mortalem, sed simplex mendacium. Ita Sotus lib. 8. de Iustitia, quaest. 1. art. 7. ad 4. Aragon. 2. 2. quaest. 89. art. 7. ad 4. concl. 6. Petrus Ledesma 2. Tom. tract. 11. cap. 3. dub. 6. Lessius lib. 2. de Iustitia, cap. 42. et 43. Suarez tom. 2. de religione Tract. de iuram. lib. 3. cap. 17. et quamvis Sotus loquatur de coacto ad iurandum, eius tamen ratio probat de omni non obligato ad iurandum.

8 The THIRD opinion is that of Valentia 2. 2. d. 6. quaest. 7. puncto 4. toward the end; where, in the case in which one is not obligated to swear, but the oath is unreasonably extorted, he thus distinguishes: If the swearer speaks the truth, then he sins only venially, when he wills to signify that he has the mind of swearing; because it is a lie not pernicious, as the Authors of the second opinion also say; otherwise if he does not will to signify this, but something else disparate; then there is no fault. But if he swears falsely, and wills those external words of the oath to be referred to ratifying false matter, it is mortal. This the Authors of the first opinion teach: but if he does not refer those words to false matter, nor can anyone think this, and take scandal from it; but only uses his right, usurping those words to signify something true in his mind; or he usurps them only materially, willing to confirm nothing by them; it will be only venial. Indeed Sanchez num. 10., following Valentia, adds that it is not even venial, which Soto also holds, when one unjustly compelled usurps those words materially.

TERTIA opinio est Valentianae 2. 2. d. 6. quaest. 7. puncto 4. circa finem; ubi in casu, quo quis non obligatur ad iurandum, sed irrationabiliter extorquetur iuramentum, sic distinguit: Si iurans dicit verum, tunc peccat solum venialiter, quando vult significare se habere iurandi animum; quia est mendacium non perniciosum, ut dicunt etiam Authores secundae sententiae; secus si id significare nolit, sed quoddam aliud disparatum; tunc enim nulla est culpa. Si autem iurat falsum, velitque illa externa iuramenti verba referri ad materiam falsam ratificandam, est mortale. Id docent Authores primae sententiae: si autem ea verba non refert ad materiam falsam, nec potest aliquis id putare, atque inde scandalum accipere; sed tantum utitur iure suo, usurpans ea verba ad significandum aliquid in mente verum; vel usurpat ea tantum materialiter, nil per ea volens confirmare; erit solum veniale. Imo Sanchez num. 10. Valentiam sequens, addit, neque esse veniale, quod sentit etiam Soto, quando iniuste coactus usurpat ea verba materialiter.

9 AS FOR D. Bonaventure, he seems in quaest. 1. art. 3. to speak only of one truly swearing, without the mind of obligating himself; yet concerning this too he seems to infer consequently, that it is not indeed a true oath, yet it is lethal; for by the very fact that there is the mind of not obligating oneself, there is also present the mind of swearing not truly, but with the mouth only, as Sanchez notes num. 7. cap. 4. Therefore the same seems to be said of both. And quaest. 2. he seems to infer it also of him who is compelled to swear: But in Distinction 38. quaest. 3. in corpore he teaches that even a simple lie, by reason of scandal, can become mortal; much more if it appear confirmed by an oath. Finally, in d. 39. quaest. 3. he excuses one who professes oaths from sole invincible incaution from falsity.

QUOAD D. Bonavent. videtur in quaest. 1. art. 3. loqui solum de vere iurante, absque animo se obligandi; attamen etiam de hoc videtur consequenter inferre, non esse quidem verum iuramentum, attamen esse lethale; nam eo ipso, quod est animus non se obligandi, adest etiam animus non vere, sed ore tenus etiam iurandi, ut notat Sanchez num. 7. cap. 4.

Ideo de utroque idem videtur dicendum. Et quaest. 2. id videtur inferre etiam de eo, qui est coactus iurare: Distinctione vero 38. quaest. 3. in corpore docet, etiam mendacium simplex, ex scandalo, posse fieri mortale; multo magis si iuramento appareat firmatum. Tandem d. 39. quaest. 3. profitentem iuramenta ex sola incautione invincibili excusat de falsitate.

10 THUS therefore, if the swearer speaks the truth, it will be only venial, unless it is justly required; for then he is bound to swear, and to swear truly, as D. Bonaventure teaches loc. cit. in corpore, so that the sole external utterance of what is false before a judge renders one infamous, as is had in 6. quaest. 1. cap. infames, and D. Thomas also reports it quaest. 98. art. 3. argumento 3. The same is to be said in legitimate contracts. But if he swear falsely, it will be mortal. And thus D. Bonaventure seems to approach the second opinion, and in some degree the last opinion.

SIC igitur, si iurans verum dicit, erit solum veniale, nisi iuste exigatur; tunc enim tenetur iurare, atque verum iurare, ut docet D. Bonavent. loc. cit. in corpore, ita ut sola prolatio externa falsa coram iudice reddat infamem, ut habet 6. quaest. 1. cap. infames, et refert etiam D. Thom. quaest. 98. art. 3. argumento 3. Idem in legitimis contractibus dicendum. Si vero falsum iuret, erit mortale. Et ita D. Bonav. videtur accedere ad secundam sententiam, et aliqualiter ad ultimam opinionem.

11 I ASSERT first, that words sounding an oath, uttered without the mind of swearing, if they are true (and are not justly required), are a venial fault.

ASSERO primo, verba sonantia iuramentum, absque animo iurandi prolata, si vera sunt (nec iuste exiguntur) esse culpam venialem.

12 IT IS PROVED from D. Bonaventure loc. cit. quaest. 3. in the last argument, because it is only a superfluous invocation of the Divine name, which is not of itself mortal. Nor is there contempt of the Divine testimony, since God does not then require that honor. For thus it would be mortal, if I were to feign saying a prayer of supererogation, as Sanchez notes num. 9. Nor is any loss brought to the end of the oath, as the authors of the first opinion cry out, because the obligation is observed for the due times of human contracts, of lawsuits, and of decrees, as I said.

PROBATUR ex D. Bonavent. loc. cit. quaest. 3. argumento ultimo, quia est tantum invocatio superflua Divini nominis, quod non est ex se mortale. Neque est Divini testimonii contemptus, cum eum honorem non exigat Deus pro tunc. Sic enim esset mortale, si orationem dicere fingerem supererogationis, ut notat Sanchez num. 9. Neque aliquod damnum fini iuramenti affertur, ut clamant authores primae sententiae, quia servatur obligatio pro temporibus debitis ad humanos contractus, ad lites, et ad decreta, ut dixi.

13 I ASSERT secondly, that such words are mortal, when the oath is legitimately required.

ASSERO secundo, talia verba esse mortalia, quando exigitur legitime iuramentum.

14 IT IS PROVED from D. Bonaventure in the body, because then justice is gravely injured, and the offense of this oath is occasioned.

PROBATUR a D. Bonavent. in corpore, quia tunc graviter laeditur iustitia, et ponitur offendiculum huius iuramenti.

15 I ASSERT thirdly, that if the words of the oath fall upon false matter, and cannot be saved by equivocation, they are mortal, since they are ordered to confirming that falsity.

ASSERO tertio, si super materiam falsam cadant verba iuratina, nec aequivocatione salvari queant; esse mortalia, cum ordinantur ad eam falsitatem confirmandam.

16 It is CONFIRMED by the Doctors of the first opinion: For that external worship of latria, which sounds an oath, is exhibited to undue matter, namely a false thing. And so it is mortal, just as to exhibit the external worship of latria to idols.

> *CONFIRMATUR a Doctoribus primae sententiae: Nam externus ille cultus latriae, qui iuramentum sonat, exhibetur materiae indebitae, nempe falsae rei. Itaque est mortale, sicuti Idolis cultum externum latriae exhibere.*

17 The SAME is proved also of one compelled to swear; for, as D. Bonaventure teaches art. 3. quaest. 2. ad 3. Those things that are evil of themselves cannot become good through fear. For concerning these the Holy Doctor says the Divine precept must be observed: *Fear ye not them that kill the body. But rather fear him that can cast both body and soul into hell.*

> *IDEM probatur etiam de coacto iurare; nam, ut docet D. Bonavent. art. 3. quaest. 2. ad 3. Ea, quae sunt ex se mala, non possunt ex metu fieri. Nam quoad haec ait S. Doctor servandum Divinum praeceptum:* Nolite timere eos, qui occidunt corpus. Sed potius timete eum, qui potest corpus, et animam mittere in gehennam.

18 AS FOR the third mode indeed, in which one swears, but deceitfully, without the mind of obligating himself: First, the Abbot cap. *si vero*, num. 10. holds, when the oath is unjustly extorted, that perhaps in a perfect man it is a venial fault; but in the imperfect, none. But of one swearing of himself, he says nothing. But others then excuse the compelled one when he adds some condition by which the oath be true, as one swearing to a robber that he will give the money (understanding) if he ought.

> *QUOAD tertium vero modum, quo quis iurat, sed dolose, absque animo se obligandi. Primo, Abbas cap.* si vero, *num. 10. tenet, quando iuramentum inique extorquetur, forsan in viro perfecto esse venialem culpam; in imperfectis autem nullam. De iurante autem ex se, nil dicit. Alii vero tunc excusant coactum, cum aliquam conditionem apponit, qua iuramentum sit verum, ut iurans latroni, se daturum pecunias (intelligens) si debuerit.*

19 The COMMON opinion is that in every event it is mortal. So Caietanus 2. 2. quaest. 89. art. 7. ad 4. D. Antonin. 2 part. tit. 10. cap. 6. casu 5. Armilla verb. *Iuram.* num. 14. et V. *Periurium*, num. 3. Tabiena V. Iurare, quaest. 11. num. 12. Scotus in 3. d. 39. quaest. unica, art. 3. Nauarr. summa, cap. 12. Couarr. de pactis, p. p. §. 5. num. 3. et 4. Decret. 2. part. cap. 3. §. 5. num. 3. Alcozia sum. cap. 15. fol. 51. Salzedo additione ad regulam, num. 584. Bernardus Diaz, Aragon. 2 2. quaest. 89. art. 7. Less. lib. 2. de Iustitia, cap. 42. dub. 8. num. 42. Suarez de relig. Tract. de Iuramento, lib. 3. cap. 17. num. 10.

> *COMMUNIS sententia est in omni eventu esse mortale. Ita Caietanus 2. 2. quaest. 89. art. 7. ad 4. D. Antonin. 2 part. tit. 10. cap. 6. casu 5. Armilla verb.* Iuram. *num. 14. et V.* Periurium, *num. 3. Tabiena V. Iurare, quaest. 11. num. 12. Scotus in 3. d. 39. quaest. unica, art. 3. Nauarr. summa, cap. 12. Couarr. de pactis, p. p. §. 5. num. 3. et 4. Decret. 2. part. cap. 3. §. 5. num. 3. Alcozia sum. cap. 15. fol. 51. Salzedo additione ad regulam, num. 584. Bernatdi Diaz, Aragon. 2 2. quaest. 89. art. 7. Less. lib. 2. de Iustitia, cap. 42. dub. 8. num. 42. Suarez de relig. Tract. de Iuramento, lib. 3. cap. 17. num. 10.*

20 OTHERS thus distinguish: If the oath is reasonably required, it is venial; but if unreasonably, and the swearer does not intend to signify to the other that he wills to obligate himself by that oath, there is no sin; but if he wills to signify it, it is venial. So Valentia 2. 2. d. 6. quaest. 7. puncto 4.

> *ALII sic distinguunt: Si rationabiliter exigatur iuramentum, est venialis; at si irrationabiliter, et iurans non intendit significare alteri se obligare velle eo iuramento, nullum peccatum esse; at si velit significare, esse veniale. Ita Valentia 2.*

2. d. 6. quaest. 7. puncto 4.

21 Sanchez ADDS num. 6. that he must necessarily be understood, when in that oath there is present the mind of fulfilling the thing promised by the oath (although he himself does not explain it), since if that mind were wanting, he must necessarily say it is a mortal perjury, since he himself holds it to be a true oath, and as such to obligate.

ADDIT Sanchez num. 6. debere necessario eum intelligi, quando in eo iuramento adest animus adimplendae rei, iuramento promissae (licet ipse non explicet) quippe si is animus deesset, debet necessario dicere esse mortale periurium, cum ipse sentiat, esse verum iuramentum, et tanquam tale obligare.

22 BUT Sanchez did not see that Valentia d. 6. quaest. 7. puncto 4. col. 1415. and quaest. 6. puncto 1. col. 1330. asserts these to be so connected, that if the mind of doing is wanting, the mind of promising is also wanting; and conversely it follows, If he has the mind of not promising, and of obligating himself by the oath, he does not have the mind of fulfilling the thing by the force of that oath. But what someone might say: I swear, but although I do not will to be obligated by this oath, I will give this; such a restriction is per accidens to the oath.

AT non vidit Sanchez, Valentiam d. 6. quaest. 7. puncto 4. col. 1415. et quaest. 6. puncto 1. col. 1330. asserere haec ita connecti, ut si desit animus faciendi, etiam desit animus promittendi; Et e contra sequitur, Si habet animum non promittendi, et se obligandi iuramento, eum non habere animum vi illius iuramenti rem adimplendi. Quod vero aliquis diceret: Iuro, sed licet nolim obligari hoc iuramento, id dabo; per accidens ad iuramentum est talis restrictio.

23 Therefore we, with D. Bonaventure, are bound to assert the same that we asserted of him who swears without the mind of swearing, namely, that it is mortal in an oath justly exacted, with the things said in the preceding question preserved proportionally.

Nos igitur cum D. Bonavent. idem asserere tenemur, quod de eo, qui iurat absque animo iurandi asseruimus, nempe, esse mortale in iuramento iuste exacto, servatis dictis quaestione praecedenti proportionaliter.

24 I ASSERT *first*, that one swearing without the mind of obligating himself sins mortally, if the oath is justly required. So those cited above, and others, with whom almost the whole of Bassaeus subscribes *loc. cit.*

ASSERO primo*, iurantem absque animo se obligandi, mortaliter peccare, si iuramentum iuste exigatur. Ita supra citati, et alii, quibus subscribit fere Bassaeus* loc. cit.

25 IT IS PROVED from D. Bonaventure *quaestione prima articuli tertii in corpore*, because he unjustly deceives his neighbor in a grave matter, and to this end uses, as an instrument of the oath, an external act (for it is not truly an oath, as I shall say *in question 13.*); he invokes therefore externally the name of God after the manner of an oath, and so gravely abuses the means of naming God vainly under the formula of an oath, mocking God himself, and to the ruin of the human race, for the preservation of whose peace oaths were instituted; and he enervates the faith owed to an oath. Very many use this reason; among whom those are judged to be related *in the preceding question for the first opinion.*

PROBATUR a D. Bonauent. quaestione prima articuli tertii in corpore*, quia is inique decipit in re graui proximum, et ad hoc utitur, tanquam instrumento iuramenti, externo actu (nam vere non est iuramentum, ut dicam* quaestione 13.*) inuocat igitur externe nomen Dei ad modum iuramenti, atque adeo grauiter abutitur medio nominandi Deum vane sub formula iuramenti, illudendo Deo ipsi, ac in perniciem humani generis, ad cuius pacem*

seruandam instituta sunt iuramenta; eneruatque fidem debitam iuramento. Hac ratione utuntur plurimi; inter quos censentur relati quaest. praecedenti pro prima sententia.

26 I ASSERT *secondly*, that one swearing without the mind of obligating himself (if the oath is unreasonably extorted) sins only venially, if he does not apply the words to confirming a false promise.

ASSERO secundo, *iurantem absque animo se obligandi (si irrationaliter extorquetur iuramentum) solum venialiter peccare, si non applicat verba falso promisso confirmando.*

27 IT IS PROVED on the foundation of D. Bonaventure, because this is not an oath, but only a simple lie, as I shall say *in question 4.* and the same was said *in the preceding question, in the first assertion*, and then he uses his right, using equivocations. So Sanchez *in number 10.*

PROBATUR fundamento D. Bonauent. quia hoc non est iuramentum, sed tantum mendacium simplex, ut dicam quaestione 4. *et idem dictum est* quaestione praecedenti, assertione prima, *et tunc utitur iure suo, aequiuocis utendo. Ita Sanchez* numero 10.

28 Sanchez, moreover, ADVERTS that one can use amphibolic words from a just cause, not only when they admit several senses of themselves, but also from some circumstance, of place, of time, etc.; indeed, when they render the true sense from the mind of the utterer; as if one denies that he has done something that he did (understanding that it is to be concealed). The same hold *Syluest. V. Iuram. 4. quaest. 7. Nauarr. cap. Humana aures 12. quaest. 5. in quaest. 2. num. 12. Valentia 2. 2. d. 5. quaest. 13. puncto ultimo. Salon. 1. 2. quaest. 69. art. 2. controu. 11. in quarta ratione, Tolet. lib. 4. summae, cap. 21. num. 9. Manuel de ordine iudicatio cap. 10. num. 4. et primo tomo summae, cap. 191. num. 7. Philiarch. Tom. 1. part. 2. lib. 3. cap. 14. Suarez de Iuram. lib. 3. cap. 11. num. 6. Lessius lib. 2. de Iustitia, cap. 42. dub. 9. num. 48. Sà verbo Iuram. num. 6. Sanchez lib. 3. cap. 6. num. 15. D. Bonauent. passim. Vide Dianam part. 2. t. 15. res. 25. et part. 3. tract. 6. miscell. resol. 30.* Although *Caietanus 2. 2. quaest. 89. art. 7. Sotus lib. 5. quaest. 6. art. 2. cap. 7. Malder. opusc. de restrict. ment. cap. 4. et 10. Syluius 2. 2 quaest. 89 art. 7. quaestio 3. Azor. tom. 1. lib. 11. cap. 4. quaestio 5. Henriq. lib. 6. cap. 19. Layman. lib. 4. tract. 3. cap. 13. Coninch. de act. quatern. lib. 1. d. 10. dub. 3. Aragon. 2. 2. quaest. 62. art. 2. et quaest. 89. art. 7.* say it is perjury, unless the amphibolic words obtain that amphibolic sense from themselves; with whom *Bassaeus V. Iuramentum 3. num. 10.* hesitates, so that he may proceed more safely, although he grants the opposite opinion probable, which I follow.

ADVERTIT autem Sanchez, posse aliquem uti ex causa iusta verbis amphibologicis, non modo quando plures sensus admittunt ex se, sed etiam ex circumstantia aliqua, loci, temporis, etc. imo quando verum sensum reddunt ex mente proferentis; ut si quis neget se fecisse aliquid, quod fecit (intelligens reticendum.) Idem sentiunt Syluest. V. Iuram. 4. quaest. 7. Nauarr. cap. Humana aures 12. quaest. 5. in quaest. 2. num. 12. Valentia 2. 2. d. 5. quaest. 13. puncto ultimo. Salon. 1. 2. quaest. 69. art. 2. controu. 11. in quarta ratione, Tolet. lib. 4. summae, cap. 21. num. 9. Manuel de ordine iudicatio cap. 10. num. 4. et primo tomo summae, cap. 191. num. 7. Philiarch. Tom. 1. part. 2. lib. 3. cap. 14. Suarez de Iuram. lib. 3. cap. 11. num. 6. Lessius lib. 2. de Iustitia, cap. 42. dub. 9. num. 48. Sà verbo Iuram. num. 6. Sanchez lib. 3. cap. 6. num. 15. D. Bonauent. passim. Vide Dianam part. 2. t. 15. res. 25. et part. 3. tract. 6. miscell. resol. 30. *Tametsi* Caietanus 2. 2. quaest. 89. art. 7. Sotus lib. 5. quaest. 6. art. 2. cap. 7. Malder. opusc. de restrict. ment. cap. 4. et 10. Syluius 2. 2 quaest. 89 art. 7. quaestio 3. Azor. tom. 1. lib. 11. cap. 4. quaestio 5. Henriq. lib. 6. cap. 19. Layman. lib. 4. tract. 3. cap. 13. Coninch. de act. quatern. lib. 1. d. 10. dub. 3. Aragon. 2. 2. quaest. 62. art. 2. et quaest. 89. art. 7. *dicant, esse periurium; nisi verba amphibologica eum sensum amphibologicum a se ipsis*

obtineant; quibus haeret Bassaeus V. Iuramentum 3. num. 10. *ut securius incedat, tametsi oppositam probabilem fateatur, quam sequor.*

29 He is PROVED from the Holy Doctor on *cap. 7. Ioan.* where Christ says: *Go you up to this festival day; but I go not up to this festival day*, and yet he ascended. But that utterance was completely true in the mind of Jesus. I go not up manifestly, and for celebrating the solemnity, or for the passion, but that I may instruct some separately in need of it.

PROBATURQUE a S. Doctore ad cap. 7. Ioan. *ubi Christus ait:* Ascendite ad diem festum hunc, ego autem non ascendam, *et tamen ascendit. Fuit autem illud effatum complete verum in mente Iesu. Non ascendam manifeste, et ad solemnitatem celebrandam, aut ad passionem, sed ut aliquos seorsim egentes instruam.*

30 SO many note, from D. Chrysostom *homil. 47. in Ioannem post medium Tom. 3.*

SIC notant multi ex D. Chrysostomo homil. 47. in Ioannem post medium Tom. 3.

31 It is PROVED secondly, from D. Bonaventure in *3. d. 38. dub. 1.* where from D. Jerome the amphibology of the Hebrew midwives is praised, because of which God is said to have built houses; and the Holy Doctor calls those midwives most spiritual.

PROBATUR secundo, a D. Bonauent. in 3. d. 38. dub. 1. *ubi ex D. Hieronymo laudatur amphibologia obstetricum Hebraearum, quod ob id Deus dicitur aedificasse domos; spiritualesque eas dicit S. Doctor maximus.*

32 THIRDLY it is proved from D. Bonaventure from *Genes. 27.* ibidem *num. 6.* from the deed of Jacob, who feigned himself Esau, and said of himself that he was such and such, and had done what the Father had commanded; and yet he is excused by the Holy Fathers Ambrose, Augustine, and others, whom D. Bonaventure reports *loc. cit. et post eum Peterius ibi disp. 5.*

TERTIO probatur a D. Bonauent. ex Genes. 27. *ibidem* num. 6. *ex facto Iacob, qui finxit se Esau, et talem, atque talem se dixit, et fecisse, quae praeceperat Pater; et tamen a Sanctis PP. Ambrosio, Augustino, et aliis, excusatur, quos refert D. Bonau.* loc. cit. et post eum Peterius ibi disp. 5.

33 SIMILARLY Abraham *Genes. 22.* going up the mountain to immolate his son, said that he would return with the boy. And *Genes. 26.* concerning his wife he says she is his sister. And *cap. 42. et 44.* Joseph says that he is a diviner. And *Iudic. 9. Ierunt ligna.* And *4. Reg. 10.* Jehu said that he wished to worship Baal, which examples the Holy Doctor reports *in 3. d. 38. quaest. 2.*

SIMILITER Abraham Genes. 22. *immolaturus filium ascendens montem, dixit, se reversurum cum puero. Et* Genes. 26. *de uxore sua ait, esse sororem. Et* cap. 42. et 44. *Ioseph ait, se augurem esse. Et* Iudic. 9. Ierunt ligna. *Et* 4. Reg. 10. *Iehu dixit, se velle colere Baal, quae exempla refert S. Doctor* in 3. d. 38. quaest. 2.

34 It is PROVED fourthly from D. Bonaventure *in 3. d. 39. art. 1. quaest. 1.* with whom D. Gregory also concurs there *lib. 26. moral. cit.* and it is reported *cap. Humana aures 22. quaest 5. ibi: The ears of men judge our words to be such as they sound outwardly. But the Divine judgments hear them to be such as they are uttered from the depths:* Therefore he wills that truth be measured by words in their intrinsic seat from the intention of the utterer, not from the external words alone. The same D. Hilary expressed *lib. 4. de Trinitate cap. 5.* and it is reported *cap. Intelligentia, de verborum significatione* there, *The understanding of words must be taken from the causes of speaking: Because the thing is not subject to the word, but the word to the thing.*

PROBATUR quarto a D. Bonauent. in 3. d. 39. art. 1. quaest. 1. *cui concordat etiam D. Gregorius ibi* lib. 26. moral. cit. *et refertur* cap. Humana aures 22. quaest 5. ibi: Humanae aures verba nostra talia iudicant, qualia foris sonant. Diuina vero iudicia, talia esse audiunt, qualia ex intimis proferuntur: *Ergo ex proferentis intentione veritatem verborum intrinseco loco metiri vult, non ex verbis externis tantum. Quod idem expressit D. Hilarius* lib. 4. de Trinitate cap. 5. *et refertur* cap. Intelligentia, de verborum significatione *ibi,* Intelligentia verborum ex causis est assumenda dicendi: Quia non sermoni res, sed rei est sermo subiectus.

35 It is PROVED fifthly from D. Bonaventure in *3. d. 38. in dub. litt. num. 4. et 5. et quaest. 1. in corpore, et quaest. 2. ad argumenta.* To lie is to go against the mind, and so the reason of the lie stands in the habitude of words to the mind. Therefore whether they are true or false in themselves, it is per accidens; but they are to be considered with respect to the mind of the utterer, and in the deformity of the words with respect to it stands the formal reason of the lie. So also Sanchez *num. 15.* who again confirms it from D. Bonaventure *in the quaest. 2. cited, argumento 6.* with Bassaeus *num. 10.*

PROBATUR quinto a D. Bonauent. in 3. d. 38. in dub. litt. num. 4. et 5. et quaest. 1. in corpore, et quaest. 2. ad argumenta. *Mentiri, est contra mentem ire, et ita in habitudine verborum ad mentem stat ratio mendacii. Ergo siue vera, siue falsa in se sint, per accidens se habet, sed consideranda sunt ad mentem proferentis, et in deformitate verborum ad ipsam stat ratio formalis mendacii. Ita etiam Sanchez* num. 15. *qui id rursus confirmat ex D. Bonauent.* quaest. 2. citata, argumento 6. *cum Bassaeo* num. 10.

36 In this stands a lie, that words are uttered against the institution of their end; but words were instituted for this, that man express what he bears in mind.

IN eo stat mendacium, ut verba dicantur contra institutionem sui finis; at verba instituta sunt ad hoc, ut homo exprimat, quod mente gerit.

37 But OUTSIDE of necessity it is not permitted to use amphibologies, which is proved from D. Bonaventure *in 3. d. 38. quaest. 2. ad tertium argumentum,* because man was made that he might contract with others, and live together economically, and politically; but for this it was necessary that they mutually communicate their own intentions and wills in a human manner; but this is done by words. Wherefore in legitimate contracts and fellowship we ought to use words instituted for that end, to signify candidly to our neighbors our conceptions. On this reason many, cited by Sanchez *lib. 3. cap. 6. num. 12.* try to prove that it is always true, that never may amphibologies be used; otherwise an approach would lie open to deceits, the commerce of words would be taken away, its assurance, etc.

EXTRA necessitatem vero non licet uti amphibologiis, quod probatur ex D. Bonauent. in 3. d. 38. quaest. 2. ad tertium argumentum, *quia homo conditus est, ut cum aliis contrahat, et conuiuat oeconomice, atque politice; ad hoc autem necessarium fuit, ut mutuo communicarent modo humano proprias intentiones, et voluntates; hoc autem fit sermonibus. Quare in contractibus, et conuictibus legitimis debemus uti sermonibus eo fine institutis ad significandum proximis candide nostros conceptus. Hac ratione multi apud Sanchez* lib. 3. cap. 6. num. 12. *conantur probare, id semper esse verum, ut nunquam liceat amphibologiis uti, alioqui pateret aditus dolis, tollerentur commercia, sermonum assecuratio, etc.*

38 INDEED, since in the corrupt state we are compelled to live together, and are often assailed by the unjust with questions and malicious speeches, an approach would rather lie open to very many evils than that satisfaction be given to one asking sincerely, with open mind. Therefore cautious prudence

is needed. For thus also Christ did not always render oracles at a nod to the Jewish plotters, but with parables rather obscure, by which in several ways he could multiply responses.

> *ENIM vero cum in statu corrupto cogamur conuiuere, et saepe ab iniquis tentemur interrogationibus, et sermonibus malignis, potius aditus pateret malis permultis, quam interrogantis sincere, animo patulo satisfieret. Ideo opus est cauta prudentia. Sic enim et Christus non semper insidiatoribus Iudaeis ad nutum oracula reddebat, sed parabolis subobscuris, quae pluribus modis poterat responsa multiplicare.*

39 From these it is clear, and Sanchez rightly gathers *num. 10.* that a case can occur in which not only when solicited, but even spontaneously we can rightly use amphibolic sayings, anticipating some evil, or for appeasing a neighbor, for restoring a fame unjustly taken away, etc. The same says Philiarchus *de off. Sacerd. tom. 1. part. 2. lib. 3. cap. 14.*

> *Ex his patet, ac colligit recte Sanchez* num. 10. *posse casum euenire, quo non modo sollicitati, sed etiam sponte uti recte possimus amphibologicis dictis, praeueniendo malum aliquod, vel ad placandum proximum, ad restituendam famam iniuste ablatam, etc. Idem ait Philiarchus* de off. Sacerd. tom. 1. part. 2. lib. 3. cap. 14.

40 The SAME will be in the case in which one guilty has unjustly disclosed his accomplices in the crime, or a witness has unjustly betrayed before the judge a crime of the Accused that was hidden, that he can offer himself to swear that they are not guilty, understanding that they ought not to be disclosed:

> *IDEM erit in casu, quo reus socios criminis iniuste detexit, aut testis iniuste crimen Rei occultum coram iudice prodidit, posse se offerre ad iurandum, eos non esse reos, intelligendo, ut pandi debeant:*

41 So hold Medina lib. 1. summae, cap. 14. §. 33. Navarr. lib. 2. de resti. cap. 4. part. 3. dub. 5. num. 142. Henriquez lib. 5. de Poenitentia, cap. 12. Manuel primo Tomo summae, cap. ultimo. Bannes 22. quaest. 62. art. 2. dub. 8. and there Salonius in controv. 15. saying that Melchior Canus, Mantius, and other most learned men hold the same in their relections. Leonardus lib. 2. de Iustitia, cap. 11. dub. 10. num. 110. Sayrus lib. 11. cap. 4. num. 27. Petrus Ledaesma 1. Tomo, tract. 2. cap. 7. concl. 3. with Sanchez lib. 3. cap. 6. num. 28.

> *Ita sentiunt Medina lib. 1. summae, cap. 14. §. 33. Navarr. lib. 2. de resti. cap. 4. part. 3. dub. 5. num. 142. Henriquez lib. 5. de Poenitentia, cap. 12. Manuel primo Tomo summae, cap. ultimo. Bannes 22. quaest. 62. art. 2. dub. 8. et ibi Salonius controv. 15. dicens Melchiorem Canum, Mantium, et alios eruditissimos, idem tenere in suis relectionibus. Leonardus lib. 2. de Iustitia, cap. 11. dub. 10. num. 110. Sayrus lib. 11. cap. 4. num. 27. Petrus Ledaesma 1. Tomo, tract. 2. cap. 7. concl. 3. cum Sanchez lib. 3. cap. 6. num. 28.*

42 WHENCE I do not see how from the Doctors alleged, Navarr. in summae, cap. 12. num. 8. Sayrus lib. 5. cap. 4. num. 21. Leonardus lib. 2. de iustitia, cap. 42. d. 9. num. 46. it can be brought that it is not permitted to offer oneself to swear, using these amphibologies; but that only with the requisites is it permitted to use them.

> *QUARE non video, quomodo ex allegatis Doctoribus, Navarr. in summae, cap. 12. num. 8. Sayrus lib. 5. cap. 4. num. 21. Leonardus lib. 2. de iustitia, cap. 42. d. 9. num. 46. afferant non licere, se ad iurandum offerre, utendo his amphibologiis; sed his tantum licere uti, requisitis.*

43 From these many things are resolved, namely that it is permitted to use equivocations if we are asked, even in judgment, about a hidden matter, or by a judge not competent, and to deny, understanding that he is not bound; or if one asked whether he comes from such a place, when the

plague has been falsely announced, could deny to the guards of the city that he comes from that place, understanding as if it had not happened. See Sanchez, who num. 4. also brings forward that case which they ascribe to the Holy Father Francis, that, being asked on the way by satellites whether a certain guilty one had passed that way, he answered that he had not passed through here, understanding through the sleeves of his garment, in which he held his hands. Likewise this is permitted for saving life, fame, goods, for repelling adversities, for eluding the enemy in a just war, for avoiding ambushes, for a useful work, etc.

> *Ex his multa resolvuntur, nempe licere uti aequivocis, si interrogemur, etiam in iudicio, de re occulta, vel a iudice non competente, et negare, intelligendo, ut teneatur; vel si interrogatus, an veniat e tali loco, falso pestis denunciato, posset negare custodibus civitatis, se ex eo loco venire, intelligendo infecto. Vide Sanchez, qui num. 4. affert etiam casum illum, quem S. P. Francisco adscribunt, ut in via interrogatus a satellitibus, an illuc transiisset quidam reus, responderit non transiisse huc, intelligendo per manicas suas, in quibus manus tenebat. Itidem hoc licet ad servandam vitam, famam, opes, ad adversa repellenda, ad hostem in bello iusto eludendum, ad insidias vitandas, ad opus utile, etc.*

44 I ASSERT finally, that if he refer those words to confirming a falsehood, he sins. See the third assertion of the preceding question, of which the reason is the same.

> *ASSERO tandem, si verba illa referat ad falsum robotandum, peccat. Vide assertum tertium quaestionis praecedentis, de qua est eadem ratio.*

45 Now Perjury is a sin graver than homicide, because it is against the honor of God, as I shall say in the last question.

> *EST autem Periurium peccatum, gravius homicidio, quia est cont. Dei honorem, ut dicam quaest. ult.*

Question XI: Whether it is lawful to exact an oath from one who will perjure himself

1 It is CERTAIN that it is not lawful to require an oath in which two companions will be lacking, namely justice, or judgment; since no cause of exacting such oaths can arise, the one exacting will sin with the sin of the one swearing, mortally or venially.

> *CERTUM est non licere exigere iuramentum, in quo defuturi sint duo comites, iustitia scilicet, aut iudicium; cum enim nulla evenire possit causa exigendi talia iuramenta, peccabit exigens peccato iurantis, mortali, aut veniali.*

2 The DIFFICULTY, however, will be if Truth will be lacking.

> *DIFFICULTAS autem erit, si defutura sit Veritas.*

3 Concerning the three kinds of persons it may be doubted whether they are legitimate exactors of an oath from a perjurer, and they are: Judges, Plaintiffs, and Private persons.

> *De tribus autem personarum generibus potest dubitari, an sint legitimi exactores iuramenti a peieraturo, et sunt, Iudices, Actores, et Privatae personae.*

4 AS REGARDS the Judge, I ASSERT that he can require an oath, the order of law being observed, from one whom he knows will commit perjury. Thus teach the Alensis, part 3, quaest. 31, m. 2, art. 6, quaest. 1, and both Holy Doctors adduced here, whom follow Richard. in 3, d. 39, art. 3, quaest. 3, Paludanus quaest. 2, Maior. quaest. 3, Gabr. quaest. 2, art. 3, dub. 11, Archid. cap. Ille, num. 2, 22, quaest. 5, ibi, Bellamera, and Turrecrem., Socinus regul. 210, Abulensis quaest. 198 on 5 Matth., D. Antonin. part 2, tit. 10, cap. 7, §. 10 and §. 3, Angel. V. Iuram. 3, num. 11, Sylvest. ibi 2, quaest. 9,

Armilla vers. 33, Tabien. ibi quaest. 33, num. 34, and V. Periur. quaest. 3, Sotus lib. 8 de Iustitia, quaest. 2, art. 4, Navarr. summae, cap. 12, Covarr. de pactis, p. p., §. 6, num. 2, Pedraza Summae, on the second precept, §. 7, Alcozer summae, cap. 15, Toletus lib. 4 summae, cap. 21, num. 10, Sayrus lib. 5, cap. 5, Petrus de Ledesma, Tome 2, tract. 11, cap. 5, dubio 6, Azor. Tom. 1, lib. 11, cap. 11, Graff. part 2, decis. lib. 2, cap. 4, num. 5, Suarez de Iuram. lib. 3, cap. 14, num. 13 and 17, Lessius lib. 2 de iustitia, cap. 42, d. 10, num. 49, Philiarc. Tom. 1, part 2, lib. 3, cap. 16, Manuel, first Tome of the summa, cap. 191, whom Sanchez brings forward and follows in lib. 3 summae, cap. 8, numero 2.

> *QUOAD Iudicem, Assero, eum posse exigere iuramentum, servato iuris ordine, ab eo, quem scit peieraturum. Ita docent Alensis 3. part. quaest. 31. m. 2. art. 6. quaest. 1. et Sanctus uterque Doctor hic adducti, quos sequuntur Richard. in 3. d. 39. art. 3. quaest. 3. Paludanus quaest. 2. Maior. quaest. 3. Gabr. quaest. 2. art. 3. dub. 11. Archid. cap. Ille, num. 2. 22. quaest. 5. ibi, Bellamera, et Turrecrem. Socinus regul. 210. Abulensis quaest. 198. ad 5. Matth. D. Antonin. 2. part. tit. 10. cap. 7. §. 10. et §. 3. Angel. V. Iuram. 3. num. 11. Sylvest. ibi 2. quaest. 9. Armilla vers. 33. Tabien. ibi quaest. 33. num. 34. et V. Periur. quaest. 3. Sotus lib. 8. de Iustitia, quaest. 2. art. 4. Navarr. summae, cap. 12. Covarr. de pactis, p. p. §. 6. num. 2. Pedraza Summae, secundo praecepto, §. 7. Alcozer summae, cap. 15. Toletus lib. 4. summae, cap. 21. num. 10. Sayrus lib. 5. cap. 5. Petrus de Ledesma 2. Tomo, tract. 11. cap. 5. dubio 6. Azor. Tom. 1. lib. 11. cap. 11. Graff. 2. part. decis. lib. 2. cap. 4. num. 5. Suarez de Iuram. lib. 3. cap. 14. num. 13. et 17. Lessius lib. 2. de iustitia, cap. 42. d. 10. num. 49. Philiarc. Tom. 1. part. 2. lib. 3. cap. 16. Manuel primo Tomo summae, cap. 191. quos adducit, et sequitur Sanchez lib. 3. summae, capite 8. numero 2.*

[5] SOME restrict it, that the Judge cannot do this of his own accord, but only at the instance of a party. Thus seem to think D. Thom., Richardus, Paludanus, Gabr., Socinus, Abul., D. Antonin., Angel., Sylvest., Tabiena, Navar., Sotus, Sayrus, Petr. Ledesma, Pedraza, Manuel, cited above: but more clearly Archid., Bellamera, Azorius, Maior, and Graffius.

> *ALIQUI restringunt, id non posse Iudicem sponte, sed solum ad instantiam partis. Ita videntur sentire D. Thom. Richardus, Paludanus, Gabr. Socinus, Abul. D. Antonin. Angel. Sylvest. Tabiena, Navar. Sotus, Sayrus, Petr. Ledesma, Pedraza, Manuel citati: Clarius autem Archid. Bellamera, Azorius, Maior, et Graffius.*

[6] BUT they are to be expounded as follows: when he would do it with no right compelling him, but of his own accord merely to instruct his conscience; but otherwise when the judge is bound ex officio to inquire, as in criminal causes, when he proceeds ex officio, as can be seen in Iulius Clarus lib. 5 receptarum in prac. crimin., quaest. 6, num. penult. Thus Durandus 3, d. 39, quaest. 5, ad 2, and there Paludanus quaest. 2, art. ult., ad 2, Turrecremata cap. Quamvis, num. 2, in solut. ad 3, 22, quaest. 1, Alens. loc. cit., Leonard. and Philiar. cited, after D. Bonavent., quaest. 3, corpore, where he says, *if he is a judge, it accords, as far as the order of law goes, to inquire ex officio. Therefore, if he is not compelled to this, he ought not to exact such an oath.* See Diana part 5, tract. 7, resol. 9, Bassaeus V. Iuram. 3, num. 9.

> *AT exponendi sunt, quando nullo iure coactus id faceret, sed sponte ad suam conscientiam mere instruendam; secus vero, quando iudex ex officio tenetur inquirere, ut in causis criminalibus, quando ex officio procedit, ut potest videri in Iulio Claro lib. 5. receptarum in prac. crimin. quaest. 6. num. penult. Sic Durandus 3. d. 39. quaest. 5. ad 2. et ibi Paludanus quaest. 2. art. ult. ad 2. Turrecremata cap. Quamvis, num. 2. in solut. ad 3. 22. quaest. 1. Alens. loc. cit. Leonard. et Philiar. citati, post D. Bonavent. quaest. 3. corpore, ubi ait,* si iudex est, quantum ex ordine iuris, convenire ex officio inquirere. Itaque, si hoc non cogitur, non debet tale iuramentum exigere. *Vide Dianam part. 5. tract. 7. resol. 9. Bassaeum V. Iuram. 3. num. 9.*

7 THEREFORE the assertion is PROVED from D. Bonaventure at the cited places, because the judge uses his right by reason of his office, has a legitimate cause for exacting, and he follows that oath of knowledge which the judge is bound to follow, in order that the process be legitimate; and if a party presses, he is so much the more bound.

> *PROBATUR igitur assertio a D. Bonavent. citatis locis, quia iudex utitur iure suo ex ratione officii legitimam exigendi causam habet, deseritque id iuramentum scientiae, quam iudex sequi tenetur, et ut legitimus sit processus; Et si pars instet, multo magis tenetur.*

8 AS REGARDS the Plaintiff, many condemn him, all those who say above that it is lawful for the judge only at the instance of a party, because it is not he himself but the party who is considered to exact. Wherefore they seem to condemn the party itself, and that chiefly because there they absolutely condemn the private person seeking this oath, which the Plaintiff commonly is. With these D. Bonaventure also seems to speak in the places adduced. The reason is, because he seems driven by no necessity to the exaction of such an oath: others, however, seem to excuse it, among whom is D. Bonaventure in *dubio quarto litt.*, where he excludes the private person only *when he does it from his mere will without necessity: and in the cited question he affirms that a private person can exact such an oath to establish the truth.* And although he speaks of idolatry, and denies it of a Christian committing perjury, insofar as he is considered in perjury alone, and, as perjury, it is private, without witnesses, whence we cannot use it for the truth but for the subversion of the truth; nevertheless from D. Bonaventure's doctrine the same follows, that it is lawful to exact it publicly from a perjurer, if the case should arise, so that we can use that oath for publicly confirming the truth, either per se or per accidens, insofar as truth is drawn out of its falsity, as I shall show also concerning the third assertion.

> *QUOAD Actorem, multi eum damnant, quotquot supra iudici ad instantiam solummodo partis dicunt id licere, quia non ipse, sed pars censetur exigere. Quare partem ipsam videntur damnare, eo vel maxime, quod ibi absolute damnant privatam personam, id iuramentum petentem, qualis communiter solet esse Actor. Cum his videtur loqui etiam D. Bonavent. locis adductis. Ratio est, quia nulla videtur necessitate impulsus ad exactionem talis iuramenti: Alii vero videntur excusare, ex quibus est D. Bonavent. in* dubio quarto litt. *ubi privatam personam solum excludit,* quando id facit ex mera sua voluntate absque necessitate: et in quaestione citata affert, posse, ad veritatem stabiliendam, privatam personam tale iuramentum exigere. *Licet autem de idolatria loquatur, et neget de Christiano peierante, prout in solo periurio sistitur, atque, ut periurium, est privatum absque testibus, unde non possumus eo uti ad veritatem, sed ad subversionem; attamen ex D. Bonaventurae doctrina idem sequitur licitum exigere publice a peierante, si casus eveniat, ut possimus eo iuramento uti ad veritatem publice confirmandam, sive per se, sive per accidens, quatenus ex falsitate illius eruatur veritas, ut ostendam etiam circa tertiam assertionem.*

9 Now such necessity CAN be, if someone conducts another's cause publicly and would be mocked for infidelity or negligent management; if he needs to uncover the frauds of an adversary, to diminish his fame, and indeed to cast down calumnies. For confirming the contract, and for compelling the one swearing before a judge, who, since he judges of externals, will compel the fulfillment of the oath. Therefore Lessius lib. 7 *de Iustitia*, cap. 42, d. 10, num. 47, Suarez *Tract. de Iuramento*, lib. 3, cap. 14, num. 16, Sanchez in the place cited, numero quarto, Bassaeus, Diana, and others above follow D. Bonaventure.

> *POTEST autem talis necessitas esse, si aliquis alterius causam agat publice, et infidelitatis, aut negligentis procurationis sugillaretur; si egeat ad adversarii fraudes detegendas, famam diminuendam, atque adeo calumnias prosternendas. Ad firmandum contractum, et cogendum iurantem coram iudice, qui cum iudicet de externis, coget iuramentum implere.*

Itaque D. Bonaventuram sequuntur Lessius lib. 7. de Iustitia*, cap. 42. d. 10. num. 47. Suarez* Tract. de Iuramento*, lib. 3. cap. 14. num. 16. Sanchez loco citato, numero quarto. Bassaeus, Diana, et alii supra.*

10 I ASSERT that the Plaintiff can require an oath from a perjurer, to protect his right.

ASSERO, posse Actorem exigere iuramentum a peieraturo, ad ius suum tuendum.

11 ¶ It is PROVED from D. Bonaventure, quaest. cit., because he thus uses his right to confirm what is owed to him by another, nor is he bound to yield his right to avoid perjury proceeding from the malice of another; for he does not exact perjury, but an oath. Thus also Sanchez.

¶ PROBATUR a D. Bonavent. quaest. cit. Quia sic utitur iure suo ad firmandum id, quod ab altero sibi debetur, nec tenetur iuri suo cedere ad vitandum periurium, ex malitia alterius proveniens, neque enim periurium, sed iuramentum exigit. Ita etiam Sanchez.

12 YOU WILL SAY that it is lawful also for the Judge only from necessity: therefore there is no difference, which S. Bonaventure and others posit between the Judge, or another public person, and a private one, that it is lawful for the former, not for the latter.

DICES, etiam Iudici solum ex necessitate id licet: Ergo nulla est differentia, quam ponit S. Bonavent. et alii inter Iudicem, seu aliam personam publicam, et privatam, quod illi liceat; huic non.

13 Suarez answers in that cap. 14, num. 17, and Sanchez num. 7, from D. Bonaventure in the cited question, that the diversity is in this: that for the Judge it accords with his office, so that as often as a juridical reason of using it occurs in this office of his, it is lawful; but not so for a private person, so that ordinarily it is not lawful by his own will, but only in some case of confirming a truth conducing gravely to his right, which rarely happens.

RESPONDET Suarez eo cap. 14. num. 17. et Sanchez num. 7. ex D. Bonavent. quaestione citata, diversitatem esse in hoc, quod Iudici ex officio eius convenit, ita ut quoties occurrat iuridica ratio utendi in hoc suo officio, liceat; at personae privatae non sic, ita ut ratio non modo pro sua voluntate non liceat ordinarie, sed solum in aliquo casu firmandae veritatis ad ius suum conducentis graviter, quod raro evenit.

14 AS REGARDS every private person outside of Judgment, they commonly condemn it as mortal. Thus D. Augustinus serm. 10 *de Sanctis*, and it is related *cap. ille*, 22, quaest. 1, and serm. 28 *de verbis Domini*, and it is related *cap. qui exigit*, 22, quaest. 5, whom D. Bonaventure adduces and follows, and the authors of the first assertion agree.

QUOAD personam omnem privatam extra Iudicium, communiter damnant mortali. Ita D. Augustinus serm. 10. de Sanctis*, et refertur* cap. ille*, 22. quaest. 1. et serm. 28.* de verbis Domini*, et refertur* cap. qui exigit *22. quaest. 5. quem D. Bonavent. adducit, et sequitur, et concordant authores primae assertionis.*

15 BUT S. Bonaventure objects to himself, because it is lawful to require an oath from a Pagan, who swears blasphemously by idols, and sins more gravely than if he committed perjury by the true God, as I said quaest. 7.

OBIICIT autem sibi S. Bonavent. quia licet exigere iuramentum a Pagano, qui iurat blaspheme per idola, et gravius peccat, quam, si per verum Deum peieraret, ut dixi quaest. 7.

16 The holy Doctor answers from D. Augustinus epist. 154 *ad Publicolam* that the reason is unequal, for one exacting an oath from an Idolater intends that oath for confirming a contract and establishing the truth. Now it is lawful from necessity to exact from someone something that he can do without

sin, yet he will do it by sinning: on the contrary, one exacting from a perjurer acquires no utility from it, but causes only a subversion of the truth, and thus the end of the oath is perverted, and it is not saved by any good intention; as it is saved in the case of the idolater swearing, both because, as I said, it is ordered to establishing the truth, and also because Idolaters reckon themselves obliged to keep oaths made by their gods, just as Christians swearing by the true God.

RESPONDET S. Doctor ex D. Augustino epist. 154. ad Publicolam*, disparem esse rationem, nam exigens iuramentum ab Idolatra, intendit iuramentum illud ad firmandum contractum, et veritatem stabiliendam. Licitum est autem ex necessitate exigere ab aliquo id, quod potest facere absque peccato, attamen facturus est peccando: e contra vero exigens a peieraturo, nullam hinc sibi utilitatem acquirit, sed solam causat veritatis subversionem, et ita finis iuramenti pervertitur, et nulla bona intentione salvatur; sicuti salvatur in ordine ad idolatram iurantem; tum quia, ut dixi, ordinatur ad veritatem stabiliendam; tum etiam, quia Idolatrae reputant se obligatos ad iuramenta facta per suos Deos servanda; sicut Christiani per Deum verum iurantes.*

17 This doctrine, if rightly weighed, is not sufficiently understood by Sanchez num. 4. For S. Bonaventure does not will that it always be a sin for anyone who is not a judge to receive an oath from a perjurer, but only denies that outside a public action, or judgment, a necessity of exacting can arise; for in judgment, or public action, the covenants of contracts are confirmed, and perjuries serve per accidens, so that those who have sworn to observe them are compelled publicly, and for the other ends related above. But if S. Bonaventure wished that, given an equal cause, it be lawful to exact an oath from a Pagan whom we know will swear by idols (although we do not intend to press him so that he swear by them, which is by no means lawful:) but not lawful to exact an oath from a faithful man whom we know will swear falsely by God; the opposite argument would return again: namely, how is it that what is graver is lawful? Therefore the sense of D. Bonaventure is, that it is lawful in judgment, or in public acts, to exact an oath from an idolater, even if we know he will swear by idols, because such an oath in those acts serves for establishing covenants, pacts, and the truth, as the same S. Bonaventure notes on the first before the second, in which he hands down this doctrine of diversity; but that it is not lawful secretly, privately, at pleasure (as S. Bonaventure says *in dub. litt.*) to exact from a perjurer, since no utility arises from it, nor can any right end be intended, and only the subversion of truth results. Therefore in solemn acts of contracts and covenants, and much more in judgment, one fulfilling the office of a plaintiff can do this; and such are the cases I related above from Sanchez num. 4 and 7; for if you deal only with the one swearing himself, privately, he will certainly deny to you that he swore, as often as you wish to summon him to execution. And in this way D. Thom. also seems to understand it, quaest. 8, art. 4, ad 4, where he compares both in the bare act of swearing, in which the malicious one seems to sin more by committing perjury by God than by swearing truly to an Idol; nevertheless, as to the cause, if it is present, they teach that we can use evil for the good of that cause; otherwise the argument would not sufficiently solve it, because the idolater, as I suppose, swears worshipping the idol, and is not invincibly and wholly ignorant, and therefore he does worse. The same, I judge, Sotus thinks, lib. 8 *de Iustitia*, quaest. 2, art. 4, Aragon. 2, 2, quaest. 89, art. 6, d. 2, ad 2, *Clavim Reg.* lib. 5, cap. 3, num. 20, and cap. 5, num. 1.

Haec doctrina, si recte perpendatur, non est satis intellecta a Sanchez num. 4. Non enim vult S. Bonavent. semper esse peccatum alicui, qui non sit iudex, excipere iuramentum a peieraturo, sed negat tantum extra publicam actionem, vel iudicium evenire posse necessitatem exigendi; nam in iudicio, vel publica actione firmantur foedera contractus, et inserviunt periuria per accidens, ut cogantur publice, qui iurarunt ea observare, et ad alios fines supra relatos. Quod si S. Bonavent. vellet, data pari causa, licere exigere iuramentum a Pagano, quem scimus iuraturum per idola (licet non

intendamus excutere, ut iuret per ea, quod nullo pacto licet:) At non licere exigere iuramentum a fideli, quem scimus iuraturum falsum per Deum; rursus rediret argumentum oppositum; quomodo scilicet id, quod gravius, est licet? Sensus igitur D. Bonavent. est, licere in iudicio, vel actis publicis exigere iuramentum ab idolatra, etiam si sciamus iuraturum per idola, quia tale iuramentum in illis actis inservit ad foedera, pacta, et veritatem stabiliendam, ut notat idem S. Bonavent. ad primum ante secundum, in quo hanc doctrinam diversitatis tradit; non licere autem secreto privatim ad libitum (ut ait S. Bonavent. in dub. litt.*) exigere a peieraturo, cum nulla inde utilitas consurgat, nec ullus finis rectus possit intendi, et sola resultet veritatis eversio. Itaque in actibus solemnibus contractuum, et foederum, multoque magis in iudicio fungentem officio actoris posse id facere; et tales sunt casus, quos retuli supra ex Sanchez num. 4. et 7. nam si inter te, et ipsum solum iurantem agas, is tibi certe negabit, se iurasse, quoties volueris eum convenire ad executionem. Et hoc modo intelligere videtur etiam D. Thom. quaest. 8. art. 4. ad 4. ubi comparat utrumque in solo actu iurandi, in quo malitiosus magis videtur peierans per Deum, quam iurans verum per Idolum; attamen quoad causam, si adsit, docent, posse nos malo uti ad bonum illius causae, alioqui non satis argumentum solveret, quia idolatra, ut suppono, iurat colens idolum, et non est invincibiliter omnino ignorans, et ideo peius facit. Idem arbitror sentire Sotum lib. 8.* de Iustitia *quaest. 2. art. 4. Aragon. 2. 2. quaest. 89. art. 6. d. 2. ad 2.* Clavim Reg. *lib. 5. cap. 3. num. 20. et cap. 5. num. 1.*

18 I ASSERT that it is not lawful privately to extort an oath from a perjurer.

ASSERO, non licere privatim a peieraturo extorquere iuramentum.

19 It is PROVED from D. Bonaventure, whom I alleged above and who is followed, and by Sanchez himself num. 5, from D. Augustinus saying in that Sermon 11 *de Sanctis* that this exactor of an oath kills his own soul, and the soul also of the perjurer.

PROBATUR a D. Bonavent. quem supra allegati sequuntur, atque ipse Sanchez num. 5. ex D. Augustino dicente, eo Sermone 11. de Sanctis*, hunc exactorem iuramenti necare animam suam, et animam etiam peierantis.*

20 It is PROVED secondly from D. Bonaventure, because he is drawn to such perjury without necessity, nor does any good end intervene, as I showed, but only the subversion of truth and contempt of God, which is mortal. From these I conclude that Suarez in that cap. 14, num. 17, and Sanchez num. 7, do not well assign the diversity related above, why it is lawful to exact an oath from one who will swear by idols and not from one who will commit perjury by God, namely because utility and cause are found totally and ordinarily in the case of an oath exacted from a Pagan, not in this one, in which regularly the cause is lacking. For on the contrary, each brings forward more cases in which there is a cause for exacting an oath, even from a perjurer: therefore there is no difference. It is confirmed, for infidels are for the most part barbarous, and lacking in fidelity.

PROBATUR secundo a D. Bonavent. quia ad tale periurium absque necessitate trahitur, neque ullus bonus finis intervenit, ut ostendi, sed sola veritatis eversio, et Dei contemptus, quod est mortale. Ex his deduco, non bene Suarez eo cap. 14. num. 17. et Sanchez num. 7. diversitatem supra relatam assignare, cur liceat exigere iuramentum a iuraturo per idola, et non liceat a peieraturo per Deum, nempe quia utilitas, ac causa totaliter ordinarie reperitur in casu iuramenti, a Pagano exacti; non in isto, in quo regulariter deest causa. Contra enim est, quia uterque plures casus affert, in quibus adest causa exigendi iuramentum. Etiam a peieraturo: Ergo nulla differentia est. Confirmatur, nam infideles, ut plurimum, barbari sunt, et fidelitati desunt.

21 THEREFORE in private acts, lacking witnesses, they are equal, so that it is not lawful to exact an oath from either, indeed less from the idolater. Per accidens, however, it is possible for an Idolater to be morally faithful, and therefore for it to be exacted, if I probably know that he will confirm, if it is necessary, and ratify publicly the oath: which can be promised and presumed with more difficulty of

the perjurer, who is of bad faith, and worse than a Barbarian morally faithful, or a man of human fidelity.

> *IGITUR in actibus privatis, carentibus testimonio, sunt pares, ita ut non liceat exigere iuramentum ab alterutro, imo minus ab idolatra. Per accidens vero est, Idolatram posse esse moraliter fidelem, ideo exigi, si probabiliter sciam, eum confirmaturum, si oportuerit, et ratificaturum publice iuramentum: Quod difficilius potest promitti, atque praesumi de peierante, qui est malae fidei, atque peioris, quam Barbarus moraliter fidelis, seu homo fidei humanae.*

22 NOTE, that in *cap. Clericos, de cohabitatione clericorum* it is forbidden that an oath of dismissing concubines be sought from clerics, on account of the danger of transgression: therefore when it is probably known that he will not fulfill it, it is not lawful to exact the oath.

> *NOTA, in* cap. Clericos, de cohabitatione clericorum *vetari, ne petatur a clericis iuramentum dimittendi concubinas, ob transgressionis periculum: Itaque quando probabiliter scitur, non impleturum, non licet exigere iuramentum.*

23 OR say, that the Pagan and the Perjurer are compared in the reason of the oath, such that the perjurer is exacted without that whereby his oath could serve, as the oath of the Pagan would serve.

> *VEL dic, comparari Paganum, et Peierantem in ratione iuramenti, sic ut peierans exigatur absque eo, quod possit eius iuramentum inservire, sicuti inserviret iuramentum Pagani.*

24 For this comparison is made not ex professo; for thus each ought to be considered in the same condition, whether, and circumstance; but only in this, that, since it is defined that an oath cannot be exacted from a perjurer.

> *Haec enim comparatio fit non ex professo; sic enim deberet uterque considerari in eadem conditione; ne, ac circumstantia; sed solum in hoc, quod, cum definiatur, non posse exigi iuramentum a peieraturo.*

25 *It is objected* that if it can be exacted from an Idolater, who sins more gravely, why not also from that one?

> Obiicitur *si exigi potest ab Idolatra, qui gravius peccat, cur non etiam ab illo?*

26 *It is answered* that this one, of whom we speak, insofar as he is in a private act, not however in genus, cannot be exacted from, because it serves for nothing: just as an oath by the gods serves in the way it is exacted from Pagans for confirming covenants; for thus it serves, because it can be proven and sustained for preserving our right.

> Respondetur *autem, huic, de quo agitur, prout est in privato, non autem in genere, non posse, quia ad nil infervit: Sicut infervit iuramentum per Deos eo modo, quo a Paganis exigitur ad firmanda foedera; sic enim infervit, quia probari potest, et sustineri ad ius nostrum conservandum.*

Question XII: Whether, and when, it is lawful to exact an oath from an idolater

1 It must be ASSERTED first, that it is lawful to exact such an oath from an ethnic, whom you know will swear by Idols, if necessity presses. Thus S. Bonavent., after D. Augustinus *epist. 154. ad Publicolam.*

> ***An et quando liceat Iuramentum ab Idolatra exigere.***
>
> *Asserendum est primo, licitum esse tale exigere iuramentum ab ethnico, quem scis iuraturum per Idola, si necessitas ingruat. Ita S. Bonavent. post D. Augustinum* epist. 154. ad Publicolam.

2 *It is proved* first by D. Bonavent. from scripture *Genes. 31*: Jacob exacted an oath from Laban, who was an Idolater, and who for that reason complained that his idols had been taken from him by Jacob.

> Probatur *primo a D. Bonavent. ex scriptura* Genes. 31. *Iacob exegit iuramentum a Laban, qui erat Idolatra, qui propterea conquestus est, erepta sibi a Iacob esse idola.*

3 *Secondly* it is proved by D. Bonavent. *primo Machab. 8*: Judas exacts from the Romans an oath of alliance, who worshipped idols. Yet they are not reproved.

> Secundo *probatur a D. Bonavent.* primo Machab. 8. *Iudas exigit a Romanis iuramentum foederis, qui idola colebant. Hi autem non reprehenduntur.*

4 *Thirdly* from D. Augustinus *in the place adduced above.*

> Tertio *ex D. Augustino* loco supra adducto.

5 *Fourthly*, because it is lawful to enter into contracts, covenants, and pacts with infidels; and these are confirmed by oaths.

> Quarto *quia licet cum infidelibus contractus, foedera, et pacta inire; haec autem iuramentis firmantur.*

6 *Fifthly*, lastly, it is proved by D. Bonavent., because this is not to cooperate in that one's sin, but to use it for one's own utility from a just cause; for the oath is sought which he could licitly render by the true God; wherefore there is offered to him a licit matter, which he abuses of his own will, whence it is not to be imputed to the one asking. This reasoning D. Thom. *loc. cit.*, Sanchez *lib. 3. cap. 8. num. 11. et alii* use. S. Bonavent. brings forward an example: a poor man can seek alms from a rich man whom he knows will give with murmuring, even grave; because the poor man seeks in necessity what is good; but the rich man abuses it of his own will by murmuring: but that he gives with an evil will does not stand in the way of the other's rightly receiving it.

> Quinto *tandem probatur a D. Bonavent. quia hoc non est cooperari peccato illius, sed iusta ex causa illo uti in propriam utilitatem; petitur enim iuramentum, quod licite praestare posset per verum Deum; quare illi offertur materia licita, qua gratis ipse abutitur, unde petenti non est imputandum. Hac ratione utuntur D. Thom.* loc. cit. *Sanchez* lib. 3. cap. 8. num. 11. et alii. *Affert S. Bonavent. exemplum: Potest pauper petere eleemosynam a divite, quem scit daturum cum murmure etiam gravi; quia pauper petit in necessitate, quod bonum est; ille vero dives gratis abutitur obmurmurando: Quod autem ille mala voluntate det, non obstat, quin recte possit iste recipere.*

7 The DIFFICULTY, however, is what necessity is required, lest a fault be ascribed to the one exacting the oath.

> *Difficultas autem est, quae necessitas requiratur, ne exigenti iuramentum culpa adscribatur.*

8 *First*, indeed, some will that the public good be required. Thus Alens. *3. part. quaest. 31. m. 2. art. 6.*, Maior in *3. d. 39. quaest. 3.* D. Bonavent. is also cited by Sanchez *num. 21. in corpore*, where although he said first that it is lawful for the good, especially the common one, he indicates there that it is lawful also for a private good; but a little below he concludes: *Whence although it be illicit to swear by an idol, because that form is prohibited, nevertheless where necessity, or common utility requires it, it is lawful to receive the formal oath,* where he does not say that it is lawful when necessity, or common utility requires it, as Sanchez reports, but when necessity, that is, particular, or common utility requires it; because for a private good to make a sufficient cause it is required that there be necessity; but the common good, even if it brings only utility, suffices. Now that the Seraphic Doctor thinks this way is proved. For in

the response to the first he says in express words: *He who receives an oath by an idol does not thereby consent to the veneration of the Idol, but to the confirmation of the truth, that the word may be firm and the pact remain solid: and as to this, there is no sin there, because he receives what is his own: what is evil there, he detests: just as a poor man receives alms given with murmuring, and does not sin, because the giving of alms so pleases him that the attached murmuring displeases him.* He indicates the same in response to the other arguments, in which he wills a private good to be sufficient. And thus hold Gabriel *3. d. 39. art. 3. dub. 1.*, Sayrus *lib. 5. cap. 3. num. 19.*, Suarez *tomo 3. in tertiam partem, quaest. 65. art. 4. disp. 18. sect. 1. corol. 2. et Tom. 2. de Religione, tract. de Iuramento, lib. 3. cap. 13. num. 8.*, Less. *lib. 2. de Iustitia, cap. 42. dub. 10.*, Graff. *2. part. decis. lib. 2. cap. 4. num. 13.*, Driedo *lib. 1. de libertate Christiana, cap. 9.*; Sanchez *num. 21.* citing these, because they say it is lawful for confirming a peace, or covenants, which can pertain to the common good and to the private; the same he ought to have asserted of S. Bonavent., who has the same *on foundations 4. and 5.* Therefore S. Bonavent. requires some necessity, which he asserts is not extreme, nor proper necessity, but moral, ordered to mercantile dealings, truces, and other grave contracts to be entered into, which cannot be confirmed without these oaths, and in this the necessity stands.

> Primo *quidem aliqui volunt, requiri bonum publicum. Ita Alens.* 3. part. quaest. 31. m. 2. art. 6. *Maior in* 3. d. 39. quaest. 3. *Citatur a Sanchez* num. 21. *etiam D. Bonavent.* in corpore*, ubi licet dixerit, prius licere ob bonum, maxime commune, ubi indicat, licere etiam pro bono privato; At paulo infra concludit:* Unde quamvis illicitum sit iurare per idolum, quia forma illa est prohibita, tamen ubi necessitas, vel communis utilitas hoc requirit, licitum est, recipere iuramentum formale, ubi non ait, id licere quando necessitas, vel utilitas communis id requirit, *ut refert Sanchez, sed quando necessitas, idest, particularis, vel communis utilitas exigit, quia ut bonum privatum faciat sufficientem causam, requiritur, ut sit necessitas; at vero bonum commune, etiamsi solam afferat utilitatem, sufficit. Hoc autem ita Seraphicum sentire probatur. In responsione enim ad primum expressis verbis, ait:* Qui recipit iuramentum per idolum, non ob id illi consentit venerationi Idoli, sed veritatis confirmationi, ut firmum sit verbum, et solidum maneat pactum: Et quantum ad hoc, non est ibi peccatum, quia recipit quod suum est: Quod vero ibi malum est, detestatur: Sicut pauper recipit eleemosynam datam cum murmure, neque peccat, quia sic placet sibi eleemosynae datio, ut displiceat adnexa murmuratio. *Idem indicat ad alia argumenta, quibus vult sufficiens esse bonum privatum. Et ita tenent Gabriel* 3. d. 39. art. 3. dub. 1. *Sayrus* lib. 5. cap. 3. num. 19. *Suarez* tomo 3. in tertiam partem, quaest. 65. art. 4. disp. 18. sect. 1. corol. 2. et Tom. 2. de Religione, tract. de Iuramento, lib. 3. cap. 13. num. 8. *Less.* lib. 2. de Iustitia, cap. 42. dub. 10. *Graff.* 2. part. decis. lib. 2. cap. 4. num. 13. *Driedo* lib. 1. de libertate Christiana, cap. 9. *Sanchez* num. 21. *hos allegans, quia dicunt, licere ob firmandam pacem, aut foedera, quae ad bonum commune, et ad privatum spectare potest, quod idem debuit de S. Bonavent. asserere, qui idem habet* fundamento 4. et 5. *Requirit ergo S. Bonavent. necessitatem aliquam, quam non esse extremam, nec propriam necessitatem asserit, sed moralem, ordinatam ad mercaturas, treugas, et alios graves contractus ineundos, qui absque his iuramentis nequeant firmari, et in hoc stat necessitas.*

9 The solution of this question, however, is gathered from another, which S. Bonavent. treats *in 3. d. 37. dub. lit. num. 15.*, D. Thom. *2. 2. quaest. 78. art. 4.*, where the Thomists and others, to be cited presently, ask: Whether one seeking a loan from one whom he knows lends usuriously, sins.

> *Huius autem quaestionis solutio ex alia colligitur, quam tractat S. Bonavent.* in 3. d. 37. dub. lit. num. 15. *D. Thom.* 2. 2. quaest. 78. art. 4. *ubi Thomistae, et alii mox citandi quaerunt: An petens mutuum ab eo, quem scit usurarie mutuaturum, peccet.*

10 The holy Doctors *answer* that one thus exacting in necessity does not sin; but they say necessity is not extreme, but the convenience of the state of some right, or the like, to which that money is

necessary, nor can it easily be had elsewhere: because the precept of charity of avoiding the occasion of the neighbor's ruin does not bind so tightly that anyone is bound for that reason to neglect his own state. Thus follow Durandus *3. d. 37. quaest. 4.*; there Paludanus *quaest. 2. art. 1.*; D. Antonin. *2. part. tit. 1. cap. 9. §. ultimo*; Caietanus *2. 2. quaest. 78. art. 4.*; Sylvest. *V. usura 7. quaest. 1.*; Sotus *lib. 6. de Iustitia, quaest. 1. art. 5. dub. 1.*; Molina *de Iustitia, Tom. 2. disp. 335.*; Valentia *2. 2. disp. 5. quaest. 21. puncto 4.*; Bannes *2. 2. quaest. 78. art. 4. dub. 3.*; Aragon. *dub. 1. concl. 1. et ibi* Salon. *coutron. 3.*; Pett. Ledelma *2. Tomo, tract. 8. cap. 33. post concl. 29.* Hence it follows that it happens very rarely that such a one sins, because the decency of his state is preserved.

> Respondent *autem SS. DD. in necessitate sic exigentem non peccare; necessitatem autem dicunt esse non extremam, sed convenientiam status iuris alicuius, aut simile, ad quod illa pecunia est necessaria, nec aliunde facile haberi potest: Quia praeceptum charitatis vitandae occasionis ruinae illius proximi non adeo stringit, ut teneatur quispiam ob id statum suum negligere. Ita sequuntur Durandus* 3. d. 37. quaest. 4. *Ibi Paludanus* quaest. 2. art. 1. *D. Antonin.* 2. part. tit. 1. cap. 9. §. ultimo *Caietanus* 2. 2. quaest. 78. art. 4. *Sylvest.* V. usura 7. quaest. 1. *Sotus* lib. 6. de Iustitia, quaest. 1. art. 5. dub. 1. *Molina* de Iustitia, Tom. 2. disp. 335. *Valentia* 2. 2. disp. 5. quaest. 21. puncto 4. *Bannes* 2. 2. quaest. 78. art. 4. dub. 3. *Aragon.* dub. 1. concl. 1. et ibi *Salon.* coutron. 3. *Pett. Ledelma* 2. Tomo, tract. 8. cap. 33. post concl. 29. *Hinc sequitur, raro admodum evenire, ut talis peccet, quia salvatur status decentia.*

11 The same, however, must be said of the payment of usury as of seeking a loan, as Valentia notes *disp. 5. quaest. 21. puncto 4. §. Iam de secundo.*

> *Idem autem dicendum de solutione usurae, quod de petitione mutui, ut notat Valentia* disp. 5. quaest. 21. puncto 4. §. Iam de secundo.

12 I assert first: To seek an oath without cause from an idolater, about to swear by Idols, is a mortal sin.

> *Assero primo: Petere absque causa iuramentum ab idolatra, iuraturo per Idola, est peccatum mortale.*

13 This difficulty, Sanchez says *num. 23.*, is not unraveled by the Doctors, but in the similar case of usury: but the holy Doctor unraveled it ex professo and proved it gravely.

> *Hanc difficultatem ait Sanchez* num. 23. *a Doctoribus non enodari, sed in simili de usura: At eam ex professo enodavit S. Doctor, et graviter probavit.*

14 *It is proved* first by D. Bonavent. from that *Rom. 1*: *Not only those who do such things are worthy of death, but also those who consent to those doing them* (namely those seeking, or swearing by idols, of whom he was just now speaking); but he who exacts an oath from an idolater with no necessity and no cause can will nothing else than that the deadly oath be emitted by him: Therefore.

> Probatur *primo a D. Bonavent. ex illo* Rom. 1. Non solum qui talia agunt, digni sunt morte, sed etiam qui consentiunt facientibus, *(nempe peterantibus, vel iurantibus per idola, de quibus mox loquebatur;) At qui nulla necessitate, nullave causa exigit iuramentum ab idolatra, nil aliud potest velle, quam illud lethale iusiurandum ab eo emitti: Ergo.*

15 *Secondly*, because from D. Augustinus, *Serm. 11. de Sanctis*: *He kills his own soul, and the soul of the one swearing.*

> Secundo*, quia ex D. Augustino,* Serm. 11. de Sanctis: *Sanctis:* Is necat animam suam, et iurantis.

16 THIRDLY, because the general precept of charity toward one's neighbor obliges everyone under mortal sin to avoid the other's lethal sin, when he can conveniently, and without his own, or at least common detriment; the reason is, because the spiritual good of the soul ought to be preferred to the temporal, as far as lies in us.

> *TERTIO, quia generale charitatis proximi praeceptum obligat quemlibet sub mortali ad vitandum lethale alterius peccatum, quando commode, et absque suo, vel saltem communi detrimento potest; ratio est, quia bonum spirituale animae debet temporali praeferri, quantum in nobis stat.*

17 Sanchez says *num. 23.* that this argument is pressed strongly, where he adds that it is probable that even a venial fault alone is committed, unless some circumstance of a mortal end assists, as if one were to seek a loan from a usurer to be squandered with harlots, or exact an oath from a Pagan for plotting ambushes.

> *Hoc argumentum fortiter urgere, ait Sanchez* num. 23. *ubi addit, probabile esse, etiam culpam solam venialem committi, nisi aliqua finis mortalis circumstantia adiuvatur, ut si mutuum ab usurario peteret dilapidandum cum meretricibus, vel iuramentum a Pagano exigeret ad insidias moliendas.*

18 But many, cited by Sanchez *num. 25.*, assert it to be venial of itself.

> *Esse vero ex se veniale asserunt multi apud Sanchez* num. 25.

19 NOTE, indeed, that the Seraphic Doctor answers the argument, insofar as they were striving to prove that it is never lawful, on account of temporal necessity, to exact an oath from a Pagan, who sins mortally by swearing by idols; because the spiritual good of salvation is to be preferred to every temporal good; I say, to answer that at least for the common good the salvation of particulars can be omitted. He does not will to say that it is precisely necessary to press directly the necessity of the common good, but that it suffices for that cause to be reduced indirectly to the common good. Now in this way even contracts, pacts, and particular peaces are reduced to the common good, for the observance of which oaths are necessary, often with ethnics of this kind; for if oaths of this kind were taken away, the contracts of necessary mercantile dealings, of which the Pagans possess themselves, would perish; there would perish the security necessary for promises, and for a particular peace, or covenant, and thus to the great detriment of Christians they could not enter into contracts with them.

> *NOTA vero, Seraphicum respondere argumento, quatenus probare nitebantur, nunquam licere ob temporalem necessitatem exigere iuramentum a Pagano, qui mortaliter peccat iurando per idola; eo quod bonum spirituale salutis praeponendum est omni bono temporali; respondere inquam, saltem ob bonum commune posse omitti salutem particulatis. Non vult dicere, praecise ad hoc necessarium esse directe instare necessitatem comunis boni, sed sufficere, indirecte ad bonum commune eam causam reduci. Hoc autem modo etiam contractus, pacta, paces singulares ad bonum commune reducuntur, ad quae servanda necessaria sunt iuramenta, saepe cum ethnicis huiusmodi; si enim tollerentur iuramenta huiusmodi, perirent contractus necessariarum mercaturarum, quibus Pagani potiuntur; periret securitas necessaria promissorum, pacisque singularis, vel foederis, et ita magno Christianorum detrimento non possent cum eis contractus inire.*

20 The holy Doctor adds ANOTHER response, that the salvation of the Pagan swearing is not postponed to temporal convenience, because that Pagan is otherwise an internal worshipper of idols; therefore his salvation is not gravely harmed against charity. But if he were not prepared to swear by

idols, because he wished to receive the holy Christian Religion, then such an oath would by no means be to be exacted from him. This is S. Bonavent. *ad tertium.*

> *ALIAM addit S. Doctor responsionem, non postponi salutem Pagani iurantis commodo temporali, quia Paganus ille est alioqui idolorum cultor internus; ideo non laeditur graviter eius salus contra charitatem. Quod si ille non esset paratus iurare per idola, quia vellet sanctam Religionem Christianam suscipere, tunc nullatenus esset tale iuramentum ab eo exigendum. Haec S. Bonavent.* ad tertium.

21 By these he clearly demonstrates that it is not lawful to exact such an oath for a temporal convenience from one not exposed, that is, who would not otherwise swear by the gods, against Sanchez *num. 7. et 19.* and others cited by him. This, however, I would understand thus: that it is not lawful while he is on the point of receiving Baptism and the faith; but one must wait until he is baptized, and afterwards the oath be sought, for then he will swear by the true God; but otherwise, if he were hardened in infidelity, even if he were not prepared to swear by idols, the oath could be exacted as such, and thus he could swear by the true God (of whom it is necessary that he have some knowledge), and if we knew that he would swear by the gods, because that petition is not of itself inductive to sin, but exacts what is of one's own right; it is to be ascribed to the malice alone of the one swearing, if he should swear by the gods, as I said above. And thus the response accords with the whole doctrine of the Seraphic Doctor adduced above.

> *HIS vero clare demonstrat, non licere tale iuramentum ob temporale commodum exigere a non exposito, quippe alias non iuraturo per Deos, contra Sanchez* num. 7. et 19. *et alios apud eum. Hoc tamen sic intelligerem, non licere, dum est in procinctu sumendi Baptismum, ac fidem; sed expectandum ut baptizetur, et postea petatur iuramentum, tunc enim iurabit per Deum verum; alioqui vero, si esset in infidelitate durus, etiamsi non esset paratus iurare per idola, posset exigi iuramentum ut sic, et ita posset iurare per verum Deum (de quo necesse est, ut habeat aliquam cognitionem) et si sciremus, eum per Deos iuraturum, quia illa petitio non est per se inductiva ad peccatum, sed exigit quod sui iuris est, malitiae soli iurantis est adscribendum, si iuret per Deos, ut supra dixi. Et sic responsio concordat toti doctrinae Seraphici supra allatae.*

22 At least that a greater cause is necessary in one not prepared to swear than in one prepared, all confess.

> *SALTEM vero necessariam esse maiorem causam in non parato iurare, quam in parato, omnes fatentur.*

Question XIII: On the obligation of a promissory oath in itself

1 I SUPPOSE from *quaest. 10.* when such an oath is promised.

> ***De obligatione Iuramenti promissorii secundum se.***
>
> *SUPPONO e* quaest. 10. *quandonam promittatur tale iuramentum.*

2 An OATH is, as it were, a private law, which man imposes on himself by promise, as Sanchez notes *lib. 3. cap. 9. num. 1.*, and in this it is likened to a vow. Yet so, that the assertory oath is a greater and stricter law, because the obligation of the truth to be sworn pertains to the negative precept: *Thou shalt not take the name of God in vain*, obliging to not inflicting the gravest injury, by denying Him to be the first truth; but the law of a vow is affirmative: *Pay thy vows to the Lord*, and it obliges to serving the promised God; to violate this is less. Thus Suarez *Tom. 2. de relig. Tract. de iuramento, lib. 2. cap. 3.*, Less. *de Iustitia, lib. 2. cap. 42. dub. 11. num. 53.*

> *IURAMENTUM est, veluti privata lex, quam homo sibi promissione imponit, ut notat Sanchez* lib. 3. cap. 9. num. 1. *et in hoc assimilatur voto. Ita tamen, ut iuramenti assertorii sit maior, et strictior lex, quia obligatio veritatis iurandae, spectat ad praeceptum negativum:* Non assumes nomen Dei in vanum*, obligans ad non irrogandam gravissimam iniuriam, negando illi, esse primam veritatem; at lex voti est affirmativa:* Redde Domino vota tua*, et obligat ad serviendum Deo promissum; hoc autem violare minus est. Ita Suarez* Tom. 2. de relig. Tract. de iuramento, lib. 2. cap. 3. *Less.* de Iustitia, lib. 2. cap. 42. dub. 11. num. 53.

[3] Again, if it contain a promise made to God; it is higher, because it contains the obligation of a vow and of an oath. But if the promissory oath be considered as such, solitary, without Divine attestation, and be compared with a vow; the obligation of the vow is greater, both because the greater force of obliging is to be taken from the one to whom the promise is made: now in a vow we promise to God, from the intrinsic nature of the vow; but in a promissory oath to men, which is less. But if it include also God adduced in witness, this is greater, as I said, and I shall say again *quaest. 16.*

> *RURSUS si contineat promissionem Deo factam; altior est, quia continet obligationem voti, et iuramenti. Si vero spectetur iuramentum promissorium, ut sic solitarium absque Divina attestatione, et cum voto comparetur; maior est voti obligatio, tum quia maior obligandi vis sumenda est ex eo, cui promittitur: Iam vero Voto promittimus Deo ex intrinseco voti; at Iuramento promissorio hominibus, quod minus est. At vero si includat etiam adductum Deum in testimonium, hoc maius est, ut dixi, et rursus dicam* quaest. 16.

[4] These one may gather in part from D. Bonavent. *in 4. d. 38. quaest. 1. in fine*, D. Thom. *2. 2. quaest. 89. art. 8.*, Suarez *in the cited cap. 3 from num. 7.*, Sanchez *num. 4. cap. 9.*

> *HAEC ex parte colligere licet ex D. Bonavent.* in 4. d. 38. quaest. 1. in fine*, D. Thom.* 2. 2. quaest. 89. art. 8. *Suarez* citato cap. 3. a num. 7. *Sanchez* num. 4. cap. 9.

[5] The QUESTION, however, is what matter of a vow is necessary, that the oath oblige. This question the holy Doctor treats, asking: whether an uncautious promissory oath obliges.

> *QUAESTIO autem est, quae materia voti sit necessaria, ut iuramentum obliget. Hanc quaestionem agit S. Doctor, quaerens: an iuramentum promissorium incautum obliget.*

[6] It is CERTAIN, however, that a promissory oath ought to include something in the service of God, or the utility of men. And indeed, while something is promised to God, it takes on the reason of a vow, and its matter ought to be the matter of a vow, which was treated in *disp. de Voto quaest. 6. et seqq.* Say the same of matter against the counsels, as of not entering Religion.

> *CERTUM est autem, iuramentum promissorium debere includere aliquid in obsequium Dei, vel hominum utilitatem. Et quidem, dum spondetur aliquid Deo, induit rationem voti, et materia illius debet esse materia voti, de qua actum est* disp. de Voto quaest. 6. et seqq. *Similiter dic de materia contra consilia, ut non intrandi Religionem.*

[7] It is PROVED by D. Bonav.: that oath has not the justice owed which directly impugns perfection; such is that against the counsels. Thus D. Thom. *quaest. 89. art. 7. ad septimum*, and the others commonly, cited by Sanchez *lib. 3. cap. 9. num. 11.*, who adds that it is a sin to observe it, not indeed if it be observed materially, that is, not by force of the oath, for as S. Bonavent. says in corpore, and S. Thom. *ad 1.*, he sins here by swearing, yet not by fulfilling. In the second mode, to observe by force of the oath, by not entering Religion, is a sin, because it operates by the force of an illicit thing. Therefore an oath about evil matter is invalid, although it must be declared such, as is had in *cap. finali, verb. Confirmavit 22. quaest. 4.* and *cap. Venerabilem, de elect.*, as Suarez expounds *lib. 2. cap. 25. num.*

8., Sanchez *in the cited place, num. 13.* It is proved by D. Bonavent. *in the arguments in the second place*, both from D. Isidore; and because an oath is not a bond of iniquity.

> *PROBATUR a D. Bonav. Illud iuramentum non habet iustitiam debitam, quod impugnat directe perfectionem; tale est illud contra consilia. Ita D. Thom.* quaest. 89. art. 7. ad septimum*, et alii communiter apud Sanchez* lib. 3. cap. 9. num. 11. *qui addit, esse peccatum illud observare, non quidem, si materialiter observetur, id est, non ex vi iuramenti, nam ut ait S. Bonavent. in corpore, et S. Thom.* ad 1. *peccat hic iurando, non tamen implendo. Secundo modo servare ex vi iuramenti non intrando Religionem est peccatum, quia operatur ex vi rei illicitae. Iuramentum igitur de materia mala est invalidum, licet declarandum sit tale, ut habetur* cap. finali, verb. Confirmavit 22. quaest. 4. *et* cap. Venerabilem, de elect. *ut exponit Suarez* lib. 2. cap. 25. num. 8. *Sanchez* loco citato, num. 13. *Probatur a D. Bonavent.* argumentis secundo loco*, tum ex D. Isidoro; tum quia iuramentum non est vinculum iniquitatis.*

8 From what has been said it will be permitted to elicit, that oaths of parents, heirs, and the like, by which they swear to punish sons, servants, etc., commonly do not oblige, which ordinarily come from anger, not from any virtue. Say the same of the oaths of boys to accuse other boys before the master, etc.

> *Ex dictis elicere licebit, iuramenta parentum, herorum, et similium, quibus iurant punire filios, servos, etc. communiter non obligare, quae ordinarie ex ira veniunt, non ex aliqua virtute. Idem dic de iuramentis puerorum accusandi alios pueros coram magistro, etc.*

9 But the MATTER of the oath, which is for the utility of men, ought to be free of every fault, that it may oblige. Therefore if any fault, even venial, bubble up, it does not oblige, as is had in cap. *Quamvis pactum, de pactis in 6.* and *cap. cum contingat de iureiurando*, where the general rule is handed down: *an oath given to man, which can be kept without loss of eternal salvation, is necessarily to be kept.* By the name of loss, however, is understood even a venial sin, since it disposes to losing eternal life. Therefore this general rule the Abbas hands down *in that cap. Cum contingat, num. 7.*, Sanchez *lib. 1. de matrimonio, d. 12. et lib. 3. sum. cap. 9.*, Tañer *num. 25. cum Covarru. de pact. 3. part.*, Molin. *Tom. 1. d. 149. et tom. 2. d. 271.*, Lessius *lib. 2. cap. 17. d. 7.*, with D. Bonavent. *in resol. et ad argumenta.*

> *MATERIA vero iuramenti, quod sit in hominum utilitatem, debet omni culpa carere, ut obliget. Itaque si aliqua culpa etiam veniali scateat, non obligat, ut habetur cap.* Quamvis pactum, de pactis in 6. *et* cap. cum contingat de iureiurando*, ubi regula generalis traditur;* iuramentum homini praestitum, quod absque salutis aeternae dispendio servari potest, esse necessario servandum. *Nomine autem dispendii intelligitur etiam veniale peccatum, quippe disponit ad perdendam vitam aeternam. Ideo hanc regulam generalem tradunt Abbas* eo cap. Cum contingat, num. 7. *Sanchez* lib. 1. de matrimonio, d. 12. et lib. 3. sum. cap. 9. *Tañer* num. 25. cum Covarru. de pact. 3. part. *Molin.* Tom. 1. d. 149. et tom. 2. d. 271. *Lessius* lib. 2. cap. 17. d. 7. *cum D. Bonavent.* in resol. et ad argumenta.

10 BUT although in promises made to God it is required that the thing be of the better sort; nevertheless in matter sworn to a man it suffices if it be indifferent, as Suarez teaches *lib. 3. cap. 16. et 22.*, Sayrus *lib. 5. cap. 5. num. 5.*, Lessius *lib. 2. de Iustitia, cap. 42. d. 4. num. 20.* The reason of the diversity is, because God wills better things; but man also exacts indifferent things, provided they be useful to himself, which, although in itself the matter be indifferent, nevertheless as rendered by oath, it is reduced to virtue, as I said *quaest. 4.*, and Sanchez notes *lib. 3. cap. 11. num. 2.*, with Lessius *lib. 2. de Iustitia, cap. 42. dub. 6. num. 26.*, Suarez *Tomo 2. de relig. Tract. de iuram. lib. 2. cap. 16. num. 4.*; and indeed Vasquez says *prima. 2. d. 174. num. 35.* that it is necessary that it be an act of some virtue,

which is the sense of all. Yet something can be in the promise illicit matter; but licit in the rendering, as is clear of the hire of a harlot, as Valentia notes *d. 5. quaest. 6. puncto 5.*, Sanchez *loc. cit. num. 27.*

> *AT licet in promissis Deo requiratur, ut res sit de meliori; tamen in materia homini iurata sufficit, si sit indifferens, ut docet Suarez* lib. 3. cap. 16. et 22. *Sayrus* lib. 5. cap. 5. num. 5. *Lessius* lib. 2. de Iustitia, cap. 42. d. 4. num. 20. *Ratio diversitatis est, quia Deus vult meliora; at homo etiam indifferentia, dummodo sibi sint utilia, exigit, quae licet in se indifferens materia sit, tamen ut praestita per iuramentum, ad virtutem reducitur, ut dixi* quaest. 4. *et notat Sanchez* lib. 3. cap. 11. num. 2. *cum Lessio* lib. 2. de Iustitia, cap. 42. dub. 6. num. 26. *Suarez* Tomo 2. de relig. Tract. de iuram. lib. 2. cap. 16. num. 4. *et quidem necessarium esse, ut sit alicuius virtutis actus, ait Vasquez* prima. 2. d. 174. num. 35. *esse omnium sensum. Potest tamen aliquid in promissione esse materia illicita; at licita in exhibitione, ut patet de mercede meretricis, ut notat Valentia* d. 5. quaest. 6. puncto 5. *Sanchez* loc. cit. num. 27.

11 From these you have the rule: *Non est obligatorium; de regulis iuris in 6.*, where it is said: *An oath against good morals does not oblige.* Where Sanchez glosses: if it be against good morals, by the natural laws, the divine, or canonical precepts; because these laws tend to composing souls; but he does not speak of morals ordered by the civil law, because the civil law is ordered to political composition; nor does it always contain matter ordained under sin.

> *EX his habes regulam:* Non est obligatorium; de regulis iuris in 6. *ubi dicitur:* Iuramentum contra bonos mores non obligare. *Ubi Sanchez glossat: Si sit contra bonos mores naturalibus legibus divinis, canonicisve praeceptos; quia hae leges ad animos componendos tendunt; non vero loquitur de moribus lege civili ordinatis, quia lex civilis ad politicam compositionem ordinatur; neque semper materiam sub peccato ordinatam continet.*

12 I ASSERT therefore first, that an oath, once promissory, emitted, ought to oblige.

> *ASSERO igitur primo, iuramentum promissorium emissum debere obligare.*

13 It is PROVED by D. Bonavent. *in 3. d. 39. art. 2. quaest. 1. in corpore, et in fundamentis*, from Matth. 5: *Thou shalt pay thy oaths to the Lord.* He confirms it from D. Augustinus *serm. 28. de verbis Apostoli.*

> *PROBATUR a D. Bonavent.* in 3. d. 39. art. 2. quaest. 1. in corpore, et in fundamentis *ex Matth. 5.* Reddes Domino iuramenta tua. *Id confirmat ex D. Augustino* serm. 28. de verbis Apostoli.

14 It is PROVED secondly by D. Bonavent. *there, and in sermone 3. Decal.*: because the transgression of an oath is forbidden by the second precept: *Thou shalt not take the name of God in vain*, as all the Fathers assert, and the Theologians. And it is a great injury to God, by which, marked with falsity, or wickedness, or ignorance, as far as lies in the one swearing, it is sealed, as I said *quaest. 4. and the three following*, where I set out the three necessary companions of the oath.

> *PROBATUR secundo a D. Bonavent.* ibi et sermone 3. Decal. *Quia transgressio iuramenti vetatur secundo praecepto:* Non assumes nomen Dei in vanum*, ut omnes PP. asserunt, et Theologi. Et est magna Deo iniuria, qua vel falsitatis, vel improbitatis, aut ignorantiae nota, quantum ex iurante est, sigillatur, ut dixi* quaest. 4. et tribus sequentibus*, ubi tres comites iuramenti necessarios apposui.*

15 I ASSERT secondly. An incautious oath, which verges into evil, or loss of salvation, is not valid.

> *ASSERO secundo. Iuramentum incautum, quod vergit in malum, vel salutis dispendium, non est validum.*

16 It is CLEAR from what has been said, and it will be expounded *quaest. 18.*

> *PATET ex dictis, et exponetur* quaest. 18.

17 OTHER conditions, however, are added by positive law. The first is, that the one swearing be fasting, as the holy Doctor notes *d. 39. in litt. num. 8.*, and it is had in cap. Honestum 21. quaest. 5. and cap. 1. de testibus, et attest.; and this condition is one of counsel at least, as is had *in that cap. Honestum*; the Council of Orleans decreed that it be so done, except in treaties of peace, which, since they are prolonged at length, and are not to be interrupted, can be validly confirmed even by the non-fasting, as S. Bonavent. relates *loc. cit.* As to the time, it is required that it not be made from Advent to Epiphany, and in the Litanies of May and of the Rogations, and in the Ember Days; and from Septuagesima to the Octave of Easter, as is had in *cap. Decrevit, 22. quaest. 5.* But this condition has fallen into desuetude, as the Gloss teaches there, with Valentia *d. 6. quaest. 7. puncto 3.*, Sanchez *lib. 3. Decal. cap. 5. num. 4.*

> *ALIQUAE vero aliae conditiones iure positivo adduntur. Prima est, ut iurans sit ieiunus, ut notat S. Doctor* d. 39. in litt. num. 8. et habetur cap. Honestum 21. quaest. 5. et cap. 1. de testibus, et attest. *et haec conditio est consilii saltem, ut habetur* eo cap. Honestum; *Concil. Aurelian. decrevit ita fieri, excepto in tractatibus pacis, qui cum in longum protrahantur, et non sint interrumpendi, etiam a non ieiunis firmari valent, ut refert S. Bonavent.* loc. cit. *Ex parte temporis requiritur, ne fiat ab Adventu ad Epiphaniam, et in Litaniis Maii, et Rogationum, et Quatuor Temporibus; et a Septuagesima ad Octavam Paschae, ut habetur* cap. Decrevit, 22. quaest. 5. *Sed haec conditio in desuetudinem abiit, ut docet Glossa ibi eum Valentia* d. 6. quaest. 7. puncto 3. *Sanchez* lib. 3. Decal. cap. 5. num. 4.

18 FURTHERMORE, an oath is forbidden to certain persons. First, Perjurers are excluded from a judicial oath *cap. Parvuli 22. quaest. 1.*, because from the moment they have once committed perjury, they are presumed always about to commit perjury; for they are infamous, as D. Bonavent. notes *d. 39. quaest. 3. in corpore*, and D. Thom. *quaest. 98. art. 3. ad 2.* Yet that they be excluded only after they have been judicially convicted and condemned of this crime, Archid. teaches, whom Sylvest. relates and follows *V. Periur. quaest. 5.*, Sotus *lib. 8. de Iust. quaest. 1. art. 10.*, Aragon. *2. 2. quaest. 89. art. 10.*, Sanchez *loc. cit. num. 5.*

> *PRAETEREA quibusdam personis interdicitur iusiurandum. In primis Periuri excluduntur a iuramento iudiciali* cap. Parvuli 22. quaest. 1. *quia ex quo semel peierarunt, praesumuntur semper peieraturi; sunt enim infames, ut notat D. Bonavent.* d. 39. quaest. 3. in corpore, *et D. Thom.* quaest. 98. art. 3. ad 2. *Excludi tamen eos solum, postquam huius criminis iudicialiter convicti, et damnati fuerint, docet Archid. quem refert, et sequitur Sylvest.* V. Periur. quaest. 5. *Sotus* lib. 8. de Iust. quaest. 1. art. 10. *Aragon.* 2. 2. quaest. 89. art. 10. *Sanchez* loc. cit. num. 5.

19 FURTHERMORE, boys before puberty are forbidden to swear in judgment *cap. Parvuli, et cap. Pueri, 22. quaest. 1.*

> *PRAETEREA interdicitur pueris ante pubertatem iurare in iudicio* cap. Parvuli, et cap. Pueri, 22. quaest. 1.

20 THIRDLY, Priests are forbidden to swear from a slight cause in judgment *cap. si quis Presbyter 2. quaest. 5.* D. Thomas gives the reason *quaest. 89. art. 10.*

> *TERTIO Sacerdotibus vetatur iurate ex levi causa in iudicio* cap. si quis Presbyter 2. quaest. 5. *Reddit rationem D. Thomas* quaest. 89. art. 10.

21 IN three cases, however, clerics cannot swear in the hand of a layman without the license of their Bishop. The first is, when they swear before a layman, as compelled by him as superior. The second, when they swear upon calumny. The third, in the act of testifying. See Sanchez *lib. 3. num. 8.*

IN tribus autem casibus nequeunt clerici in manu laici iurate, absque sui Episcopi licentia. Primus est, quando iurant coram laico, tanquam superiore ab ipso coacti. Secundus, quando iurant de calumnia. Tertius in actu testificandi. Vide Sanchez lib. 3. num. 8.

Question XIV: Whether deceitful oaths bind

1 IN the tenth question we saw the malice of a deceitful oath, and the kinds of deceit; see them there.

Utrum Iuramenta dolosa obligent.

IAM quaestione decima vidimus malitias iuramenti dolosi, et doli genera, quae ibi vide.

2 BECAUSE deceit either consists in this, that the mind does not correspond to the words of the one swearing; or in this, that, although words and mind agree with each other, he deceives the recipient with equivocal words, and does not respond to the sense of the hearer. Now the voice can depart from the sense in three ways. First, if the mind does not intend to swear. Second, when he does not will to give, and therefore not even to promise. Third, when the will to swear is present, but not the will to bind himself, as I said there.

QUONIAM vero vel consistit in hoc, ut mens non respondeat verbis iurantis; vel in eo, quod, licet inter se, consonarent, tamen verbis aequivocis fallit recipientem, et non respondet sensui audientis. Tripliciter autem potest discedere vox a sensu. Primo si animus non intendat iurare. Secundo, quando non vult dare, atque adeo nec promittere. Tertio, quando adest animus iurandi, sed non se obligandi, ut dixi ibi.

3 AND first indeed, when the intention of swearing is lacking, all concede, alleging that it is not an oath, and therefore under that aspect it does not bind. The reason of D. Bonaventure *in the foundations* is, because since the interior intention is as it were the soul of the words, giving them their being (for words are by their own nature ordered to expounding the mind), if the interior intention of swearing is lacking, the oath will be fictitious. It is confirmed by D. Bonaventure, because the obligation of an oath is a certain law which each one imposes upon himself; but no one is deemed to impose a law upon himself unless he wills it; therefore since he does not will to swear, neither will he will to bind himself. He gives the example in Sanchez *num. 4.* from D. Bonaventure: just as marriage contracted externally without interior consent is fictitious and induces no obligation, so neither is an oath.

ET primo quidem quando deest intentio iurandi, concedunt omnes allegandi, non esse iuramentum, et ideo sub hac ratione non obligare. Ratio D. Bonavent. in fundamentis *est, quia cum interior intentio sit quasi verborum anima, dans illis esse; (verba enim ad mentem explicandam suapte natura sunt ordinata) si desit interior intentio iurandi, iuramentum erit fictum. Confirmatur a D. Bonavent. quia obligatio iuramenti est lex quaedam, quam quisque sibi imponit; at nullus censetur sibi legem imponere, nisi velit; cum ergo non vult iurare, neque volet obligare. Dat exemplum Sanchez* num. 4. *ex D. Bonavent. sicut enim matrimonium exterius absque interiori consensu, est fictum, et nullam obligationem inducit. Ita nec iuramentum.*

4 WHEN indeed the will to fulfill is lacking, since neither is the will to bind oneself or to promise present, the same must be said as of one swearing without a will to bind himself.

QUANDO vero deest animus implendi, cum neque adsit animus se obligandi, vel promittendi; idem dicendum erit, ac de iurante absque animo se obligandi.

5 THE FIRST opinion on this is that such an oath binds. So the Angelic Doctor *V. iuram. 4.* Sylvester *3. quaest. 2.* Cajetan *2. 2. quaest. 89. art. 7. ad 4.* Soto *lib. 8. de Iustitia, art. 7. quaest. 1. ad 4.* Covarruvias *de*

pactis, 1. part. §. 5. Gutierrez *in Canonical Questions, lib. 2. cap. 22. num. 31.* Lud. Lopez *p. p. instructory, cap. 42.* Manuel *in the first Tomus, cap. 192. num. 7.* Aragon *2. 2. quaest. 89. art. 7. fol. 108.* Henriquez *lib. 11. de matrim. cap. 13.* Suarez *lib. 2. de Iuram. from num. 11.* Valencia *2. 2. d. 6. quaest. 7. puncto 4.* Lessius *lib. 2. de Iustitia, cap. 42. d. 8. num. 38.* Sayrus *lib. 5. ap. 6. num. 8.* and he says it is the safer view; Tabiena *V. iurare, quaest.* 11. They add that it has force also in conscience even in invalid contracts; so Diana *part. 4. Tract. 4. Miscel. resol. 25.* and others cited by him, and others with Baffizio *quaest. 10.*

> *PRIMA igitur de hoc sententia est, tale iuramentum obligare. Ita Angel.* V. iuram. *4. Sylvest.* 3. quaest. 2. *Caiet.* 2. 2. quaest. 89. art. 7. ad 4. *Sotus* lib. 8. de Iustitia, art. 7. quaest. 1. ad 4. *Couarr.* de pactis, 1. part. §. 5. *Guttierz* quaestionibus Canonicis, lib. 2. cap. 22. num. 31. *Lud. Lopez* p. p. instructory, cap. 42. *Manuel* primo Tomo, cap. 192. num. 7. *Aragon.* 2. 2. quaest. 89. art. 7. fol. 108. *Henriquez* lib. 11. de matrim. cap. 13. *Suarez* lib. 2. de Iuram. a num. 11. *Valentia* 2. 2. d. 6. quaest. 7. puncto 4. *Lessius* lib. 2. de Iustitia, cap. 42. d. 8. num. 38. *Sayrus* lib. 5. ap. 6. num. 8. *et dicit esse tutiorem; Tabiena* V. iurare, quaest. *11. Addunt valere etiam in conscientia adiectum contractibus invalidis; ita Diana* part. 4. Tract. 4. Miscel. resol. 25. *et alii apud eum, aliique cum Baffizo citati* quaest. 10.

6 THE SECOND opinion is that then the oath does not bind; so D. Bonaventure here, whom Gabriel follows *eadem dist. 39. tertii, quaest. 1. art. 2. concl. 5.* Almain *ibi quaest. unica.* Richard *ibi, art. 2. quaest. 1. et 2.* Antonius *cap. si vero, num. 5. de iure iurando* and there the Abbot at the end, *Nemo num. 37.* Imola at the end. Fortunius *de ultimo fine, illatione 22. num. 477.* D. Antoninus *2. part. tit. 10. cap. 6.* Rosella *V. iurare, num. 19.* Angelus *under the word Iuram. 5. num. 8. et 10. et 32.* Sylvester *qq. q. 7. 17. et 19.* Armilla *num. 14.* Felinus *on that cap. Si vero, num. 8.* Ioan. a Medina *Tract. de Confess. quaest. de dispens. a reuelanda confess. ad 7.* Palac. *4. d. 29. d. 1. fol. 665.* Navarrus *ad cap. Humanae aures, quaest. 3. num. 6.* Philiarchus *de off. Sacerd. Tom. 1. part. 2. lib. 3. cap. 16.* Seraphinus *de privil. iur. privil. 110. num. 16.* Gutierrez *de Iuram. p. p. cap. 57. num. 20.* and Azorius asserts it as probable *Tom. 1. lib. 11. cap. 4. quaestio 2.* and Lessius also says it is common *loc. cit. supra num. 37.* and Tabiena there: D. Thomas favors it *3. d. 39. quaest. 1. art. 3. quaestiuncula 3.* Selva *de iureiurando 3. part. quaest. 1. num. 34. et 37.* Sanchez *lib. 3. summa, cap. 10. num. 8.* Hostiensis holds the same *cap. Ad audientiam,* and there Ioannes Andr. *num. 4.* citing authorities for the opposite view, whom Imola there *num. 5.* says must be understood as binding only in the forum of the Church, not in the forum of conscience. Hostiensis wills the same, as is clear to the reader, and the same think others after D. Bonaventure, who in the body asserts the same in the forum of the Church.

> *SECUNDA sententia est, tunc iuramentum non obligare; ita D. Bonauent. hic, quem sequuntur Gabriel* eadem dist. 39. tertii, quaest. 1. art. 2. concl. 5. *Almain.* ibi quaest. unica. *Richard.* ibi, art. 2. quaest. 1. et 2. *Antonius* cap. si vero, num. 5. de iure iurando *et ibi Abbas in fine,* Nemo num. 37. *Imola in fine. Fortunius* de ultimo fine, illatione 22. num. 477. *D. Antoninus* 2. part. tit. 10. cap. 6. *Rosella* V. iurare, num. 19. *Angelus* verbo Iuram. 5. num. 8. et 10. et 32. *Sylvest.* qq. q. 7. 17. et 19. *Armilla* num. 14. *Felinus* eo cap. Si vero, num. 8. *Ioan. a Medina* Tract. de Confess. quaest. de dispens. a reuelanda confess. ad 7. *Palac.* 4. d. 29. d. 1. fol. 665. *Nauarr.* ad cap. Humanae aures, quaest. 3. num. 6. *Philiarc.* de off. Sacerd. Tom. 1. part. 2. lib. 3. cap. 16. *Seraphinus* de privil. iur. privil. 110. num. 16. *Guttierz* de Iuram. p. p. cap. 57. num. 20. *eamque probabilem asserit Azorius* Tom. 1. lib. 11. cap. 4. quaestio 2. *eamque etiam communem ait Lessius* loc. cit. supra num. 37. *et Tabiena ibi: fauet D. Thomas* 3. d. 39. quaest. 1. art. 3. quaestiuncula 3. *Selua* de iureiurando 3. part. quaest. 1. num. 34. et 37. *Sanchez* lib. 3. summa, cap. 10. num. 8. *eandem tenet Hostiensis* cap. Ad audientiam, *et ibi Ioannes Andr.* num. 4. *citatis pro opposita, quem Imola ibi* num. 5. *ait intelligendum solum in foro*

Ecclesiae, non in foro conscientiae obligare. Idem vult Hostiensis, ut patet legenti, et idem sentiunt alii post D. Bonauent. qui in foro Ecclesiae idem asserit in corpore.

7 I ASSERT that an oath uttered without a will to bind oneself does not bind in conscience.

ASSERO, iuramentum editum absque animo se obligandi in conscientia, non obligare.

8 *IT IS PROVED* by D. Bonaventure, first from D. Gregory *28. moral. cap. 7.* and it is had in *cap. Humanae aures 22. quaest. 5. The words serve the intention, and God judges such words as those which are uttered from the inmost depths:* Therefore if a man does not intend to bind himself, however much he may speak inwardly, God does not deem him bound.

PROBATUR *a D. Bonauent. primo ex D. Gregorio* 28. moral. cap. 7. *et habetur* cap. Humanae aures 22. quaest. 5. Verba deseruiunt intentioni, et Deus talia verba iudicat, qualia ex intimis proferuntur: *Ergo si homo non se intendit obligare, quantumuis interius loquatur, Deus non reputat eum obligatum.*

9 *SECOND,* because in *1 Kings 16.* it is said: *Man judges those things that appear: but God beholds the heart:* Therefore God weighs the obligation of an oath according to the measure of the intention.

SECUNDO *quia* primo Reg. 16. *dicitur:* Homo iudicat ea, quae patent: Deus autem intuetur cor: *Ergo Deus obligationem iuramenti pensitat ad mensuram intentionis.*

10 *THIRD,* Those things which profess voluntary obligation, and spontaneously prescribe a law, depend for their prescription upon the will of the one prescribing: But an oath is a particular law which a man freely imposes upon himself: Therefore it depends upon the will of the one imposing.

TERTIO, *Ea, quae voluntariam dicunt obligationem, et legem sponte praescribunt, pendent ad praescribendum a voluntate praescribentis: Sed iuramentum est lex particularis, quam sibi homo libere imponit: Ergo dependet ex voluntate imponentis.*

11 Valencia *loc. cit. col. penultima, num. 1417.* ANSWERS with Cajetan and Soto, that the obligation, by reason of the oath, does not rest upon the will of the swearer; but that by natural law it is per se attached to the oath; whence it is not in the power of the swearer to separate it from the oath.

RESPONDET *Valentia* loc. cit. col. penultima, num. 1417. *cum Caietano, et Soto, obligationem, ratione iuramenti, non niti voluntate iurantis; sed iure naturali esse per se adnexam iuramento; unde non est in potestate iurantis eam separare a iuramento.*

12 BUT Valencia is mistaken, because a promissory oath has two intrinsically distinct elements: One is the invocation of the Divine witness: The other is the promise; and in this it differs from an assertory oath, and without it cannot subsist, so that if it is taken away, the essence, or (granted) an intrinsic passion of it, is removed. Therefore if anyone swears, invoking God, he does not forthwith remain bound, if he intends not to bind himself, for he appends an implication by which the rationale of the oath is destroyed; since he removes that without which the rationale of a promissory oath cannot subsist, as even the adversaries confess. But this does not follow from the nature of the thing, namely that the oath taken alone, as it is the invocation of God as witness of my intention, should thus remain. Just as it does not follow in the assertory oath that the thing is true, of which God is brought in as witness.

AT fallitur Valentia, quia iuramentum promissorium duo intrinsece habet diuersa: Alterum est inuocatio Diuini testimonii: Alterum est promissio; et in hac differt a iuramento assertorio, et sine ea non potest consistere, ita ut ea

ablata, tollatur essentia, aut (esto) passio intrinseca eius. Igitur si quis iurat, inuocans Deum, non statim manet obligatus, si intendit non se obligare, nam apponit implicantiam, qua destruitur ratio iuramenti; siquidem aufert id, sine quo non potest consistere ratio iuramenti promissorii, ut fatentur etiam aduersarii. Id vero ex natura rei non sequitur, ut sic, iuramento solitarie intento, prout est inuocatio Dei in testem meae intentionis. Sicuti non sequitur in assertorio, verum esse id, de quo Deus adducitur in testem.

13 HENCE the holy Doctor draws out the ultimate foundation, because an obligatory oath requires the truth of the obligation, which is the inseparable companion of a promissory oath; for he does not will to say that an oath lacking truth is simply invalid.

HINC eruit S. Doctor fundamentum ultimum, quia iuramentum obligatorium requirit veritatem obligationis, quae est comes indiuisibilis promissorii iuramenti; non enim vult dicere, iuramentum, carens veritate, simpliciter esse invalidum.

14 *IT IS PROVED* fourth by D. Bonaventure *in the body*, by the argument by which Sanchez and others chiefly rely. External things which depend upon the internal do not have their being without it: But an oath is an external obligating act, depending upon the internal: Therefore. The major is proved by St. Bonaventure *in the body*. Marriage, even if it is entered into by word of mouth; if nevertheless the will is absent of binding oneself to that life with its consequent necessary properties, it is invalid; so also a vow, unless the intention of binding oneself is present, does not avail. The same the holy Doctor notes *in the third argument*. Likewise one uttering heresy, if inwardly he rightly holds in faith, is not a heretic, because these depend upon the internal. Similarly, therefore, one swearing a promissory oath, not intending to promise, does not swear; for he appends an implicative, destructive condition, namely being unwilling to promise and to bind oneself, and so destroys the rationale of the oath, insofar as it is the invocation of God as witness of my promise. For of two things, one positive, one destructive, equally concurring, the destructive is more powerful to destroy than the positive is to posit, because good is from an integral cause; but evil from any defect whatsoever, as D. Bonaventure is often accustomed to say, adding that negation is a devouring fire consuming all things.

PROBATUR *quarto a D. Bonauent.* in corpore*, argumento, quo maxime nititur Sanchez, et alii. Ea externa, quae pendent ex interno, non habent absque illo suum esse: At iuramentum est actus externus obligans, dependens ab interno: Ergo. Maior probatur a S. Bonauent.* in corpore. *Matrimonium, etsi verbo tenus ineatur; si tamen absit voluntas non obligandi se ad vitam illam cum suis comsequentibus proprietatibus necessariis, est irritum; sic etiam votum, nisi adsit intentio se obligandi, non valet. Idem in contractibus notat S. Doctor* argumento tertio*. Similiter proferens haeresim, si intus recte in fide sentiat, non est haereticus, quia haec pendent ab interno. Similiter, ergo iurans iuramento promissorio, non intendens promittere, non iurat; apponit enim conditionem implicantem destructiuam, qualis est, nolle promittere, et obligari, et sic destruit rationem iuramenti, prout dicit inuocationem Dei in testem meae promissionis. Ex duabus enim rebus, altera positiua, altera destructiua, aequaliter concurentibus, destructiua est potentior ad destruendum, quam positiua ad ponendum, quia bonum sit ex integra causae; malum vero ex quocumque defectu, ut saepe D. Bonauentura dicere solet, addens, negationem esse ignem vorantem, et omnia absumantem.*

15 The adversaries *ANSWER* that one truly swearing by that very fact calls God as witness to the promise and to the future truth to be fulfilled, and therefore to the promise; otherwise he would not be a perjurer, having no will to fulfill: Nor can the obligation be separated from a true promissory oath, but it implies that one have an intention of swearing by a promissory oath, and not of promising and binding oneself.

RESPONDENT *aduersarii, vere iurantem eo ipso vocare Deum in testem promissionis, et veritatis futurae implendae, atque adeo promissionis, alioqui non est periurus, non habens animum implendi: Neque potest separari obligatio a vero iuramento promissorio, sed implicat, aliquem intentionem habere iurandi iuramento promissorio, et non promittendi, ac se obligandi.*

16 *NOR* are the examples to the point, because in acts whose substance consists in obligation, the will to bind oneself destroys their substance, as happens in a vow, in marriage, and in contracts; but when the substance of the act does not consist in obligation, but this is a following effect, then whether he wills or not, one exercising the act remains bound. As one killing a man, whether he wills or not, is subjected to eternal and temporal punishment by the laws enacted.

NEQUE *exempla sunt ad rem, quia in actibus, quorum substantia consistit in obligatione, animus se obligandi destruit eorum substantiam, ut contingit in voto, in matrimonio, et contractibus; at vero quando substantia actus non consistit in obligatione; sed haec est effectus sequens, tunc velit nolit, exercens actum, manet obligatus. Ut interficiens hominem, velit nolit, subiicitur poenae aeternae, et temporali per leges statutae.*

17 SINCE therefore such is the substance of a promissory oath,[1] as has been said, that it does not consist in obligation, but this is a following effect, because the rationale of the oath consists in bringing God in as witness; it follows that one truly swearing is subjected to the consequent obligation of fulfilling, whether he wills or not, nor can he by his own will impede this effect. It is confirmed, for this comparison of the swearer with the sinner is from D. Bonaventure in 3. dist. 39. art. 3. quaest. 2. foundation 3. just as (he says) the sinner is necessarily destined to eternal punishment; so also one truly swearing promissorily is bound necessarily to keeping the truth, nor can it depend upon the will.

1 N. Editor's note: the print/OCR reads 'substantia iuramenti promissorii, missorii'; 'missorii' is an OCR ghost repeating 'promissorii'; rendered as 'promissorii'.

CUM igitur talis sit substantia iuramenti promissorii, ut non consistat in obligatione, sed haec sit effectus sequens, quia ratio iuramenti stat in adducendo Deum in testem; sequitur vere iurantem subiici obligationi consequenti adimplendi, velit nolit, nec posse sua voluntate hunc effectum impedire. Confirmatur, nam haec comparatio iurantis cum peccatore est D. Bonav. in 3. dist. 39. art. 3. quaest. 2. fundamento 3. sicut enim (ait) peccans necessario destinatur poenae aeternae; ita etiam vere iurans promissorie obligatur necessario ad veritatem servandam, nec potest a voluntate pendere.

18 NEVERTHELESS these things are refuted by our foundations, as Sanchez notes num. 8. for a promissory oath differs from an assertory one in this, that the latter is directed to present truth: but the former to future truth; yet for both God ought to be brought in as witness. Therefore just as one destroying present truth by swearing, but unwilling to bind himself to telling the truth, would not truly swear; because he would append an incompossible condition; so in a promissory oath, one appending the condition of not binding himself destroys the rationale of an obligatory oath; nor is the example of the homicide to the point, because it does not depend upon the intention of the killer, which would be such as to have no effect; but in our case, even if we grant that the obligation of executing is an effect of the oath, or its passion, it depends upon the intention; and thus all concede that it can be null if the intention of swearing is lacking: Therefore likewise when he does not will to swear absolutely, but with an incompatible condition, namely not to contract an obligation; for although, if an oath of swearing absolutely is uttered, the obligating effect follows; nevertheless, if in the act of swearing a condition contrary to the nature of the oath itself is appended, as it is obligatory for the future thing to be fulfilled, it will not be a true, but a fictitious oath, as such it is.

HAEC tamen nostris fundamentis eliduntur, ut notat Sanchez num. 8. nam iuramentum promissorium in hoc differt ab assertorio, ut hoc feratur in veritatem praesentem: at vero promissorium in veritatem futuram; de utraque vero adduci debet Deus in testem. Sicut ergo destruens veritatem praesentem iurando, sed nolendo se obligare ad dicendam veritatem, non vere iuraret; quia apponeret conditionem incompossibilem; ita in iuramento promissorio apponens conditionem non se obligandi, destruit rationem iuramenti obligatorii; nec est ad rem exemplum de occidente, quia non pendet ex intentione occidentis, quae sic se haberet: nollem effectum illum; *at vero in casu nostro, etiam si demus, obligationem exequendi esse effectum iuramenti, seu passionem eius, pendet ab intentione; et ita omnes concedunt, posse esse nullum, si defit intentio iurandi: Ergo similiter quando non vult iurare absolute, sed cum conditione incompatibili, qualis est non contrahendi obligationem; quamvis enim, si edatur iuramentum absolute iurandi, sequatur effectus obligandi; attamen, si in actu iurandi apponatur conditio contraria naturae ipsius iuramenti, ut obligatorium est rei futurae implendae, non erit verum, sed fictum iuramentum, ut tale est.*

19 TO what is objected from D. Bonaventure it is answered, that the argument was taken from the holy Doctor by the adversaries, but not to the point: For St. Bonaventure compares the sinner with one truly swearing, insofar as he intended to bind himself out of fear. Thus the arguments of the adversaries collapse.

AD id quod obiicitur ex D. Bonavent. respondetur, sumptum esse argumentum ex S. Doctore ab adversariis, sed non ad rem: Nam S. Bonavent. comparat peccantem cum vere iurante, eo quod intendisset se obligare ex metu. Ita ruunt argumenta adversariorum.

20 I ASSERT secondly, that in the forum of the Church he remains bound.

ASSERO secundo, in foro Ecclesiae, hunc manere obligatum.

21 IT IS PROVED by D. Bonaventure, first from D. Isidore lib. 2. sent. as related by the Master in 3. dist. 39. cap. *By whatever artifice of words anyone swears, God receives it just as he to whom the oath is sworn understands it, that is, wills it to be received by the Church.*

PROBATUR a D. Bonavent. primo ex D. Isidoro lib. 2. sent. relato a Magistro in 3. dist. 39. cap. Quacunque arte verborum quis iuret, Deus sic accipit, sicut is, cui iuratur intelligit, idest, vult accipi ab Ecclesia.

22 SECOND, because fraud and deceit ought to patronize no one; otherwise human commerce, contracts, assurances of fidelity, etc., would be abolished. For since we cannot penetrate the minds of others, it is necessary that I be secure in a human way in entering into contracts.

SECVNDO, quia fraus, et dolus nemini debet patrocinari; alioqui tollerentur humana commercia, contractus, assecurationes fidelitatis, etc. Cum enim mentem aliorum nequeamus penetrare, oportet, ut modo humano securus sim in contractibus ineundis.

23 THE SAME he has in 4. d. 38. question one, next to the last.

IDEM habet in 4. d. 38. quaestione prima ad penultimum.

24 THERE arises indeed some question concerning the other mode of deceit, when the swearer, uttering words conforming to his mind, utters them amphibolously, so as to elude the hearer: I have discussed its nature in quaest. 10.

ORITUR vero aliqua quaestio circa alterum modum doli, cum iurans concordans suae menti verba, ea profert amphibologice, ut audientem eludat: Huius naturam discussi quaest. 10.

25 AND indeed, if the swearer in good faith without deceit, but with prudent equivocation, inflicts no injury; the Doctors commonly hold, and chiefly those alleged, that the oath binds in the sense which the hearer perceives, but which the swearer intends. For then he is not bound by justice, since he lacked deceit; nor has he inflicted any injury. Nor even by the Religion of the oath: And this is what D. Gregory says, adduced by D. Bonaventure in the first foundation; and it is had in the canon *Humanae aures, 22. quaest. 5.* there: *Our human ears judge our words as those which sound without: but the Divine judgments hear them as those which are uttered from the inmost depths:* But in the external forum, since the intention lies hidden; if the words signify something more, one must stand by that; but if they signify several things equally, one must stand by that sense which prudent men judge. Moreover, the proper sense is always to be preferred, as D. Bonaventure notes at the end of the question, and it is had in cap. *ex litteris de sponsal. l. librorum §. Quod tamen Cassius, ff. de legat. 3.* and Covarruvias teaches it *de pactis 1. part. §. 5.* Sanchez *lib. 3. cap. 10. num. 11.*

> *ET quidem, si iurans bona fide absque dolo, sed prudenti aequivocatione, nullam irrogat iniuriam; communiter sentiunt DD. praecipue allegandi, iuramentum non obligare in sensu, quem percipit audiens, sed quem iurans intendit. Tunc enim non obligatur ex iustitia, cum dolo caruerit; nullamque iniuriam irrogaverit. Nec etiam ex Religione iuramenti: Et hoc est quod ait D. Gregorius adductus a D. Bonavent. fundamento primo; et habetur can.* Humanae aures, 22. quaest. 5. *ibi:* Humanae aures verba nostra talia iudicant, qualia foris sonant: Divina vero iudicia, talia ea audiunt, qualia ex intimis proferuntur: *At in foro externo cum intentio lateat; si verba aliquid magis significant, standum est illi; si vero aeque plura significent, standum illi sensui, quem prudentes iudicent. Caeterum proprius semper sensus est praeferendus, ut notat D. Bonavent. in fine quaestionis, et habetur cap.* ex litteris de sponsal. l. librorum §. Quod tamen Cassius, ff. de legat. 3. *et docet Covarr.* de pactis 1. part. §. 5. *Sanchez* lib. 3. cap. 10. num. 11.

26 BUT if he swore deceitfully to deceive another man of good faith.

> *QUOD si dolose iuravit ad decipiendum alium virum bonae fidei.*

27 SOME say, that the oath binds in conscience according to the sense which the recipient understood. So D. Thomas 2. 2. quaest. 89. art. 7. ad 4. D. Antonin. 2. part. tit. 10. cap. 7. §. 3. Angelus V. *iuramentum 4.* Sylvester there 3. quaest. 2. Tabiena there quaest. 13. num. 14. Armilla num. 16. Navar. *summa, cap. 12. num. 13.* Hostiensis, and others, whom Covarruvias reports and follows *de pactis 1. part. §. 5.* Parladorus on everyday matters *lib. 2. in the final cap., 1. part. §. 4. num. 15.*

> *ALQUI dicunt, iuramentum in conscientia obligare iuxta sensum, quem recipiens intellexit. Ita D. Thom. 2. 2. quaest. 89. art. 7. ad 4. D. Antonin. 2. part. tit. 10. cap. 7. §. 3. Angelus V.* iuramentum 4. *Sylvester ibi 3. quaest. 2. Tabiena ibi quaest. 13. num. 14. Armilla num. 16. Navar.* summa, cap. 12. num. 13. *Hostiensis, et alii, quos refert, et sequitur Covar.* de pactis 1. part. §. 5. *Parladorus de rebus quotidianis* lib. 2. cap. finali, 1. part. §. 4. num. 15.

28 THE SECOND opinion is, that an oath of this kind does not bind by the religion of the oath beyond the intention of the deceitful swearer, but by reason of the scandal, which would arise from the transgression of his oath. So D. Thomas in 3. dist 39. quaest. 1. art. 3. quaestiuncula 3. Lessius *lib. 2. de iustitia, cap. 42. dub. 9. num. 45.* Suarez *Tom. 2. de religione, Tract. de iuramento, lib. 2. cap. 7.* Sanchez *num. 13.* And in a similar case of a deceitful oath given without the will to swear, namely that it binds by reason of scandal, Cajetan teaches 2. 2. quaest. 89. art. 7. Soto lib. 8. *de Iustitia, quaest. 1. art. 7.* Azor *Tom. 1. Instit. lib. 15. cap. 4. quaestio 2.* Valencia 2. 2. *disp. 6. quaest. 7. puncto 4. col. ultima,* Petrus Ledesma *2. Tomo, tract. 11. cap. 3. dub. 5. dicto 2.* Covarruvias, Lessius and Suarez *in the cited places.*

SECUNDA opinio est, iuramentum huiusmodi non obligare ex religione iuramenti ultra dolosi iurantis intentionem, sed ratione scandali, quod ex eius iuramenti transgressione oriretur. Ita D. Thom. in 3. dist 39. quaest. 1. art. 3. quaestiuncula 3. Lessius lib. 2. de iustitia, cap. 42. dub. 9. num. 45. *Suarez* Tom. 2. de religione, Tract. de iuramento, lib. 2. cap. 7. *Sanchez* num. 13. *et In simili de iuramento doloso praestito absque iurandi animo, nempe obligare ratione scandali docent Caietanus 2. 2. quaest. 89. art. 7. Sotus lib. 8.* de Iustitia, quaest. 1. art. 7. *Azor* Tom. 1. Instit. lib. 15. cap. 4. quaestio 2. *Valentia 2.* 2. disp. 6. quaest. 7. puncto 4. col. ultima, *Petrus Ledesma* 2. Tomo, tract. 11. cap. 3. dub. 5. dicto 2. *Covar. Less. et Suarez* loco cit.

29 AS TO D. Bonaventure, he opines that this oath by its nature is not valid; that it is nevertheless a sin of deceit even in the forum of God: but that in the forum of the Church the swearer is bound. So *ad primum, and at the end of the question.* He indeed indicates *in the last foundation* that he is bound by reason of scandal.

QUOAD D. Bonavent. opinatur, hoc iuramentum ex natura sua non esse validum; esse tamen peccatum doli etiam in foro Dei: at in foro Ecclesiae obligari iurantem. Ita ad primum, et in fine quaestionis. *Indicat vero* fundamento ultimo*, ratione scandali eum obligari.*

30 I ASSERT therefore, that such an oath does not bind by Religion.

ASSERO ergo, tale iuramentum ex Religione non obligare.

31 THE REASON of D. Bonaventure *in the body* is, because an oath by its law does not bind beyond the intention of the swearer, as I said above; the same is had in cap. *Humanae aures cited above.*

RATIO D. Bonavent. in corpore*, est, quia iuramentum ex lege sua non obligat ultra iurantis intentionem, ut dixi supra; idem habetur cap.* Humanae aures citato, supra.

32 I ASSERT secondly, that this man is bound by reason of scandal. It is proved by D. Bonav. *in the last foundation*, because thus contracts, commerce, the security of fidelity would be abolished, and an approach would lie open to a hundred injuries.

ASSERO secundo, hunc obligari ratione scandali. Probatur a D. Bonav. fundamento ultimo*, quia sic tollerentur contractus, commercia, securitas fidelitatis, et sexcentis iniuriis aditus pateret.*

33 I ASSERT thirdly, that this oath binds even in the forum of the Church.

ASSERO tertio, in foro etiam Ecclesiae obligare hoc iuramentum.

34 IT IS PROVED by the holy Doctor by the arguments adduced above for the second assertion of the principal question.

PROBATUR a S. Doctore argumentis supra allatis pro secundo asserto quaestionis principalis.

35 THERE occurs a doubt to be solved from what has been said: Whether one swearing falsely in jest sins by that equivocation, say, by saying that the Bishop is in his house, understanding the painted image.

OCCURRIT dubium e dictis solvendum: An quis ioco falsum iurans peccet aequivoco illo, puta dicens, Episcopum esse in domo sua, intelligens pictum.

36 NEARLY ALL condemn him of mortal fault; so the Angelic Doctor, Tabiena, Armilla, Navarrus, Toletus, Sayrus, Philiarchus, Lopez, and others cited by Sanchez *Tom. 1. lib. 3. cap. 6.* and it seems so to D. Bonaventure *quaest. 3. ad 3.* where he excuses the jest from mere indeliberation.

UNIVERSI fere hunc culpae lethalis damnant; sic Angel. Tabien. Armil. Navar. Toletus, Sayrus, Philiarc. Lopez, et alii apud Sanchez Tom. 1. lib. 3. cap. 6. *et videtur D. Bonavent.* quaest. 3. ad 3. *ubi iocum e sola indeliberatione excusat.*

37 THE OPPOSITE Sanchez himself teaches, adducing others, to whom add Bonacina *Tract. de leg. d. 4. quaest. 1. puncto 12.* Filliuccius *tom. 2. tract. 25. cap. 11. num. 331.* Diana *part. 2. tract. 13. resol. 25.* and it is expressly D. Bonaventure *here quaest. 3. fund. 1.*

OPPOSITUM docet ipse Sanchez, alios adducens, quibus adde Bonacinam Tract. de leg. d. 4. quaest. 1. puncto 12. *Filliuccium* tom. 2. tract. 25. cap. 11. num. 331. *Dianam* part. 2. tract. 13. resol. 25. *et est expresse D. Bonavent.* hic quaest. 3. fund. 1.

38 His reason is, Perjury occurs when God is brought in as witness to a falsehood; but this ought to be understood seriously. But here he does not bring God in witness to a falsehood, but to guarding his own truth. It is confirmed by the holy Doctor; for not every invocation of God is vain; it is serious, as all confess. This naming of God indeed is without necessity, and a kind of irreverence.

Ratio eius est, Periurium sit cum adducitur Deus in testem falsum; haec autem debet subintelligi serio. At hic non adducit Deum in falsum, sed ad tuendam suam verum. Confirmatur a S. Doctore; non enim omnis invocatio Dei vana, est gravis, ut omnes fatentur. Haec sane nominatio est absque necessitate, et aliqualis irreverentia.

39 To the passage of D. Bonaventure I say that he excuses the jest from mere indeliberation, so that the word is not jesting, because the man does not will to jest deliberately: But if there should arrive an oath not extracted from the state of venial sin and drawn to mortal, unless the word were to be jesting, because there is no formal advocacy of God as witness if it is not serious, since he is not truly called upon.

Ad locum D. Bonavent. dico, eum excusare iocum e sola indeliberatione, ut non sit iocosum verbum, quia non vult homo iocari deliberate: At si adveniat iuramentum non extrahi e statu veniali, et trahi ad mortale, nisi verbum esset esse iocosum, quia non est formalis Dei in testem advocatio, si non est seria, quippe non vocatur vere.

40 *You will say* that the end of a sacred and grave thing is frustrated, which you abuse.

Dices *frustrari finem rei sacrae gravis, qua abuteris.*

41 *I say* the end of the Oath is to call God as witness, when there is necessity of truth; but here no necessity of truth occurs; therefore it is applied superfluously; yet not against the essence of the principal end of the oath.

Dico *finem Iuramenti esse advocare Deum in testem, cum necesse fuerit veritati, at vero hic non occurrit necessitas veritatis; ideo superflue adhibetur; non tamen contra essentiam finis principalis iuramenti.*

42 *You will object first* against the first: D. Isidor. *lib. 2. sent. cap. 31.* and it is related in the canon *Quacumque arte 22. quaest. 5.* there: *By whatever artifice of words each one swears, nevertheless God, who is the witness of conscience, receives it just as he to whom the oath is sworn understands it.*

Obiicies primo *contra primum, D. Isidor.* lib. 2. sent. cap. 31. *et refertur can.* Quacumque arte 22. quaest. 5. *ibi:* Quacumque arte verborum quisque iuret, Deus tamen, qui conscientiae testis est, ita hoc accipit, sicut ille, cui iuratur, intelligit.

43 D. Bonaventure *ad 1.* ANSWERS, whom Sanchez follows *num. 13.* that God esteems this man for punishment by reason of fault and deceit, because he is bound by justice not to deceive, and by truth

not to lie. Therefore in this way God receives the deceit, so that, because the other, deceived, understands it to his own harm, he may punish the deceiver with eternal punishment.

> Respondet *D. Bonavent.* ad 1. *quem sequitur Sanchez* num. 13. *Deum reputare hunc ad poenam ratione culpae, et doli, quia is tenetur ex iustitia non decipere, et ex veritate non mentiri. Ideo hoc modo Deus accipit dolum, ita ut, quia alter deceptus intelligit suo damno, dolosum poena aeterna puniat.*

44 *He ANSWERS secondly*, that God receives it, understanding causally willing by the Church to receive it in his name in the external forum, so that he wills him to be bound thus in the external forum, even if the oath by its nature does not bind, because it is null.

> Respondet secundo, *Deum accipere intelligendo causaliter velle ab Ecclesia suo nomine in foro externo accipere, ut velit in foro externo sic obligari, etiamsi iuramentum ex natura sua non obliget, quia est nullum.*

45 In the same sense the Regian law prescribes it *l. finali tit. 11. p. 5.* namely that he be held in the external forum in punishment of the fraud.

> *Eodem sensu id praecipit lex Regia* l. finali tit. 11. p. 5. *nempe teneri in foro externo in poenam fraudis.*

46 *You will object secondly.* It would follow, that this man derive gain from the fraud.

> Obiicies secundo. *Sequeretur, hunc ex fraude commodum reportare.*

47 Sanchez *num. 13.* ANSWERS, from D. Bonav. *ad 3.* that he does not derive gain from the fraud, because since he sins mortally, he is punished with eternal punishment; and in the external forum he is compelled to stand by his promises.

> Respondet *Sanchez* num. 13. *ex D. Bonav.* ad 3. *hunc non reportare commodum ex fraude, quia cum lethaliter peccet, punitur poena aeterna; et in foro externo cogitur stare promissis.*

Question XV: Whether an oath extorted by injury, such as an oath to pay usury, binds

1 It is most certain among all that an oath of this kind binds. For so it is defined. *lib. 2. Decret. cap. Debitores: debtors are not to be compelled to pay the usuries to which they had bound themselves; but if they have sworn to their payment: They are to be compelled to render to the Lord their oath.*

> ***An Iuramentum per iniuriam extortum, ut solvendi usuras, obliget.***
>
> *Certissimum est apud omnes, huiusmodi iuramentum obligare. Sic enim definitur.* lib. 2. Decret. cap. Debitores ad solvendas usuras, in quibus se obligaverant cogi non debent; si vero de ipsarum solutione iuraverint: Cogendi sunt Domino reddere iuramentum.

2 The reason of D. Thomas *2. 2. quaest. 89. art. 7. ad 3.* is, because, although an obligation does not arise to man, because through injury he acquires no right; nevertheless it is acquired by God, brought in as witness, insofar as he is bound to render God as a truthful witness of his promise, just as he was invoked, if the promise can be fulfilled without sin. Which reason is also general in D. Bonaventure *in 3. d. 39. in the last question, in the arguments, and in the body, and more clearly in the same art. 3. quaest. 2. in the body.* Now such is the payment of usuries; and if the usurer sins in receiving, the swearer does not sin in paying.

> *Ratio D. Thom.* 2. 2. quaest. 89. art. 7. ad 3. *est, quia, licet non consurgat obligatio homini, quia per iniuriam non acquirit ius; attamen acquiritur Deo in testem adducto, quatenus tenetur reddere Deum testem veracem suae*

promissionis, sicuti invocatus est, si promissio potest absque peccato impleri. Quae ratio generalis est etiam D. Bonavent. in 3. d. 39. quaestione ultima in argumentis, et corpore, et clarius eodem art. 3. quaest. 2. in corpore. *Talis autem est solutio usurarum, et si ab usurariis peccet recipiendo, non peccat iurans solvendo.*

3 Yet truly this reason does not seem sufficient, for by the common consent of Theologians, the matter of the one swearing ought to pertain to some virtue, in order that a promissory oath bind, as I said in quaest. 13. but no virtue is found in this act: Therefore it will in no way bind.

Enim vero haec ratio non videtur sufficiens, nam ex communi consensu Theologorum, materia iuranti debet esse alicuius virtutis, ad hoc ut obliget iuramentum promissorium, ut dixi quaest. 13. at nulla virtus invenitur in hoc actu: Ergo nullo modo obligabit.

4 Cajetan 2. 2. *quaest. 87. art. 7.* whom Soto follows *lib. 8. de Iustitia, quaest. 1. art. 7.* Aragon 2. 2. *quaest. 89. art. 7. ad 7. conclus. 2.* Valencia *d. 6. quaest. 7. puncto 4. num. 1423.* say that it is an act of charity toward oneself, for the one paying redeems the vexation inflicted, just as also he who promises to an urgent robber, and pays the promised money, redeems the vexation inflicted; and although at the time of payment he may be safe, nevertheless the end is still to redeem the vexation begun at the time of the promise.

Caietanus 2. 2. quaest. 87. art. 7. *quem sequuntur Sotus* lib. 8. de Iustitia, quaest. 1. art. 7. *Aragon.* 2. 2. quaest. 89. art. 7. ad 7. conclus. 2. *Valentia* d. 6. quaest. 7. puncto 4. num. 1423. *dicunt, esse actum charitatis erga seipsum, nam solvens redimit illatam vexationem, sicuti etiam, qui promittit latroni urgenti, et solvit pecunias promissas, redimit illatam vexationem, et licet solutionis tempore sit in tuto; attamen adhuc finitur redimi vexatio, coepta tempore promissionis.*

5 Yet this reason in our case does not seem solid; for vexation is unjust coercion; but a usurer unwilling to lend is not unjust. For only in a case of necessity is he bound to lend; and that neither by justice, but by charity. Therefore a promise of paying usury is not to redeem a vexation, since none exists.

Haec tamen ratio in casu nostro non videtur solida; nam vexatio est agitatio iniusta; at usurarius nolens dare mutuum, non est iniustus. Solum enim in casu necessitatis tenetur dare; et hoc neque ex iustitia, sed ex charitate. Itaque promissio solvendi usuras non est redimere vexationem, cum nulla extet.

6 Sanchez therefore *ANSWERS* that that payment is an act of the great virtues of truth and fidelity, even when the promise of itself would not otherwise bind: It is also an act of preserving one's own reputation and honor, by standing by promises even in unjust extortions. But these suffice for gracing the sworn payment, although they do not suffice for binding without an oath.

Respondet *igitur Sanchez, eam solutionem esse actum virtutis magnae veracitatis, et fidelitatis, etiam quando promissio ex se aliter non obligabat: Est etiam actus conservandi propriam existimationem, et honorem, stando promissis etiam in extorsionibus iniquis. Haec autem sufficiunt ad solutionem iuratam cohonestandam, licet non sufficiant ad obligandam absque iuramento.*

7 Another objection against the reason of D. Thomas and D. Bonaventure seems to arise, because in cap. Debitores it is defined that they are to be compelled to payment who have sworn usuries. And thus many hold with Sanchez *num. 7.* that a right is acquired by the usurer, and therefore that he can by a right of action compel the swearer to stand by his promises.

Alia obiectio contra rationem D. Thom. et D. Bonavent. videtur, quia in cap. Debitores definitur, cogendos esse ad solutionem eos, qui usuras iuraverint. Et ita multi tenent apud Sanchez num. 7. *acquiri ius ab usurario, et ideo posse iure actionis compellere iurantem, ut stet promissis.*

8 Yet truly the text itself declares that the obligation is contracted with God, not with men; for it says: *They are to be compelled by the Lord, that is, by God, to render the oath.* And thus a Judge ex officio ought to compel him who has sworn, to fulfill the obligation contracted with God, but not at the instance of a party asserting a right of action. So Sanchez *num. 8.* citing others.

Enim vero ipse textus declarat obligationem contrahi apud Deum, non apud homines, ait enim: Cogendi sunt Domino, idest, Deo reddere iuramentum. *Et ita Iudex ex officio debet inducere eum, qui iuravit, ut apud Deum contractam obligationem impleat, non autem ad instantiam partis ius actionis intentantis. Ita Sanchez* num. 8. *alios referens.*

9 But he satisfies the obligation of this oath by momentary payment, and at once, without any relaxation of the oath, what has been paid can be reclaimed; it is had in *cap. Ad audientiam, de his quae vi,* there: *Notwithstanding the aforesaid oath, by which he was bound not to reclaim, but only to resign.* So the Gloss notes there, Hostiensis, Ioannes Andreas, Antonius Anchar, Abbas, and other Canonists, Suarez *in that lib. 2. cap. 9. numero 16.* Lessius *lib. 2. de iustitia, cap. 17. d. 7. numero 51. et cap. 42. dub. 6. numero 27.*

Satisfacit autem obligationi huius iuramenti momentanea solutione, ac statim absque aliqua iuramento relaxatione potest solutum repeti, habetur cap. Ad audientiam, de his quae vi, *ibi;* Non Obstante iuramento praedicto, quo non ad repetendum, sed ad resignandum solummodo tenebatur. *Ita notat Glossa ibi, Hostiensis, Ioannes Andreas, Antonius Anchar, Abbas, et alii Canonistae, Suarez* eo lib. 2. cap. 9. numero 16. *Lessius* lib. 2. de iustitia, cap. 17. d. 7. numero 51. et cap. 42. dub. 6. numero 27.

10 *You will object first*, against the principal assertion, namely that he is bound to pay the sworn usuries. If the principal obligation does not subsist, the accessory also collapses, *Rule cum principalis, ff. de regulis iuris;* and the oath is added to the promise of paying usuries; but the promise does not bind, as all confess: Therefore.

Obiicies primo, *contra principale assertum, nempe obligari solvere iuratas usuras. Si Principalis obligatio non subsistit, corruit etiam accessoria,* Regula cum principalis, ff. de regulis iuris; *et iuramentum accedit promissioni solvendi usuras; promissio autem non obligat, ut omnes fatentur: Ergo.*

11 It is *ANSWERED* with the Canonists *ad cap. Debitores*, when an irritant cause of the principal concurs in the accessory, the accessory collapses with the principal; otherwise when it does not concur; for then the principal collapses while the accessory stands, which happens here; for the principal promise is invalid on account of the turpitude of the extorter, which is not found in the order to God, in respect of which alone the oath binds.

Respondetvr *cum Canonistis* ad cap. Debitores, *quando causa irritans principale concurrit in accessorio, corruere accessorium cum principali, secus quando non concurrit; tunc enim corruit principale stante accessorio, quod hic contingit; principalis enim promissio est irrita ob extorquentis turpitudinem, quae non invenitur in ordine ad Deum, respectu cuius solius iuramentum obligat.*

12 *He ANSWERS secondly*, Covarruvias *de pactis, 2. part. §. 3.* that this oath is not accessory to the promise, nor is it brought in to confirm it, but it is principal and standing per se, binding to

fulfillment, lest God be a false witness of that promise.

> Respondet *secundo, Covarruvias* de pactis, 2. part. §. 3. *id iuramentum non esse accessorium promissioni, nec ad eam confirmandam adduci, sed esse principale, et per se stans, obligans ad implendum, ne Deus sit testis falsus illius promissionis.*

13 *You will object* secondly. If this oath binds under mortal sin: Therefore a simple promise will bind under venial sin against truth; for the oath supposes it, it does not induce it.

> Obiicies *secundo. Si id iuramentum obligat sub mortali: Ergo simplex promissio obligabit sub veniali contra veritatem; nam iuramentum eam supponit, non inducit.*

14 *It is ANSWERED*, that both promises require truth of the present, that is, that when one swears, the will to fulfill be present; but as to truth of the future, the defect of truth is not always bad, indeed it is often good, as when a bad thing is promised.

> Respondetvr, *utramque promissionem requirere veritatem de praesenti, idest, ut cum iuratur, adsit animus implendi; at quo ad veritatem de futuro, non semper est malus defectus veritatis, imo saepe est bonus, ut cum promittitur res mala.*

15 *You will object* thirdly. When certain things are joined by some medium, with the medium removed the union of the extremes is taken away; but the oath and its obligation are united through the promise mediating, which is invalid: Therefore.

> Obiicies *tertio. Quando aliqua coniunguntur aliquo medio, ablato medio tollitur unio extremorum; at iuramentum, et eius obligatio uniuntur mediante promissione, quae est irrita: Ergo.*

16 Sanchez *ANSWERS*, denying the minor, for they are joined by those media, whether they bind or not. This answer seems not to solve the difficulty.

> Respondet *Sanchez, negando Minorem, nam coniunguntur mediis illis, sive obligent, sive non. Haec responsio videtur non solvere.*

17 Therefore it is *ANSWERED*, denying the minor, because they are joined of themselves, since the promise brings no bond.

> Respondetvr *ergo, negando Minorem, quia seipsis iunguntur, cum promissio non afferat vinculum.*

Question XVI: Whether an oath extorted by fear binds

1 There were some, whom St. Bonaventure reports, who thought that although an assertory oath extracted by force and unjustly is valid and binds, nevertheless a promissory oath does not bind. The Gloss also reports them *cap. 2. verb. esse, de iureiurando.*

> An Iuramentum, metu extortum obliget.
>
> *Fuere aliqui, quos refert S. Bonavent. putantes, tametsi iuramentum assertorium vi extortum, atque iniuste, sit validum, et obliget; attamen promissorium non obligare. Eos etiam refert Glossa* cap. 2. verb. esse, de iureiurando.

2 It is, however, *most certain* that oaths of this kind bind. So St. Bonaventure here, and St. Thomas, whom all Theologians and Jurists follow, *ad cap. si vero: et cap. Verum, de iure; et cap. Ad audientiam, de his, quae vi*, where it is expressly defined.

> Certissimvm *tamen est, huiusmodi iuramenta obligare. Ita D. Bonavent. hic, et D. Thom. quos omnes Theologi sequuntur, ac Iurisperiti* ad cap. si vero: et cap. Verum, de iure; et cap. Ad audientiam, de his, quae vi, *ubi id*

expresse definitur.

3 It is *proved* by St. Bonaventure first: every oath that has its companions, Justice, Truth, and Judgment, is valid and obligatory; such is this one: Therefore.

Probatvr *a D. Bonavent. primo: Omne iuramentum, quod habet suos comites, Iustitiam, Veritatem, et Iudicium, est validum, et obligatorium; tale est hoc: Ergo.*

4 *Second*, because a will that is coerced is a will truly operating in a human manner, from St. Augustine: but such is the will upon which fear is inflicted for an oath: Therefore.

Secundo*, quia voluntas coacta, est voluntas vere modo humano operans ex D. Augustino: Sed talis est voluntas, cui metus infertur ad iuramentum: Ergo.*

5 *Third:* sin committed under coercion obliges to eternal punishment: but an oath is thus ordered to the keeping of truth: Therefore.

Tertio: *Peccatum ex coactione patratum obligat poenae aeternae: Sed iuramentum sic ordinat ad veritatem servandam: Ergo.*

6 *Where* note that this argument was brought forward by the adversaries against us at *quaest. 14.* and set forth there.

Ubi *adverte, hoc argumentum* quaest. 14. *allatum fuisse ab adversariis contra nos, ibique expositum.*

7 *Fourth*, it is proved from the case proposed by St. Augustine: for a certain man, coerced by fear, was bound by an oath to betroth a harlot to himself, and St. Augustine says that, on the advice of Blessed Ambrose, that sworn promise was valid.

Qvarto *probatur ex casu proposito D. Augustini: Quidam enim ex metu coactus est iuramento sibi desponsare meretricem, et dicit S. Augustinus, ex consilio B. Ambrosii, validam fuisse illam promissionem iuratam.*

8 It is *proved* fifth *in the body*, by the argument brought forward for the preceding question, because a twofold obligation can arise from an oath: one to the man by reason of the promise made to him, and from this side an oath unjustly coerced does not bind; for a man by an injustice acquires no right, nor ought he to derive advantage from his own iniquity: the other, truly, to God, who is brought in as witness, and from this side it binds the one swearing to render to God the witness of truth by fulfilling the promise, confirmed by the testimony of His name. For that promise, although coerced under fear aroused, was nevertheless voluntary, because by no fear can the will be so compelled that the liberty of free choice is violated.

Probatvr *quinto* in corpore*, argumento allato pro quaestione praecedenti, quia duplex obligatio ex iuramento oriri potest: Altera homini ratione promissionis illi factae, et ex hac parte iuramentum iniuste coactum non obligat; homo enim per iniuriam nullum ius acquirit, neque ex sua iniquitate commodum debet reportare: Altera, vero Deo in testem adducto, et ex hac parte obligat iurantem reddere Deum testem veracem, implendo promissionem, testimonio sui nominis confirmatam. Ea enim, licet metu incusso coacta, tamen fuit voluntaria, quia nullo metu potest voluntas ita cogi, ut violetur libertas arbitrii.*

9 That this is matter of virtue is clear, because it is toward redeeming a grave vexation, which the Doctors cited by Sanchez *cap. 11. num. 3.* and by us at *quaest. 15.* assert to suffice, and deservedly; for it is an act of charity toward oneself.

> *Id autem esse materiam virtutis patet, quia est ad redimendam gravem vexationem, quod sufficere asserunt Doctores adducti a Sanchez* cap. 11. num. 3. *et a nobis* quaest. 15. *et merito; est enim actus charitatis in seipsum.*

10 *Then* there also intervene acts of fidelity, zeal for preserving honor, etc. By this argument Sanchez relies *num. 14.*

> Deinde *interveniunt etiam actus fidelitatis, zelus honoris conservandi, etc. Hac ratione nituntur Sanchez* num. 14.

11 They *object* chiefly. A coerced vow, and likewise a coerced marriage are not valid: therefore neither are oaths.

> Obiicivnt *praecipue. Votum coactum, et similiter matrimonium coactum non sunt valida: Ergo nec iuramenta.*

12 Sanchez *answers* at *num. 15.* that in his opinion there is an easy response; for those two prior things are governed by Ecclesiastical law: but an oath is not invalidated out of reverence due to the name of God, and therefore the consequence is denied, because they are of unequal law.

> Respondet *Sanchez* num. 15. *in opinione sua esse facilem responsionem; nam illa duo priora funguntur iure Ecclesiastico: At iuramento non irritantur ob reverentiam, nomini Dei debitam, et ideo negatur consequentia, quia sunt inaequalis iuris.*

13 He *adds*, however, that in the opinion of those who say that coerced vows and marriages are void by natural law, this argument can hardly be satisfied, and that this argument presses toward proving that these are void only by Ecclesiastical law.

> Addit *vero, in opinione dicentium, Vota, et matrimonia coacta, esse iure naturali irrita, difficile posse huic argumento satisfieri, et hoc argumentum urgere ad probandum, haec esse irrita solo iure Ecclesiastico.*

14 *Therefore* St. Bonaventure, who teaches that these, namely vows and marriages, are void by the law of nature, as we saw at *disput. de voto, quaest. 5.* and in other places, where various obligations are treated, answers this argument easily, saying the reason is disparate; and as to the vow, he notes that it consists in the formal offering of some singular good above what is owed, in obedience to the Divine Majesty. But God wills voluntary sacrifices perfectly, since a sacrifice belongs to perfection. Yet if someone under fear of death vow to the Lord freely, it seems a free oblation, though somewhat imperfect, and therefore it is admitted probably.

> Igitvr *D. Bonavent. qui docet, haec scilicet Vota, et matrimonia iure naturae esse irrita, ut vidimus* disput. de voto, quaest. 5. *et aliis locis, ubi de obligationibus variis agitur. Respondet facile huic argumento, disparem esse rationem, et quoad votum, advertit consistere in formali exhibitione boni alicuius singularis supra debitum, in obsequium Divinae Maiestatis. Deus autem vult sacrificia voluntaria perfecte, cum et perfectionis sit sacrificium. Si tamen aliquis metu mortis voveat Domino sponte, videtur spontanea oblatio, esto aliqualiter imperfecta, et ideo admittitur probabiliter.*

15 *As to* marriage he answers, the reason is disparate, because marriage by its signification has it that it be a voluntary surrender and a union of love, imitating the union of Christ with the soul, and the Church; therefore the Apostle says, Ephes. 5. *This is a great sacrament, but I speak in Christ, and in the Church*, and therefore it demands a free offering, not so the oath.

> Qvoad *matrimonium respondet, disparem esse rationem, quia matrimonium ex significatione habet, ut sit deditio voluntaria, atque amoris coniunctio, imitans coniunctionem Christi cum anima, et Ecclesia; ideo ait Apostolus, Ephes. 5.* Sacramentum hoc magnum est, ego autem dico in Christo, et in Ecclesia*, atque ideo liberalem exhibitionem exigit, non sic iuramentum.*

16 *You will say.* If anyone swear an oath of marriage with Thecla, he is bound, even if he have sworn under coercion, unless it be relaxed by a supervening cause, as St. Bonaventure teaches *ad ultimum*, whom others follow, as cited by Sanchez *lib. IV. de matrimonio, d. 20. num. 14. et d. 21. num. 2. etc.* here at *num. 21.* against Sanchez himself and others there, who nevertheless confess the opinion of St. Bonaventure. Therefore apart from that signification of a spontaneous union a marriage is valid: therefore there is no disparity between an Oath and Marriage.

> Dices. *Si quis iuret matrimonium cum Thecla, tenetur, etiamsi coacte iuraverit, nisi causa superveniente relaxetur, ut docet D. Bonavent.* ad ultimum*, quem sequuntur alii apud Sanchez* lib. IV. de matrimonio, d. 20. num. 14. et d. 21. num. 2. etc. *hic* num. 21. *contra ipsum Sanchez, et alios ibi, qui tamen fatentur opinionem S. Bonavent. Ergo praeter illam significationem spontaneae coniunctionis est validum matrimonium: Ergo nulla disparitas inter Iuramentum, et Matrimonium.*

17 He *answers*, that an oath added has only the reason of an obliging force, which is clear, because without it it would not bind; whence it comes about that, since it is a stricter bond of the obligation not to gravely detract from Divine truth than of representing the Divine union with the Church, this yields to it.

> Respondet*, Iuramentum additum, solum habere rationem obligantis, quod patet, quia absque eo non obligaret, quo fit, ut cum arctius sit vinculum obligationis non detrahendi graviter Divinae veritati, quam repraesentandi Divinam coniunctionem cum Ecclesia, hoc illi cedat.*

18 *That it is not per se a bond of marriage is proved; because if he should contract with another, the marriage holds, although he be bound on account of perjury to do penance.* These are the words of St. Bonaventure; but of this *in the third part, when I treat of marriage.*

> Nullum autem esse per se vinculum matrimonii probatur; quia si is contrahat cum alia, tenet matrimonium, licet ob periurium teneatur poenitentiam agere. *Haec S. Bonavent. sed de hoc* tertia parte cum de matrimonio agam.

19 *I assert second*, that things contracted in the forum of the Church under fear, confirmed by oath, are judged void. It is proved by St. Bonaventure from that saying of Tully and of the Praetor: *Things done under fear I do not hold valid.*

> Assero secundo*, ea, quae sunt in foro Ecclesiae contracta ex metu, firmata iuramento, irrita iudicantur. Probatur a D. Bonavent. ex illo Tullii effato, et Praetoris:* Quae metu fiunt, rata non habeo.

20 *Second*, because wickedness ought not to result in advantage to anyone, as it is said.

> Secundo*, quia malitia non debet cuique in commodum resultare, ut dicitur.*

21 The Saintly Doctor *objects* to himself against the first assertion. Fear falling upon a man of constancy excuses human contracts.

> Obiicit *sibi S. Doctor contra primum assertum. Metus cadens in virum constantem excusat humanos contractus.*

22 He *answers*, that an oath is an invocation of God as witness, and consequently, since justice and Religion compel, it does not take away from it the honor of veracity, and of Truth; and that it is evil in itself to do this, and therefore it is not to be feared, but rather death is to be undergone, as it is said in Matth. 10. *Do not fear those who kill the body, but cannot kill the soul.* Wherefore it is also a stricter bond than a Vow, and marriage; for the oath pertains to a negative precept, not taking away from God the

honor of naming Him as witness in vain; but a Vow pertains to the affirmative, as I said at *quaest. 13.* from Sanchez himself, *who in lib. 3. cap. 9. num. 4.* shows this of the assertory oath; and he undeservedly denies it of the promissory; for even the promissory oath is an invocation of the Divine name to attest truth, not only present, of the mind's obliging and promising itself, but also future, of fulfilling the promises. But what he says, that a greater evil is infidelity, which is incurred by the breaking of a vow, than the irreverence due to God, which is violated in perjury, by rendering Him false, is proved not to hold from what he said above: For, considering only the obligation of a promissory oath, which is what the controversy is about, it includes the testimony of God, as the attester of the truth of that external promise, as to the conformity of the voice with the mind, and with the future effect. Therefore this is contained in the negative precept of not taking the name of God in vain, and it is greater, by Sanchez himself, than the positive obligation of a vow, which commands fidelity. The reason is, because it is worse to inflict a direct passive injury on someone than to fall short of a given faith; for although this also includes a certain irreverence, it is nevertheless not equal to that which renders God as false; otherwise, if such irreverence, added to the infidelity of breaking a vow, overcomes the irreverence of rendering God false, as Sanchez says, it ought to make the breaking of a vow, in which these two crimes are present, a graver fault also than assertory perjury, in which there is only the irreverence of falsehood redounding upon God; and yet he had said the opposite in that very number. Wherefore with Medina *lib. 5. de sacrorum hominum continentia, a cap. 22.* and others, whom Sanchez confesses to hold probably, the bond of an oath is greater than the bond of a vow.

> Respondet, *Iuramentum esse invocationem Dei in testem, atque adeo ut iustitia, et Religione cogente, non auferre ab ipso honorem veridici, ac Veritatis, esseque malum secundum se id facere, ideo non timendum, subire etiam potius mortem, ut dicitur Matth. 10.* Nolite timere eos, qui occidunt corpus, animam autem non possunt occidere. *Quare arctius est etiam vinculum, quam Votum, et matrimonium; nam illud iuramenti spectat ad praeceptum negativum, non auferendi a Deo honorem, nominando testem in vanum; at Votum ad affirmativum pertinet, ut dixi* quaest. 13. *ex ipso Sanchez,* qui lib. 3. cap. 9. num. 4. *de iutamento assertorio id ostendit; et immerito negat de promissorio; nam etiam promissorium est invocatio Divini nominis ad veritatem testandam, non modo praesentem, mentis se obligandi, ac promittendi, sed etiam futuram adimplendi promissa. Quod vero ait, maius malum esse infidelitatem, quae incurritur fractione voti, quam irreverentiam Deo debitam, quae violatur in periurio, reddendo eum falsum, probatur, non subsistere ex dictis ab eo supra: Nam spectata sola iuramenti promissorii obligatione, de qua est controversia, includit testimonium Dei, ut assertoris veritatis illius promissionis externae, quoad concordantiam vocis cum animo, et cum effectu futuro. Igitur haec in praecepto negativo continetur, non assumendi nomen Dei in vanum, et maior est, ex ipso Sanchez, quam obligatio positiva voti, quae fidelitatem praecepit. Ratio est, quia peius est iniuriam passivam directam alicui irrogare, quam deficere a data fide; licet enim hoc etiam irreverentiam quandam includat, non tamen aequalem cum ea, quae Deum ut falsum reddit; alioqui si talis irreverentia, addita infidelitati fractionis voti, vincit irreverentiam, reddendi falsum Deum, ut ait Sanchez, debebat graviorem culpam etiam fractionem voti, in qua sunt haec duo crimina, facere atrociorem periurio assertivo, in quo est sola irreverentia falsi in Deum redundantis, et tamen oppositum dixerat eodemmet numero. Quare cum Medina* lib. 5. de sacrorum hominum continentia, a cap. 22. *et aliis, quos probabiliter opinatos fatetur Sanchez, vinculum iuramenti esse maius vinculo voti.*

23 *First,* from the foundations of Sanchez I argue thus: By you at *number 4.* the obligation of an assertory oath is greater than that of a vow, for the reason that rendering God false outweighs the fidelity promised to God: therefore, since the breaking of a promissory vow, besides that fault of rendering God false, adds another of infidelity, and often also of injustice, and of defect of charity

toward one's neighbor, it will be far more augmenting of wickedness than the sin of breaking a vow; and this is what St. Bonaventure says, that an obligatory oath is a bond with God and with men.

> *I mo ex fundamentis Sanchez arguo sic: Per te* numero 4. *maior est obligatio iuramenti assertorii, quam voti; eo quod reddere Deum falsum praeponderat fidelitati promissae Deo: Ergo cum fractio voti promissorii, praeter eam culpam reddendi Deum falsum, addat aliam infidelitatis, et saepe etiam iniustitiae, et defectus charitatis proximo, erit multo magis augens malitiam super peccatum fractionis voti, et hoc est, quod ait S. Bonavent. iuramentum obligatorium esse vinculum cum Deo, et hominibus.*

24 As to marriage, St. Bonaventure *notes in 4. dist. 38. ad 1.* that marriage is inferior to a vow, because this is a promise to God of a better good; but marriage is a promise made to man concerning a lower good; and therefore it follows that an oath is a greater bond than marriage itself, because it is greater even than a vow, which marriage also falls short of. But although St. Bonaventure says at *the same dist.* that marriage is a promise to God, and to men, nevertheless properly it is a promise to man: to God, however, inasmuch as by the virtue of the truth commanded by God we are bound to obey.

> *De matrimonio autem Sanct. Bonavent.* notat in 4. dist. 38. ad 1. *esse inferius matrimonium voto, quia hoc est promissio Deo de meliori bono; at matrimonium de bono inferiori esse promissionem factam homini; et ideo sequitur, esse maius vinculum iuramentum ipso matrimonio, quia est maius etiam voto, quod et matrimonium superat. Licet autem dicat Sanct. Bonavent.* eadem dist. matrimonium esse promissionem Deo, et hominibus, *atramen proprie est promissio homini: Deo autem, quatenus ex virtute veritatis a Deo praeceptae, tenemut obedire.*

25 *Satisfaction* is indeed made for these coerced oaths by a momentary fulfillment, and at once it is whole to swear the oath again.

> Satisfit *vero his iuramentis coactis momentanea solutione, et statim est integrum iuramenti repetere.*

26 *Observe*, however, that these oaths bind under mortal guilt, as St. Bonaventure indicates *ad 3.* Div. Thom. *ad 1.* and other 21 Doctors, whom Sanchez reports at *number 18.* against the Angel, *verbo iuram, 5. numero 10.* The Saintly Doctor proves it *from that of Matth. 10. Him rather fear, who can destroy both soul and body in hell.*

> Observa *autem, haec iuramenta obligare ad culpam mortalem, ut indicat Sanct. Bonavent.* ad 3. *Div. Thom.* ad 1. *et alii 21. Doctores, quos refert Sanchez* numero 18. *contra Angelum,* verbo iuram, 5. numero 10. *Id probat S. Doctor* ex illo Matth. 10. Eum potius timete, qui potest et animam, et corpus perdere in gehennam.

27 *You will say* that the chapter *Verum de iureiurando.* commands that these not be punished as guilty of mortal fault.

> Dices *cap.* Verum de iureiurand. *praecipitut, ne hi puniantur, tamquam rei culpae mortalis.*

28 It is *answered*, that there it speaks of the punishment, which ought to be greater by reason of the injury found in that oath.

> Respondetur, *ibi loqui de poena, quae maior esse debet, ratione iniuriae repertae in eo iuramento.*

29 *Some* make an exception, unless it be added to contracts reprobated by law; such as alienation of a dotal fund, renunciation of a future succession, contracts of minors without the solemnity prescribed by law; they say that an oath attached to these does not bind. Thus very many, probably, as cited by Sanchez *num. 19.*

> Aliqui *excipiunt, nisi adiiciatur contractibus, iure reprobatis; quales sunt alienatio fundi dotalis, renunciatio futurae successionis, contractus minorum absque solemnitate, iure praescripta; his enim addictum dicunt, non obligare. Ita plurimi probabiliter apud Sanchez* num. 19.

30 *Others*, however, say that it is still invalid. So other many with Sanchez at *number 20*. The reason is that brought forward above at *question 15*. because although fulfilling the contract is an act of virtue, namely of redemption from vexation, and of truth, yet the obligation of the oath is not acquired by him who did the injury, but to God, who inflicted none. Moreover, because by natural law these oaths are not void; nor even by civil law, as Sanchez shows at *num. 20*.

> Alii *vero dicunt, adhuc esse invalidum. Ita alii plures cum Sanchez* numero 20. *Ratio est allata supra* quaestione 15. *quia licet contractus implere, est actus virtutis, scilicet a vexatione redemptionis, et veritatis, nec obligatio iuramenti acquiritur ei, qui fecit iniuriam; sed Deo, qui nullam intulit. Praeterea, quia iure naturali haec iuramenta non sunt irrita; neque etiam iure civili, ut ostendit Sanchez* num. 20.

31 *Others* extend it, so that if an oath be added to a vow, extorted under grave fear, it binds.

> Alii *extendunt, ut si iuramentum addatur voto, metu gravi extorto, obliget.*

32 *Others*, however, deny it, as cited by Sanchez at *num. 24*.

> Alii *vero negant apud Sanchez* num. 24.

33 *Hence* almost the question is decided: whether one released from prison, having sworn an oath of returning, is bound to return. And the question is, when the prison and the punishment to be inflicted are unjust; for if they are just, without doubt he is bound.

> Hinc *fere deciditur quaestio: An solutus e carcere, iuramento praestito de redeundo, teneatur redire. Et quaestio est, quando carcer, et poena inferenda, sunt iniusta; nam si iusta sint, proculdubio tenetur.*

34 The *first* opinion is, that he is bound to return to prison, however injurious, even if death impends. So Romanus *leg. stipulationes, numero 78. ff. de verb. obligat.* Caietanus *2. 2. quaestione 89. art. 7.* Angelus *V. Iuram. 5. num. 37.* Sylvester *ibi, num. 4 quaest. 26.* Tabiena *ibi, quaest. 10. num. 11.* Armilla *num. 13.* Toletus *lib. 4. summae, cap. 22.* Suarez. The *SECOND* opinion is, that he is never bound. So Abbas *cap. si vero, num 4. de Iureiur.* Sylva nuptialis *lib. 3. num. 44.* Angelus *V. carcer. num. 4.* Sylvester *V. accusatio, quaest. ultima, ubi Tabiena quaest. 10. n. 14. et verb. carcer, quaest. 1.* Guttierrez *de iuramento, p. p. cap. 57. a num. 24.* Sà *V. Iuram. num. 11.* and Sayrus says it *probable, lib. 12. cap. 18. num. 17.*

> Prima *opinio est, hunc teneri redire ad carcerem, quantumvis iniuriosum, etiamsi mors immineat. Ita Romanus* leg. stipulationes, numero 78. ff. de verb. obligat. *Caietanus* 2. 2. quaestione 89. art. 7. *Angelus* V. Iuram. 5. num. 37. *Sylvester* ibi, num. 4 quaest. 26. *Tabiena* ibi, quaest. 10. num. 11. *Armilla* num. 13. *Toletus* lib. 4. summae, cap. 22. *Suarez* SECUNDA *opinio est, numquam teneri. Ita Abbas* cap. si vero, num 4. de Iureiur. *Sylva nuptialis* lib. 3. num. 44. *Angelus* V. carcer. num. 4. *Sylvester* V. accusatio, quaest. ultima, ubi Tabiena quaest. 10. n. 14. et verb. carcer, quaest. 1. *Guttierrez* de iuramento, p. p. cap. 57. a num. 24. *Sà* V. Iuram. num. 11. *et dicit* probabilem *Sayrus* lib. 12. cap. 18. num. 17.

35 The *THIRD* opinion limits it, when unjust death impends. So the Gloss *Clem. Pastoralis V. violentiam, de sent. et re iudic.* And there Anchara *num. 12.* Imola *num. 60.* Cardinal. *ibi v. Notorium, notab. 4.* Abb. *cap. inter alios in fine, de immunitate Ecclesiae.* Everardus *in suis Topicis, loco a vi, energia, seu efficacia iuramenti, num. 62.* Praepositus *cap. Ius Gentium, num. 10. dub. 1.* Iason *leg. si duo patroni, § finali, num. 4. ff. de Iureiur.*

Hippolytus *singulari 177. malitiis hominum*, which Curtius the younger repeats, *leg. Admonendi, num. 69. ff. de Iureiur.* Ioan. de Selva *de Iureiur. 3. part. quaest. 1. num. 31.* Boerius *decis. 215. num. 30.* Maior *in 4. dist. 15. quaest. 22. ad 2.* D. Antonin. *2. part. tit. 10. cap. 6. casu 2.* Rosella *V. accusatus*, Bauerias *Tract. de virtute iuram. effectu 60. num. 112.* Couar. *lib. 1. variarum, cap. 2. num. 7.* Octavianus Ofascus *in decisione Pedemontana, 66. num. 12.* Plaza *de delictis, lib. 1. cap. 22. num. 6.* Seraphinus *de privil. iuramenti, privil. 132.* Iulius Clarus *lib. 5. receptarum, in pract. crimin. quaest. 21. num. 27.* Duennas, *regula 393. limit. 4.* Farinacius *in sua pract. criminali, part. 1. tom. 2. tit. de carceribus, quaest. 3. a num. 124.* where he reports others, Gomez de Almezcua *Tract. de potestate in seipsum, lib. 2. cap. 10. num. 1.*

> TERTIA *sententia limitat, quando imminet mors iniusta. Ita Glossa* Clem. Pastoralis V. violentiam, de sent. et re iudic. *Et ibi Anchara* num. 12. *Imola* num. 60. *Cardinal.* ibi v. Notorium, notab. 4. *Abb.* cap. inter alios in fine, de immunitate Ecclesiae. *Everardus* in suis Topicis, loco a vi, energia, seu efficacia iuramenti, num. 62. *Praepositus* cap. Ius Gentium, num. 10. dub. 1. *Iason* leg. si duo patroni, § finali, num. 4. ff. de Iureiur. *Hippolytus* singulari 177. malitiis hominum, *Curtius iunior repetit*. leg. Admonendi, num. 69. ff. de Iureiur. *Ioan. de Selva* de Iureiur. 3. part. quaest. 1. num. 31. *Boerius* decis. 215. num. 30. *Maior* in 4. dist. 15. quaest. 22. ad 2. *D. Antonin.* 2. part. tit. 10. cap. 6. casu 2. *Rosella* V. accusatus, *Bauerias* Tract. de virtute iuram. effectu 60. num. 112. *Couar.* lib. 1. variarum, cap. 2. num. 7. *Octavianus Ofascus* in decisione Pedemontana, 66. num. 12. *Plaza* de delictis, lib. 1. cap. 22. num. 6. *Seraphinus* de privil. iuramenti, privil. 132. *Iulius Clarus* lib. 5. receptarum, in pract. crimin. quaest. 21. num. 27. *Duennas,* regula 393. limit. 4. *Farinacius* in sua pract. criminali, part. 1. tom. 2. tit. de carceribus, quaest. 3. a num. 124. *ubi alios refert, Gomez de Almefcua* Tract. de potestate in seipsum, lib. 2. cap. 10. num. 1.

36 The *FOURTH* opinion extends it, that this oath does not bind, when not only death but also any unjust danger to the person is feared; not, however, if these concern only domestic goods. So Abb. *cap. sicut el 3. num. 4. de iureiurando.*

> QUARTA *sententia extendit iuramentum hoc non obligare, quando timetur non solum mors, sed etiam iniustum quodlibet personae periculum, non tamen, si rerum tantum familiarium sint. Ita Abb.* cap. sicut el 3. num. 4. de iureiurando.

37 The *FIFTH* opinion extends it, so that this oath does not bind even when an unjust sentence is feared in regard to reputation, or detriment to one's estate. So Vasquez *prima secunda, dist. 174. cap. 5.* Who nevertheless at *num. 38.* limits it, when the keeper of the prison is a participant in the iniquity of the judge; for if that keeper would release him in good faith, and danger impends over him if the prisoner does not return, then it would be an act of virtue to return with the danger, that the salvation of the innocent not be lost.

> QUINTA *sententia extendit, ut non obliget hoc iuramentum, etiam quando timetur sententia iniusta in fama, aut rei familiaris detrimento. Ita Vasquez* prima secunda, dist. 174. cap. 5. *Qui tamen* num. 38. *limitat, quando custos carceris est particeps iniquitatis iudicis; nam si custos ille in bona fide dimitteret, et ei immineret periculum, non redeunte ergasto, tunc esset actus virtutis redire cum periculo, ad salutem innocentis non perdendam.*

38 In so great a variety of Doctors I shall set down what is to be drawn from St. Bonaventure.

> *In tanta Doctorum varietate ponam quid ex D. Bonaventura eliciatur.*

39 *FIRST*, the Saintly Doctor *at the end of the body*, asserts that one is bound by a coerced oath only when it concerns a thing licit. Then, if the oath has been gravely coerced, relaxation can be sought,

and be given by the Church. As to a licit oath, however, he says that death is rather to be undergone than that it be broken. So *ad 3*.

> PRIMO *S. Doctor* in corporis fine*, asserit, tantum teneri aliquem iuramento coacto, quando est de re licita. Deinde, si iuramentum est graviter coactum, posse quaeri relaxationem, et dari ab Ecclesia. Quoad iuramentum vero licitum, ait subeundam potius mortem, quam illud frangendum. Ita* ad 3.

40 *It must be asked*, therefore: whether in the doctrine of St. Bonaventure it is a just thing to throw away one's life and all one's goods; and indeed as to goods and reputation it occasions little difficulty; therefore only this weighs on me: whether one can hand over one's life to an unjust death.

> QUAERERE *igitur oportet: an in doctrina D. Bonavent. sit res iusta prostituere vitam, suaque omnia, et quidem quoad rem familiarem, et famam, non multum facessit negotii, solum ergo premor: an possit vitam iniquae morti tradere.*

41 This indeed cannot be drawn from that third argument, in the second place, where he argues: Fear falling upon a man of constancy excuses. But he answers, that in the matter of justice it does not excuse, and thus death is rather to be desired than that a just oath be violated. In our case, however, the question is: whether it is just.

> *Hoc quidem non potest erui ex illo argumento tertio, secundo loco, ubi arguit: Metus cadens in constantem virum excusat. Respondet autem, in materia iustitiae non excusare, et ita potius mortem appetendam, quam iustum iuramentum violandum. In causa vero nostra quaestio est: an sit iustum.*

42 *Probably*, indeed, it seems to me that it should be asserted with the third opinion, which is the doctrine of Baldus *lib. de vita, et honestate clericorum, num. 6.*

> PROBABILITER *mihi sane videtur asserendum cum tertia sententia, quae est doctrina Baldi* lib. de vita, et honestate clericorum, num. 6.

43 *The REASON* is, because the matter of this oath is not licit, but rash, and that return is an unjust killing of oneself, by offering oneself to an unjust death. Therefore it is not an act of patience, but of rashness; nor an act of fidelity to a tyrant extorting faith for an unjust killing. Nor is it to redeem a vexation; rather it is to return to a most grave vexation, since it comes to the homicide of oneself; and this seems to be the sense of St. Bonaventure, who *in 3. dist. 37. num. 10. in dub litt.* asserts that one sins in the same way by killing himself and by killing his neighbor; but that a neighbor is killed even when we can rescue him from death and do not wish to, he says *in Compend. Theol. lib. 6. cap. 64.* These things I see do not prove that to be the opinion of St. Bonaventure; therefore it will be elucidated more clearly in the following question.

> RATIO *est, quia materia huius iuramenti non est licita, sed temeraria, et ille reditus est occisio iniqua sui, offerendo se morti iniustae. Igitur non est actus patientiae, sed temeritatis; neque actus fidelitatis tyranno fidem extorquenti ad iniustam occisionem. Neque est redimere vexationem, imo potius redire ad vexationem gravissimam, cum ad homicidium sui redeat, et hic videtur sensus D. Bonav. qui* in 3. dist. 37. num. 10. in dub litt. *asserit, eodem modo aliquem peccare occidendo seipsum, et proximum; at proximum occidi, etiam cum possumus eum a morte eruere, et nolumus, ait* in Compend. Theol. lib. 6. cap. 64. *Haec video non arguere eam esse opinionem D. Bonaventurae, clarius igitur sequenti quaestione elucidabitur.*

Question XVII: Whether an oath given through fraud, error, or ignorance is void

[1] *I SUPPOSE*, that mere Ignorance means the privation of knowledge, or the positive assertion of a false thing, which is called error; but Dolus means an injurious deception of the one demanding the oath.

> SUPPONO, *Ignorantiam meram dicere privationem cognitionis, aut positivam rei falsae assertionem, quae dicitur error, Dolus vero dicit deceptionem iniuriosam a petente iuramentum.*

[2] *DUPLEX*, however, is dolus, or ignorance, and error; one antecedent, namely that which induces to the doing of the act, and provides the very cause of it, which the Jurists call *giving* cause to the contract *leg. et eleganter, ff. de dolo*, namely because, if that dolus or error were not present, the contract would not follow; the other, truly, accompanies the act, namely that which does not induce to willing the act, but so accompanies the act that even if it were not present, still the act would follow: and this is called by the Jurists *Incidens in contractum, seu contingens*, in distinction from the former, which is called *ex proposito*.

> DUPLEX *est autem dolus, vel ignorantia, et error; quidam antecedens, qui scilicet inducit ad actum faciendum, ac ipsi causam praebet, quam Iurisperiti vocant dantem causam contractui* leg. et eleganter, ff. de dolo*, nempe quia, si is dolus, vel error non adesset, iam contractus non sequeretur; alter vero est concomitans actum, qui scilicet non inducit ad volendum actum, sed ita comitatur actum, ut etiamsi non adesset, adhuc actus sequeretur: et hoc vocatur a Iuristis,* Incidens in contractum, seu contingens*, ad differentiam prioris, qui dicitur* ex proposito.

[3] *I ASSERT* first, that dolus, or error, or antecedent ignorance renders an oath void. It is the common opinion with St. Bonaventure *in 4. dist. 30. quaest. 1.* who note that it must concern the substance of the thing.

> ASSERO *primo, dolum, vel errorem, aut ignorantiam antecedentem reddere iuramentum irritum. Est sententia communis cum D. Bonavent.* in 4. dist. 30. quaest. 1. *qui advertunt, debere esse circa substantiam rei.*

[4] It is *proved* by St. Bonaventure there, because there is no consent of one in error *leg. si per errorem, ff. de iurisdict. omnium iudic. leg. cum testamentum et leg. Non idcirco, Cod. de iuris, et facti ignorantia*. Therefore void is the marriage entered into with Bertha, who was believed to be Thecla. Sanchez reports an example. If anyone swear to give to someone a thing which he takes to be glass, and afterward find it to be a gem: and St. Bonaventure, if anyone, thinking to buy gold, and declaring that he wants gold, should receive aurichalcum; for if he did not declare himself, the contract would bind, because a purchase is a contract founded on the external; but in a contract which requires internal consent concerning the thing, it would not suffice, as in marriage.

> PROBATUR *a D. Bonavent. ibi, quia errantis non est consensus* leg. si per errorem, ff. de iurisdict. omnium iudic. leg. cum testamentum et leg. Non idcirco, Cod. de iuris, et facti ignorantia. *Ideo irritum est matrimonium initum cum Berta, quae creditur Thecla. Exemplum refert Sanchez. Si quis iuret dare alicui rem, quam putat vitrum, et postea inveniat esse gemmam: et S. Bonavent. si quis putans emere aurum, et explicans se velle aurum, reciperet aurichalcum, nam si non se explicaret, teneret contractus, quia emptio est contractus fundatus in externo; at in contractu, qui requirit consensum internum circa rem, non sufficeret, ut in matrimonio.*

[5] *I ASSERT* second, that probably it is not the case that concomitant error renders it invalid, if such an intention be present: I would wish, even if it were that one.

> ASSERO *secundo, probabile non est, errorem comitantem reddere invalidum, si adsit talis intentio: Vellem, etiamsi esset ille.*

6 It is *proved*, because consent does not fail from knowledge. See Sanchez *lib. 7. de matrimonio, disp. 18.* where many are for this opinion against Sanchez himself. Observe, there, whether it be St. Bonaventure.

> PROBATUR, *quia non deficit consensus ex cognitione. Vide Sanchez* lib. 7. de matrimonio, disp. 18. *ubi plures pro hac sententia sunt contra ipsum Sanchez. Observa, ibi, an sit D. Bonaventura.*

7 *I ASSERT* third, that error concerning qualities only does not render an oath invalid.

> ASSERO *tertio, errorem circa qualitates tantum non reddere iuramentum invalidum.*

8 It is *proved*, because here it does not take away consent.

> PROBATUR, *quia hic non tollit consensum.*

9 Against the first assertion seems to be that which the Saintly Doctor says, that Joshua was deceived by the Gabaonites into making a league, whom he shows to have judged himself bound, from St. Ambrose *lib. de officiis*.

> *Contra primum assertum videtur id, quod ait S. Doctor, Iosue deceptum esse a Gabaonitis ad foedus ineundum, quem obligatum se existimasse, ex D. Ambrosio* lib. de officiis, *ostendit.*

10 The Saintly Doctor *answers* there in *3. dist. 29. quaest. ultima, ad 1.* that Joshua judged it better to spare them, not because he was bound in the sight of God, but lest he excite scandal. Therefore St. Ambrose says that Joshua judged that the peace he had given was not to be recalled, because it had been confirmed by the religion of the Sacrament, lest, while he reproved another's perfidy, he dissolve his own faith. This therefore he preserved, believing that it did not displease God to receive penitents, although He had commanded that they not join leagues with those obstinate ones.

> Respondet *S. Doctor ibi in* 3. dist. 29. quaest. ultima, ad 1. *Iosue melius existimasse eis parcere, non quia teneretur in facie Dei, sed ne scandalum excitaret. Ideo ait D. Ambrosius Iosue pacem, quam dederat, revocandam non censuit, quia firmata erat Sacramenti religione, ne, dum alienam perfidiam redargueret, suam fidem solveret. Hoc igitur servavit credens, neque Deo displicere, recipere poenitentes, licet praecepisset, ne cum illis obstinatis foedera coniungerent.*

Question XVIII: Whether an incautious promissory oath binds

1 § St. Bonaventure dist 39. quaest. ultima.

> ***An Iuramentum incautum promissorium obliget.***
>
> *§ D. Bonavent. dist 39. quaest. ultima.*

2 Already at question 13. we saw what matter is necessary for an oath to bind. Since, therefore, an imprudent oath concerns matter verging toward evil, or toward a lesser good, to judge is from what was said there. It is called imprudent, however, because it is promised out of a defect of judgment, or of disquisition.

> *Iam quaestione 13. vidimus, quae materia necessaria sit, ut iuramentum obliget. Cum igitur iuramentum incautum sit de materia vergente in malum, vel in minus bonum, iudicare est ex ibi dictis. Dicitur autem incautum, quia ex defectu iudicii, seu disquisitionis promittitur.*

3 I assert first, that an oath concerning a thing verging toward evil, that is, sin, is invalid.

> *Assero primo, Iuramentum de re vergente in malum, idest, peccatum, est invalidum.*

4 It is *proved* by St. Bonaventure, because an oath is not a bond against justice, but of justice.

> Probatur *a D. Bonavent. quia iuramentum non est vinculum contra iustitiam, sed iustitiae.*

5 I assert second, that an oath imprudently issued, promising a thing against the counsels, is invalid.

> *Assero secundo, Iuramentum incaute emissum, promittens rem contra consilia, esse invalidum.*

6 It is *proved* by St. Bonaventure, because what is against the counsels falls short of the judgment, and justice, necessary in vows, which are of a better good; and since the counsels are from God, and a vow concerning the counsels is made to God; so, on the contrary, an oath promising not to observe the counsels is against the reason of the vow it has taken on. The Saintly Doctor indeed notes that one who has so sworn is not to enter religion; but if anyone should swear never to attain perfection, he would sin gravely, because thus the perfection (as I suppose) of a Christian is assailed.

> Probatur *a D. Bonavent. quia quod est contra consilia, deficit iudicio, et iustitia necessaria in votis, quae sunt de meliori, sicuti autem consilia sunt a Deo, votumque de consiliis est Deo factum; Ita e contra Iuramentum promittens, non observare consilia, est contra rationem suam voti, quam induit. Advertit vero S. Doctor tale esse iurate non intraturum religionem; at si iuret quis, nunquam perfectionem attingere, peccaret graviter, quia sic impugnatur perfectio (ut suppono) Christiani.*

7 I assert third, that what verges indiscriminately toward good or evil, such as swearing not to accept prelacies, is also indiscriminately good or evil according to the conditions of the person; for if he be a fit and useful person, he swears badly; but if he be a Pastor, and yet an idol (*as I speak with St. Bonav., ad ultimum Ioannis*) he does well in not accepting.

> *Assero tertio, id quod vergit promiscue in bonum, vel malum, ut iurare non acceptare praelaturas, etiam promiscue, est bonum, vel malum pro conditionibus personae; nam si sit persona apta, et utilis, male iurat; si vero sit Pastor, et tamen idolum (*ut cum D. Bonav. loquar, ad ultimum Ioannis*) bene facit, non acceptans.*

8 But remember, that what I said at question 13., that a sworn promise, even to a man, ought to pertain to some virtue, at least given the promise and the oath.

> *Memento autem, ea quae dixi quaestione 13. promissum iuratum, etiam homini, debere ad aliquam virtutem pertinere, saltem supposita promissione, atque iuramento.*

9 *You will object* first: Joshua, cited chapter, kept the imprudent oath of the league with the Gabaonites, against God's precept not to make a league with Idolaters.

> Obiicies *primo: Iosue cit. cap. servavit iuramentum incautum foederis Gabaonitis, contra Dei praeceptum, non ineundi foedus cum Idolatris.*

10 The Saintly Doctor *answers*, that oath was rightly kept. First, because by the interpretation of the Divine mind it was better to take the Gabaonites into servitude than to kill them, especially since they were ready to serve faithfully, and God accepts toward repentance; but the league was forbidden with the incorrigible.

> Respondet *S. Doctor, Iuramentum illud recte servatum. Primo, quia ex Divinae mentis interpretatione melius erat accipere Gabaonitas in servitutem, quam occidere, maxime cum prompti essent fideliter servire, et Deus acceptat ad*

poenitentiam; foedus autem vetitum erat cum incorrigibilibus.

11 *You will object* second. A harlot keeping faith with her leaser is worse in keeping faith than in not keeping it, *from St. Augustine lib. de bono coniugii, cap. 4.* but that oath has an evil outcome: Therefore.

Obiicies *secundo. Meretrix servans fidem suo locatoti, peior est servando fidem, quam non servando,* ex D. Augustino lib. de bono coniugii, cap. 4. *sed iuramentum illud habet malum exitum: Ergo.*

12 The Saintly Doctor *answers*, that in that oath there are two things. One, that the harlot swears she will consent to her suitor: the other, that she swears she will not give faith to another. And the first indeed is illicit, and she is not bound to that. The second, however, is licit, and she is bound to this; and as to this he says, that she is worse in not keeping it than if she kept the oath.

Respondet *S. Doctor, in iuramento illo esse duo. Alterum, quod meretrix iurat, se consensuram suo proco: Alteram, quod iurat, se fidem alteri non daturam. Et primum quidem est illicitum, et ad illud non tenetur. Secundum vero est licitum, et ad hoc tenetur; et quoad hoc dicit, quod peior est non servando, quam si iuramentum servaret.*

13 *You will object* third, that anyone may swear to contract marriage: therefore also not to enter religion.

Obiicies *tertio, potest aliquis iurare matrimonium contrahere: Ergo etiam non intrare religionem.*

14 The Saintly Doctor *answers*, denying the consequence: for one swearing marriage swears some good; but one swearing precisely not to enter religion swears no good. Then, one who swears marriage can, without the consent of the woman, or after her death, set out upon perfection; but one who swears not to enter religion renders himself unfit forever.

Respondet *S. Doctor, negando consequentiam: nam iurans matrimonium, iurat aliquod bonum; at iurans praecise, non intrare religionem, nil boni iurat. Deinde qui iurat matrimonium, potest sine ex consensu mulieris, sive post eius obitum aggredi perfectionem; qui vero iurat, non intrare religionem, reddit se inhabilem in sempiternum.*

15 *You will say*. What is licit to do is licit also to swear that one will do; but it is licit not to enter religion: Therefore.

Dices. *Quod licet facere, licet etiam iurare, se facturum; sed licet non intrare religionem: Ergo.*

16 The Saintly Doctor *answers*, the Major is denied; for to be unwilling to enter religion is of imperfection; but to swear that one will not enter is obstinacy, and an assault upon the grace of the Holy Spirit.

Respondet *S. Doctor, negari Maiorem; nam nolle intrare religionem, est imperfectionis; at iurate, se non intraturum, est obstinatio, et impugnatio gratiae Spiritus Sancti.*

Question XIX: Whether an oath confirms contracts that could otherwise be voided

1 The question treats: Whether an Oath, beyond its force of obliging to the performance of the thing sworn, also has the force of confirming those contracts to which it is added.

An Iuramentum confirmet contractus, qui aliter possent irritari.

Quaestio agit: An Iuramentum ultra vim obligandi ad rem iuratam implendam, habeat quoque vim confirmandi illos contractus, quibus adiicitur.

2 Now a contract can be understood to be ratified by an oath in two ways.

> *Dupliciter autem potest intelligi, contractum firmari iuramento.*

3 First, when the contract, apart from the oath, was valid of itself and by law; but it could be revoked, and it was lawful to appeal against it in court — and by virtue of the oath it is made irrevocable, such as contracts entered into by minors, by the Judge's decree and with the consent of a Curator.

> *Primo quando contractus, secluso iuramento, erat ex se, et iure validus; sed revocari poterat, et fas erat contra illum in iudicio reclamare, atque virtute iuramenti efficitur irrevocabilis, ut sunt contractus a minoribus initi, decreto Iudicis, et Curatoris consensu.*

4 Second, when the contract was invalid by the law itself; but by virtue of the added oath it becomes valid, or at least has all the effects as if it were valid, such as contracts entered into by a minor without the consent of a Curator, and this is established *ex leg. si Curatorem, cod. de integra. restit.*

> *Secundo, quando contractus erat ipso iure invalidus; at virtute iuramenti adiecti sit validus, aut saltem omnes effectus habet, ac si validus esset, ut sunt contractus initi a minore absque Curatoris consensu, et constat* ex leg. si Curatorem, cod. de integra. restit.

5 Note also that an oath by its nature does not have the force of confirming contracts, for of itself it was instituted only to confirm an asserted truth. Hence our question is: Whether it obtains this force from any positive law, CANONICAL, or CIVIL.

> *Nota etiam, iuramentum ex natura sua non habere vim confirmandi contractus, nam ex se institutum est solum ad assertam veritatem confirmandam. Ideo nobis quaestio est: An hanc obtineat vim ab aliquo iure positivo Canonico, vel CIVILI.*

6 The first opinion, therefore, is that no force in any law is inherent in an oath. *So Iason Auth. sacram puber. num. 5. and 36. and 37. Igneus in repet. of the same Auth. num. 15. Portius, §. Extraneis, num. 11. Instit. de haered. qualitate.*

> *Prima igitur opinio est, nullam vim iure aliquo inesse iuramento.* Ita Iason Auth. sacram puber. num. 5. et 36. et 37. Igneus in repet. eiusdem Auth. num. 15. Portius, §. Extraneis, num. 11. Instit. de haered. qualitate.

7 Yet the true teaching is that an oath sometimes has the force of confirming the contracts to which it is added, which are void by civil or canon law. Thus the alienation of a dowry land; the renunciation of a future succession, and contracts of minors made without the authority of a Curator and the decree of a judge, when they concern immovable goods, are void — and yet, if they are buttressed by an oath, they are valid per cap. *Quamvis pactum, in 6. and cap. 2. de iureiur. and cap. cum contingat, same title, and Auth. Sacramenta puberum, Cod. si adversus, vendit.* That this teaching is most common, Sanchez reports *Tom. 1. Decal. lib. 3. c. 12. recensens n. 11.* of sixty Doctors, to whom add Fagundez *in secundum praeceptum, lib. 2. c. 17. and others cited by him.*

> *Vera tamen sententia est, Iuramentum aliquando habere vim ad confirmandos contractus, quibus adiicitur, Iure civili, vel canonico irritos. Sic alienatio fundi dotalis; renunciatio futurae successionis, et contractus minorum absque Curatoris authoritate, et decreto iudicis facti, quando sunt circa res immobiles, sunt irriti, et tamen, si fulciantur iuramento, valent per cap.* Quamvis pactum, in 6. et cap. 2. de iureiur. et cap. cum contingat, eodem titulo, et Auth. Sacramenta puberum, Cod. si adversus, vendit. *Hanc sententiam esse communissimam refert Sanchez* Tom. 1. Decal. lib. 3. c. 12. recensens n. 11. *sexaginta Doctores, quibus adde Fagundez* in secundum praeceptum, lib. 2. c. 17. et alios apud eum.

[8] AZORIUS, however, ERRS, *Tom. 2. lib. 11. c. 7. quaestio 1.*, saying that an oath confirms contracts void indeed by civil law, but not by canon law. For the contrary holds, because a donation between spouses is void by canon law, *cap. finali de donat. inter virum, et uxorem;* and yet it is confirmed by an oath, as Sanchez teaches with the most frequent opinion *lib. 6. de matrimonio, disput. 11.* — and Azorius himself admits the same.

> *FALLITUR vero Azorius* Tom. 2. lib. 11. c. 7. quaestio 1. *dicens, iuramentum confirmare contractus quidem iure Civili irritos, non vero Canonico. Contra enim est, quia donatio inter coniuges est iure Canonico irrita,* cap. finali de donat. inter virum, et uxorem; *et tamen confirmatur iuramento, ut cum frequentissima sententia docet Sanchez* lib. 6. de matrimonio, disput. 11. *et fatetur idemmet Azorius.*

[9] *THEY OBJECT:* the common axiom of the jurists: An oath is to be regulated according to the nature of the act to which it is attached *leg. finali, Cod. de non numerata pecunia.* Hence many Doctors teach that an oath does not increase the obligation of the thing to which it is attached, but only adds to the act the bond of Religion: Therefore an oath does not confirm contracts, but leaves them in their own state.

> OBIICIUNT. *Vulgare Iurisperitorum axioma; Iuramentum regulandum iuxta naturam actus, cui apponitur* leg. finali, Cod. de non numerata pecunia. *Unde multi Doctores docent, Iuramentum non augere obligationem rei, cui apponitur, sed actui solum addere vinculum Religionis: Ergo iuramentum non confirmat contractus, sed eos in eorum statu relinquit.*

[10] TO MANY of these Fagundez replies. But I say, from D. Bonavent. *in 4. dist. 28. dubiis lit.*, that the axiom is true with respect to things that are of the law of nature, Divine, or of Nations — such things, namely, invalid ones, are not changed by a new oath, but are left in their pristine state; but it does not hold in contracts of merely human law.

> PLURIBUS *respondet Fagundez. At ego dico ex D. Bonavent.* in 4. dist. 28. dubiis lit. *verum esse axioma quoad ea, quae sunt naturae, Divino, vel Gentium, talia sunt, nempe, invalida haec non novo immutantur iuramento, sed in pristino relinquuntur; non autem valere in contractibus, iure humano nullis.*

[11] The *RULE*, however, most firm for knowing when a contract is ratified by an oath, is from D. Bonavent. *loco cit.* and Fagundez *num. 114.*: Whenever an oath attached to contracts can be kept without sin, and no turpitude is found in the one in whose favor it is given, and it contains not only a promise of doing the promised thing, but also such a promise as is at least equivalent to a promise of not revoking the contract, then the oath confirms that contract. This rule Sanchez hands down *Tom. 1. lib. 3. Decal. cap. 12. num. 42.*

> REGULA *autem firmissima ad cognoscendum, quando iuramento firmetur contractus, est ex D. Bonavent.* loco cit. *et Fagundez* num. 114. *Quoties iuramentum in contractibus appositum absque peccato servari potest, nec turpitudo invenitur in eo, in cuius favorem praestatur, et non solam promissionem faciendi rem promissam continet, sed etiam talem promissionem, quae saltem aequipollens est promissioni non revocandi contractus, tunc iuramentum firmat illum contractum. Hanc regulam tradit Sanchez* Tom. 1. lib. 3. Decal. cap. 12. num. 42.

[12] *AS TO* the first condition, which is required that the oath can be kept without sin; some reduce another to it, namely that the oath not be made to the prejudice of another — but that is the same as not being able to be kept without sin *cap. cum contingat de iureiurando, and cap. Quamvis pactum de pactis, in 6.*

AD *primam conditionem, quae praecipitur, ut iuramentum possit absque peccato servari; aliqui reducunt aliam, ut iuramentum non fiat cum praeiudicio alterius, sed id idem est, ac non posse servari absque peccato* cap. cum contingat de iureiurando, et cap. Quamvis pactum de pactis, in 6.

13 *ON* the second condition, that there be no turpitude on the part of the one receiving the oath, that is, on the part of him in whose favor it is given, they ask what this turpitude must be like.

CIRCA *secundam conditionem, ut non detur turpitudo ex parte recipientis iuramentum, hoc est ex parte illius, in cuius favorem praestatur, quaerunt; qualis debeat esse haec turpitudo.*

14 *IT IS ANSWERED*, with Sanchez *Tom. 1. lib. 3. cap. 12. num. 53.* and Fagundez *num. 17.*, that turpitude occurs not only when the receiver unjustly accepts and is bound; but also when he sins in accepting the thing promised to him by oath, even though he is not bound to restore it, nor does he sin in keeping it.

RESPONDETUR *cum Sanchez* Tom. 1. lib. 3. cap. 12. num. 53. *et Fagundez* num. 17. *contingere turpitudinem, non modo quando recipiens inique accipit, et tenetur; sed etiam quando peccat in acceptione rei, sibi promissae iuramento, quamvis eam non teneatur restituere, nec retinendo peccet.*

15 From the first condition it follows that contracts are not ratified by an oath against the law of Nature, Divine, or of Nations; indeed, against civil and canonical law, which is immediately ordered to the common good, as Fagundez proves at length. The reason is, because all these contracts are mortal or venial sins, according to the gravity of the matter.

Ex prima conditione sequitur, non firmari iuramento contractus contra ius Naturae, Divinum, vel Gentium; imo contra ius Civile, et Canonicum, quod immediate ordinatur ad bonum publicum, ut late probat Fagundez. Ratio est, quia hi contractus omnes sunt peccata mortalia, vel venialia; secundum gravitatem materiae.

16 On the contrary, however, if such a law is enacted for the favor of a private person, it does not oblige under fault; therefore an oath confirms such contracts against those laws which favor a private person.

E contra vero, si haec sit lata ob favorem privatum, non obligat ad culpam; ideo iuramentum confirmat tales contractus contra has leges, quae privato favent.

17 *YOU WILL ASK:* whether, in doubt, you are bound if you have sworn.

QUAERES: *an in dubio, num iuraveris, tenearis.*

18 *I SAY*, that in these cases the favor stands for liberty, as I said *de voto, disput. 1.* But if you have promised something, restrict it; as if you swore not to play, restrict it to illicit games, *cap. 1. de Iureiur. in 6.* Sanchez *lib. 3. cap. 17. and 18.* Navar. *cap. 12. num. 11.* Rodriquez *p. p. quaest. 188. num. 10.* Reginaldus *lib. 18. num. 34.* Bassaeus *V. Iuramentum. 4. num. 6.*

DICO, *his casibus favorem stare pro libertate ut dixi* de voto, disput. 1. *quod si promisisti aliquid, restringere; ut si iurasti non ludere; restringe ad illicita,* cap. 1. de Iureiur. in 6. *Sanchez* lib. 3. cap. 17. et 18. *Navar.* cap. 12. num. 11. *Rodriquez* p. p. quaest. 188. num. 10. *Reginaldus* lib. 18. num. 34. *Bassaeus* V. Iuramentum. 4. num. 6.

Question XX: On the ways of removing the obligation of an oath

1 FIRST, some say this obligation is removed by not being induced, as when a Law declares it void: But this does not remove an obligation that did not exist, but only prevents it from arising. Thus the Council of Trent, *sess. 25. cap. 16.*, declares void and null the renunciation of goods, even if sworn, before the two months of profession.

> ***De modis tollendi obligationem Iuramenti.***
>
> *PRIMO hanc obligationem tolli dicunt aliqui ne inducatur, ut cum Lex id irritum declarat: Sed hoc non tollit obligationem, quae non fuit, sed praepedit, ne sit. Sic Concil. Trident.* sess. 25. cap. 16. *renunciationem bonorum, etiam iuratam, ante duos menses professionis, irritam declarat, et nullam.*

2 *THE OBLIGATION* arising from an oath is truly removed, first, if it cannot be fulfilled without sin; for an Oath is not a bond of iniquity.

> TOLLITUR *vero obligatio, e iuramento oriens, primo si nequit exequi sine peccato; nam Iuramentum non est vinculum iniquitatis.*

3 *NEXT*, it is removed by the condonation of him in whose favor it was sworn.

> DEINDE *tollitur condonatione eius, in cuius favorem est emissum.*

4 *THIRD*, it is taken away by the voiding by superiors. See what I said *disp. de Voto, a quaest. 22. et seqq.* Except, however, Curators, who cannot void the oaths of minors, although they can void vows, *leg. 1. et 2. Cod. si adversus vendit.* It is also taken away by Commutation, as I said *disp. 1. de Votis, quaest. 30.* It is removed also by dispensation, in the way said *loco cit. quaest. 28. et 29.*

> TERTIO *aufertur superiorum irritatione. Vide quae dixi* disp. de Voto, a quaest. 22. et seqq. *excipe tamen Curatores, qui nequeunt iuramenta minorum irritare, etsi possint vota,* leg. 1. et 2. Cod. si adversus vendit. *Aufertur etiam Commutatione, ut dixi* disp. 1. de Votis, quaest. 30. *Tollitur etiam dispensatione, modo dicto* loco cit. quaest. 28. et 29.

5 *BUT* those five matters there related are not reserved if they are nude sworn, not vowed; for only those oaths are reserved which are to the loss of a third party. So Navar. *lib. 2. consil. de iur. conf. 3.* Tabien. *V. Iur. quaest. 20.* Petr. Ledesm. *tomo 2. tract. 11. cap. 4. dub. 2.*

> SED *non reservantur ea quinque, ibi relata, si nude sint iurata, non vota; ea enim sola reservantur iuramenta, quae sunt in damnum tertii. Ita Navar.* lib. 2. consil. de iur. conf. 3. *Tabien.* V. Iur. quaest. 20. *Petr. Ledesm.* tomo 2. tract. 11. cap. 4. dub. 2.

6 *FOR* they are commonly with a vow, and therefore are reserved: as Bassaeus warns, *V. Iur. 5. num. 7.* with Sanchez *lib. 8. matrim. disp. 13. and lib. 3. moral. cap. 19. num 6.*

> ENIM *vero communiter sunt cum voto, quae ideo reservata sunt: ut monet Bassaeus* V. Iur. 5. num. 7. *cum Sanchez* lib. 8. matrim. disp. 13. et lib. 3. moral. cap. 19. num 6.

7 *DISPENSATION*, however, must be for a cause, as I said *disp. 1. de Voto, quaest. 37.;* so also commutation, as I said there *quaest. 29.*

> DISPENSATIO *autem debet esse ex causa, ut dixi* disp. 1. de Voto, quaest. 37. *sic et commutatio, ut dixi ibi* quaest. 29.

8 *CAUSES* for dispensing from an oath can be: if it was extorted by fear or fraud: If injustice intervened, as when a usurer exacts an oath about paying usury. Or when one has been gravely injured in a contract and was forced to swear it; or, not attending to the injury, he confirmed it spontaneously by oath. Or in punishment for him in whose favor it is given, if he committed a crime, whereby he deserves to be despoiled of his goods, if he is an enemy of the Church. Finally, if the common good demands it, Lessius *lib. 2. cap. 42. dub. 12. num. 62.* Bonacina *de Iur. puncto 17.* Bassaeus *in calce.*

> CAUSAE *dispensandi iuramentum esse possunt, si metu, vel fraude sit extortum: Si iniustitia intercessit, ut cum usurarius exigit iuramentum de solvendis usuris. Vel cum in contractu graviter laesus est, et coactus est eum iurare; vel non advertens laesionem, iuramento confirmavit sponte. Vel in poenam ei, in cuius favorem est praestitum, si delictum patravit, unde meretur bonis spoliare, si Ecclesiae sit perduellis. Tandem si id bonum commune postulet, Lessius* lib. 2. cap. 42. dub. 12. num. 62. *Bonacina* de Iur. puncto 17. *Bassaeus* in calce.

Question XXI: On the penalties imposed on perjurers

1 THAT you may perceive the malice of Perjury, take the penalties imposed on it by the laws; these, once rightly known, will make you acknowledge its malice. Hence it pleases me to take up again the questions of D. Bonaventure *3. dist. 39.*, which I have not threshed out to the letter under their own titles, because as to those, they indeed seem easy, but they include very many questions graced with alien titles, which I have deferred: from these I will taste some of the omitted things, lest I leave anything untouched in the S. Doctor.

> ***De Poenis Periuriis impositis.***
>
> *UT Periurii malitiam percipias, accipe poenas legibus ei impositas; quibus iuste cognitis, agnosces malitiam eius. Ideo libet resumere quaestiones D. Bonaventurae* 3. dist. 39. *quas adamussim non trituravi propriis titulis, quia quoad eos, faciles quidem videntur, sed plurimas quaestiones, titulis decoras alienis, quas differui, includunt: Ex his aliqua libabo ex omissis, ne quid in S. Doctore intactum dimittam.*

2 *BY THE FIRST* question he shows that Perjury is always infected with some falsehood: next, that it is always a sin against the honor of God; and finally, by its genus, mortal. See the S. Doctor.

> PRIMA *quaestione ostendit, Periurium esse aliqua semper infectum falsitate: Mox semper esse peccatum contra Dei honorem; et tandem ex genere mortiferum. Vide S. Doctorem.*

3 *FURTHER*, that it is graver than homicide, because this tends to the life of man, but that to the honor of God, as S. Thomas teaches *quodl. 1. quaest. 9. art. 2.* Sotus *lib. 3. de Iust. quaest. 2. art. 3.* Azor *tract. 1. lib. 11. cap. 12. quaestio 6.* Sylvester V. *Periur. quaest. 2.* Tab. *quaest. 4.*

> EXINDE *gravius esse homicidio, quia! hoc in vitam hominis; illud vero in Dei vergit honorem, docent S. Thomas* quodl. 1. quaest. 9. art. 2. *Sotus* lib. 3. de Iust. quaest. 2. art. 3. *Azor* tract. 1. lib. 11. cap. 12. quaestio 6. *Sylvester V.* Periur. quaest. 2. *Tab.* quaest. 4.

4 THE OPPOSITE, I confess, is proved by Richard *3. dist. 39. art. 4. quaest. 1.* Gabriel *quaest. 2. art. 3. dub. 4.* Maior, Angelo V. *Periur.* Sylva *de benefic. 3. part. quaest. 2. art. 3.* Rebuf. *de pacific. poss. num. 234.* thus: What is punished more gravely is a graver crime: Homicide in every rightly ordered regime is punished more gravely than perjury: Therefore. The Major is held from *cap. ult. de vita, et honest. cleric. cap. foelicis, §. Illud, ubi* commonly the Doctors *de poenis, lib. 6. cap. Nisi de offic. deleg. leg. Levia, ubi* the Doctors *ff. de accus. leg. Respiciendum, ff. de poenis*, the Minor is plain, if the penalties of homicide,

related *Tract. de Iustitia, disp. de Hom.* are compared with those which I recite as assigned to Perjuries, on which Fagundez *in 2. praecept. cap. 51.*

OPPOSITUM fateor probari a Richardo 3. dist. 39. art. 4. quaest. 1. *Gabriele* quaest. 2. art. 3. dub. 4. *Maiore, Angelo V.* Periur. *Sylva* de benefic. 3. part. quaest. 2. art. 3. *Rebuf.* de pacific. poss. num. 234. *sic: Quod gravius punitur, est gravius crimen: Homicidium in omni rite ordinato regimine gravius punitur periurio: Ergo. Maior habetur* cap. ult. de vita, et honest. cleric. cap. foelicis, §. Illud, ubi *communiter Doctores* de poenis, lib. 6. cap. Nisi de offic. deleg. leg. Levia, ubi *Doctores* ff. de accus. leg. Respiciendum, ff. de poenis, *Minor patet, si comparentur poenae homicidii, relatae* Tract. de Iustitia, disp. de Hom. *cum iis, quas Periuriis assignatas recensco, de quibus Fagundez* in 2. praecept. cap. 51.

5 THE FIRST is the legal infamy of perjury solemnly proven in court, So Suarez *tract. 2. de Relig. lib. 3. de Iur. cap. 19.* Clarus *lib. 5. scient. §. Periurium,* indeed by CIVIL law. Canonical infamy is held from *6. quaest. 1. can. Si quis convictus fuerit, alios ad falsa testimonia, vel ad periuria attraxisse, vel quaecunque corruptione sollicitasse, ipse quidem usque ad exitum vitae non communicet: Hi vero, qui ei in periurio consensisse probantur, postea ab omni testimonio sunt removendi: et secundum legem infamia notabuntur.* It is added by some: *after private penance, 6. quaest. 1.* with D. Bonavent. *in confessionali, cap. 3. particula 33.* He speaks, moreover, of one breaking a promissory oath, doubtless because it remains in his power to give truth to the oath itself, which does not happen in an assertory one. See Tanner *quaest. 8. dub. 1.*

PRIMA est infamia Iuris periurio solemni probato in iudicio, Ita Suarez tract. 2. de Relig. lib. 3. de Iur. cap. 19. *Clarus* lib. 5. scient. §. Periurium*, Iure quidem CIVILI. Infamia Canonica habetur,* 6. quaest. 1. can. Si quis convictus fuerit, alios ad falsa testimonia, vel ad periuria attraxisse, vel quaecunque corruptione sollicitasse, ipse quidem usque ad exitum vitae non communicet: Hi vero, qui ei in periurio consensisse probantur, postea ab omni testimonio sunt removendi: et secundum legem infamia notabuntur. *Additur apud quosdam:* post poenitentiam privatam, 6. quaest. 1. *apud D. Bonavent.* in confessionali, cap. 3. particula 33. *Loquitur autem de frangente iuramentum promissorium, nimirum quia in eius potestate remanet, ut det ipsi iuramento veritatem, quod non contingit in assertorio. Vide Tannerum* quaest. 8. dub. 1.

6 THE MANY penances imposed for perjury by the sacred canons, the S. Doctor reports *loco cit. particula 32. Sic 22. quaest 5. can. Si quis periurat pro vita corporis servanda, quia magis dilexit corpus, quam animam, ieiunet tres quadragesimas.* Again Pope Pius there: *Who, compelled by a lord, knowingly perjures himself, both are perjured, the soldier and the lord; the lord, because he commands; the soldier, because he loved the lord more than his soul; if he is free, let him do penance for forty days on bread and water, and for the seven following years: if he is the lord's slave, let him do penance three Lenten seasons and the legitimate ferias, and in the same place: Who perjures himself on the hand of a Bishop, or on a consecrated Cross, let him do penance three years. But who was compelled, and perjured himself in ignorance, and afterwards learns it, let him do penance three Lenten seasons.* So relates S. Bonaventure *loco cit. partic. 31.*

MULTAS a sacris canonibus poenitentias impositas periurio, refert S. Doctor loco cit. particula 32. Sic 22. quaest 5. can. Si quis periurat pro vita corporis servanda, quia magis dilexit corpus, quam animam, ieiunet tres quadragesimas. *Rursus Pius Papa ibi:* Qui compulsus a Domino, sciens periurat, utrique periuri, et miles, et dominus, dominus quia praecipit; miles, quia plus dominum, quam animam dilexit, si liber est, quadraginta dies in pane, et aqua poeniteat, et septem sequentes annos: si servus eiusdem, tres quadragesimas et legitimas ferias poeniteat, et ibidem: Qui periurat in manu Episcopi, vel in Cruce consecrata, tres annos poeniteat. Qui autem coactus fuerit, et ignorans se periurauerit, et postea cognoscit, tres quadragesimas poeniteat. *Sic refert S. Bonavent.* loco cit. partic. 31.

7 HENCE you have from D. Bonavent. *quaest. 2. ad 4.* that he who perjures himself when driven by fear is not excused from the whole.

> *HINC habes ex D. Bonavent.* quaest. 2. ad 4. *non excusari a toto, qui metu adactus peierat.*

8 NOR let any necessity be alleged, because perjury is always evil, nor is it the same as taking another's goods in necessity, because then they begin to be common.

> *NEQUE ulla necessitas afferatur, quia periurium semper est malum, nec est simile de re aliena in necessitate auferenda, quia tunc ea incipit esse communis.*

9 THIS canonical infamy is contracted, if the perjury is not occult, but public and evident, as Suarez notes *tract. 2. de Relig. lib. 3. de Iurament. cap. 19. num. 13.* See also Sanchez *lib. 3. decal. cap. 3.* But by civil law it is indeed more probable that it is also required that the oath be solemn, and that he be condemned of this in court. So Archid., whom Sylvester follows, V. *Periurium, quaest. 5.* Tab. V. *Iur. quaest. 21.* Sotus *lib. 8. de Iust. quaest. 1. art. 10.* Aragon. *2. 2. quaest. 89. art. 10.* D. Anton. inclines *2. part. tit. 10.* but Sanchez rather *loco citato* urges it.

> *HAEC infamia canonica contrahitur, si periurium non sit occultum, sed publicum evidens, ut notat Suarez* tract. 2. de Relig. lib. 3. de Iurament. cap. 19. num. 13. *Vide etiam Sanchez* lib. 3. decal. cap. 3. *At Iure civili probabilius sane est requiri etiam, ut iuramentum sit solemne; et ut is in iudicio de hoc damnetur. Sic Archid. quem sequitur Sylvester V.* Periurium, quaest. 5. *Tab. V.* Iur. quaest. 21. *Sotus* lib. 8. de Iust. quaest. 1. art. 10. *Aragon.* 2. 2. quaest. 89. art. 10. *Inclinat D. Anton.* 2. part. tit. 10. *magis autem Sanchez* loco citato, *id astruit.*

10 BUT observe, canonical infamy is purged and erased by penance; but civil infamy is indelible, and is removed only by the rehabilitation of the Prince.

> *SED observa, infamiam canonicam purgari, et deleri poenitentia; civilem vero indelebilem esse, et sola habilitatione Principis tolli.*

11 SECOND, they are barred from testifying; yet they are not barred ipso facto, but the laws say *they are to be barred, as relates* the S. Doctor above *22. quaest. 5. cap. Parenteli, where also the perjurer is to be barred from the oath of purgation of himself: but oaths, which are rather of burden, he shall give.*

> *SECUNDO repelluntur a testificando, non tamen repelluntur ipso facto, sed iura dicunt,* repellantur, ut refert *S. Doctor supra* 22. quaest. 5. cap. Parenteli, ubi etiam a iuramento purgationis sui ipsius repellendus est periurus: at iuramenta, quae potius sunt oneris, praestabir.

12 THIRD, an assertory oath is punished with the penalty of stellionate *leg. ult ff. de crim. stellion.* Hence he is exiled for a time. But a promissory one also pays the penalty of the contract, and loses every action and every advantage of the agreement.

> *TERTIO punitur assertorium poena stellionatus* leg. ult ff. de crim. stellion. *Ideo ad tempus exulat. Promissorium vero etiam solvit poenam contractus, et omnem actionem, omnemque conventionis commodum amittit.*

13 MOREOVER, simple perjury inflicting injury and prejudice on a private man is punished by Pontifical law with the penalty of deposition from order, if he is a cleric *cap. cum non ab homine, de iudic. But cap. si Episcop. d. 50.* it is decreed, *that if he be* false in judgment, he be further confined to a monastery.

> *PRAETEREA periurium simplex privato homini iniuriam, et praeiudicium irrogans, iure Pontificio poena depositionis ab ordine punitur, si sit clericus* cap. cum non ab homine, de iudic. At cap. si Episcop. d. 50. *decernitur,* ut si sit

in iudicio falsus, ulterius tradatur in monasterium.

14 IF he is a lay perjurer, in a capital crime, he is to be punished with the same penalty by which a culprit convicted of such a crime would be punished. But if the crime is not capital, deportation, and the publication of all his goods, if he is free, is inflicted: but in a slave, the ultimate punishment.

SI Laicus sit periurus, in crimine capitali, puniendus est eadem poena, qua puniretur reus convictus de tali crimine. Si vero crimen non sit capitale, deportatio, et bonorum omnium publicatio, si liber sit, infertur: In servo autem, ultimum supplicium.

15 FOURTH, the perjurer is to be deprived of a benefice, and a collation of a benefice made to a culprit of perjury is null by the law itself, because the perjurer is infamous. See Sayrus *lib. 5. cap. 9.* Sylvester V. *Periur. num. 5.* Sotus *lib. 8. quaest. 2. art. 3. concl. 6.* Caietanus *quaest. 89. art. 2.* Fillincius *tract. 25. num. 12.* Bassaeus V. *Iuram. 5. num. 1.*

QUARTO periurus privandus est beneficio, et collatio beneficii facta illi reo periurii, est ipso iure nulla, quia periurus est infamis. Vide Sayrum lib. 5. cap. 9. *Sylvester V.* Periur. num. 5. *Sotus* lib. 8. quaest. 2. art. 3. concl. 6. *Caietanus* quaest. 89. art. 2. *Fillincius* tract. 25. num. 12. *Bassaeum V.* Iuram. 5. num. 1.

16 HE IS NOT, however, deprived ipso facto of the benefice he possesses. See Fagundez *cap. 51. num. 15.* The reason is, because the laws do not say: *ipso facto.* But to bar him from a new benefice, canonical infamy suffices, if the offense is notorious, and cannot be denied by any tergiversation, nor concealed by any remedy of law.

NON privatur tamen ipso facto beneficio, quod possidet. Vide Fagundez cap. 51. num. 15. *Ratio est, quia iura non dicunt:* ipso facto. *At vero ad repellendum a novo beneficio, sufficit infamia canonica, si delictum sit notorium, et nulla tergiversatione possit negari, nullave iuris remedio occultari.*

Disputation VI: On Adjuration

1 WHEN we acknowledge our insufficiency to induce others to do or produce something grave, we are accustomed to mix something Divine into our prayers or precepts, whose reverence may move men's minds more readily, since obedience toward things above is naturally implanted in them and comes easily; hence arose the usage of adjuring, of which you have not a few examples in the sacred letters, as will appear from what is to be said.

> ***De Adiuratione.***
>
> *CUM insufficientiam nostram agnoscimus ad inducendos alios, ut grave aliquid agant, vel proferant, solemus nonnihil Divinum precibus, vel praeceptis admiscere, cuius reverentia expeditius hominum mentes moveat, cum illis a natura inditum sit proclive in res superas obsequium; hinc ortus est adiurandi usus, cuius non pauca habes in sacris litteris exempla; ut ex dicendis patebit.*

Question I: What adjuration is, and in what ways it is made

1 TO ADJURE is to impel someone to say or do something by the cause of the Divine name and honor. Whence, Adjuration is an act of the virtue of Religion.

> ***Quid sit ADIURATIO, et quibus modis fiat.***
>
> *ADIURARE est aliquem impellere ad aliquid dicendum, vel faciendum Divini nominis, et honoris causa. Ex quo, Adiuratio est actus virtutis Religionis.*

2 Adjuration is made in TWO ways: First, by commanding. Second, by entreating: moreover, an oath can also be exacted.

> *DUOBUS modis fit adiuratio: Primo praecipiendo. Secundo deprecando: potest autem insuper exigi iuramentum.*

3 All these adjurations are found in Scripture. And first, by commanding and at the same time exacting an oath, Abraham adjured his servant, that he seek a wife for his son Isaac only from his own people, *Genes. 24. Put your hand under my thigh, that I may adjure you by the Lord God of heaven, and earth, that you take not a wife for my son Isaac of the daughters of Chanaan;* as Gregory of Valencia observes *disput. 6. quaest. 8. puncto 1.* and D. Bonavent. *in 4. dist. 29. quaest. 3.* indicates. In the same way Jacob adjured his son Joseph, to bury him in the sepulchre of his fathers, as is plain *from cap. 47. and 50. Genes.* for it was the custom of the ancients to place the hand on the thigh of one of the Patriarchs touching the Messias, and so to swear by the Messias, who was to be born of their seed, as S. Jerome expounds *lib. 1. in Iovin. cap. 5.*

> *Omnes istae adiurationes in Scriptura reperiuntur. Et in primis praecipiendo, et exigendo simul iuramentum adiuravit Abraham servum suum, ut non nisi de gente sua quaereret* uxorem filio suo Isaac, Genes. 24. Pone manum tuam subter femur meum, ut adiurem te per Dominum Deum caeli, et terrae, ut non accipias uxorem filio meo Isaac de filiabus Chanaan; *ut observat Gregorius de Valentia* disput. 6. quaest. 8. puncto 1. *et D. Bonavent.* in 4. dist. 29. quaest. 3. *indicavit. Eodem modo Iacob adiuravit filium Ioseph, ut sepeliret ipsum in sepulchro patrum suorum, ut patet* ex cap. 47. et 50. Genes. *fuit enim mos antiquis, supponere manum femori alicuius e Patriarchis Messiae, et ita per Messiam iurare, qui ex eorum semine erat nasciturus, ut exponit S. Hieronymus* lib. 1. in Iovin. cap. 5.

4 But by entreating and exacting an oath, Rahab adjured the spies, as is plain from these words of theirs: *We shall be innocent of this oath, with which you adjured us. Iosue 2.*

> *Deprecando autem, et exigendo iuramentum Rahab adiuravit exploratores, ut patet ex illis verbis eorum:* Innoxii erimus a iuramento hoc, quo adiurasti nos. Iosue 2.

5 But by commanding, not exacting an oath, the Prince of the priests adjured the Lord Jesus Christ, *Matth. 26.* and Exorcists adjure demons, *Marci ultimo.*

> *Praecipiendo autem, non exigendo iuramentum, Princeps sacerdotum adiuravit Dominum Iesum Christum,* Matth. 26. *et Exorcistae adiurant daemones,* Marci ultimo.

6 But merely by beseeching, Paul seems to have adjured those to whom he wrote, as *Rom. 12. I beseech you by the mercy of God.*

> *Obsecrando autem tantum videtur Paulus adiurasse eos, ad quos scribebat, ut* Rom. 12. Obsecro vos per misericordiam Dei.

7 So also the poor seem to adjure those from whom they beg alms.

> *Sic et egeni adiurare videntur eos, a quibus eleemosynam postulant.*

Question II: Whom it is lawful to adjure

1 I assert first, that it is licit to adjure God, only by entreating through some sacred thing, for instance through the Passion of Christ. So D. Thom. *art. 1. in corpore, et ad 3.* D. Bonavent. *in expositione Missae, cap. 2.* and Tannerus observes *disp. 5. quaest. 5. dub. 1.* But we pray to, and adjure, God through the merits of Christ, not that his unchangeable will be changed, but as a medium assumed, as is believed, by the divine will, as Tannerus notes *num. 40.* after D. Bonavent. *in 1. dist. 48. quaest. ultima.* For it is an act of religion.

> *Assero primo, licitum esse adiurare Deum solum deprecando per aliqua sacra, puta per passionem Christi. Ita D. Thom.* art. 1. in corpore, et ad 3. *D. Bonavent.* in expositione Missae, cap. 2. *et observat Tannerus* disp. 5. quaest. 5. dub. 1. *Oramus autem, et adiuramus Deum per merita Christi, non ut mutetur eius voluntas immutabilis, sed ut medium, divina voluntate, ut creditur, assumptum, ut notat Tannerus* num. 40. *post D. Bonavent.* in 1. dist. 48. quaest. ultima. *Est enim actus religionis.*

2 I assert second, that men also can be adjured. Superiors indeed by deprecation; but inferiors also by command, through the invocation of a sacred thing, or of the Divine name; and as to inferiors it is plain in Abraham, adjuring his servant, as I said in the first question.

> *Assero secundo, etiam homines posse adiurari. Superiores quidem deprecatione; inferiores vero etiam imperio per invocationem rei sacrae, vel Divini nominis; et quoad inferiores patet in Abraham, adiurante servum, ut dixi quaestione prima.*

3 It is PERVERSE, however, to adjure one who is not a subject. Thus Caiphas sinned by adjuring Christ, wishing to force him to say whether he was the Christ, as S. Bonaventure notes *in meditationibus Passionis Christi, cap. 75.* and with him Tanner. *num. 41.*

> *Pravvm est autem adiurare non subditum. Sic peccavit Caiphas adiurando Christum, volens eum cogere ad dicendum: an esset Christus, ut notat S. Bonavent.* in meditationibus Passionis Christi, cap. 75. *et cum eo Tanner.* num. 41.

4 I assert third, that demons can be compelled by adjurations to render service to God. Thus *Marci ultimo*, it is said: *In my name they shall cast out devils.* So D. Thom. *art. 2.* And *Lucae 10. Behold I have given you all power over all the might of the enemy.* Which the S. Doctor accommodates to this passage of Luke, where he discourses on the purposes for which demons are to be adjured.

> *Assero tertio, posse daemones adiurationibus cogi ad obsequium Deo praestandum. Sic* Marci ultimo, *dicitur:* In nomine meo daemonia eiicient. *Ita D. Thom.* art. 2. *Et* Lucae 10. Ecce dedi vobis omnem potestatem supra omnem virtutem inimici. *Quae S. Doctor componit ad hunc Lucae locum, ubi edisserit, ad quae sunt adiurandi daemones.*

5 Yet it is not licit to adjure demons in order to learn or obtain something from them, or to contract society with them, as the Apostle warns, *prima Corinth. 10. Do not become partakers of devils*, and D. Thom. notes *art. 2.* and S. Bonaventure discourses *serm. 2. in decem praecepta.*

> *Non licet tamen daemones adiurare ad aliquid ab eis discendum, aut obtinendum, aut societatem cum eis contrahendam, ut monet Apostolus,* prima Corinth. 10. Nolite vos socios fieri daemoniorum, *et notat D. Thom.* art. 2. *et disserit S. Bonavent.* serm. 2. in decem praecepta.

6 Nor are demons to be assisted by prayer, or invoked by any petition, as D. Bonavent. notes *in 4. dist. 34. art. 2. quaest. 2. ad argumenta.* For the exorcism is instituted to compel demons to depart, and to leave men free from their infestations, as the S. Doctor notes *in Compendio Theologiae, lib. 6. cap. 10.* And it is an act of Religion. So Valentia *disput. 6. quaest. 8. puncto 2.* Suarez *tract. 2. lib. 4. cap. 3.* Bassaeus *num. 1.*

> *Neque sunt daemones precatione adiutandi, aut aliqua postulatione invocandi, ut notat D. Bonavent.* in 4. dist. 34. art. 2. quaest. 2. ad argumenta. *Est enim exorcismus institutus ad cogendos daemones exire, et relinquere homines liberos a suis infestationibus, ut notat S. Doctor* in Compendio Theologiae, lib. 6. cap. 10. *Estque actus Religionis. Ita Valentia* disput. 6. quaest. 8. puncto 2. *Suarez* tract. 2. lib. 4. cap. 3. *Bassaeus* num. 1.

7 I assert fourth, that irrational creatures can also be adjured, not indeed by an adjuration directed simply to them, for that would be vain: but either to God invoked, or for driving out from them the demons, who use irrational things to harm us; and in this way Exorcists make use of them, as D. Bonavent. notes *supra*, and with him Tannerus *num. 44.* and D. Thom. *quaest. 90. art. 3.* Sylvius there, Sanchez *lib. 2. moral. cap. 42. num. 37.* Lessius *lib. 2. cap. 42. dub. 13. num. 72.* Reginaldus *lib. 18. cap. 9. num. 112.* Nauar. *lib. 5. consil. de excom. cons. 5.* Tabiena, and Sylvester *V. Adiuratio*, Layman *lib. 5. tract. 9. cap. 14.* Petrus Ledesm. *tract. 11. cap. 6.* Viguer. *cap. 5. §. 5.* Bassaeus, and many others.

> *Assero quarto adiurari posse creaturas irrationales, non quidem adiuratione ad eas simpliciter directa, id enim esset vanum: sed vel ad Deum invocatum, vel ad pellendos ab eis daemones, qui ad nocendum nobis utuntur irrationabilibus, et hoc pacto utuntur Exorcistae, ut notat D. Bonavent.* supra, *et cum eo Tannerus* num. 44. *ac D. Thom.* quaest. 90. art. 3. *Sylvius ibi, Sanchez* lib. 2. moral. cap. 42. num. 37. *Lessius* lib. 2. cap. 42. dub. 13. num. 72. *Reginaldus* lib. 18. cap. 9. num. 112. *Nauar.* lib. 5. consil. de excom. cons. 5. *Tabiena, et Sylvester* V. Adiuratio, *Layman* lib. 5. tract. 9. cap. 14. *Petrus Ledesm.* tract. 11. cap. 6. *Viguer.* cap. 5. §. 5. *Bassaeus, et alii multi.*

Disputation VII: On Divine Praises

1 This is the scope of the whole Creation, that it praise God, not only with the mouth, but also by deed; but this praise can be excited from a many-headed source, as the Seraphic Doctor has it *de profectu Rrligiosi, lib. 2. cap. 64.* For whether we admire the diffusion of Divine goodness, or consider the profundity of his wisdom, or finally stand amazed at the Height of his power and the immensity of his majesty, we range over a most ample field of Divine praises; but since our purpose is only briefly to describe the nature and quality of these, I will dispatch myself in a single question.

> *Hic est totius Creaturae scopus, ut Deum laudet, non solum ore, sed et opere; ad hanc autem laudem multiplici e capite potest excitari, ut habet Seraphicus* de profectu Rrligiosi, lib. 2. cap. 64. *sive enim Divinae bonitatis admiremur diffusionem, siue sapientiae eius consideremus profunditatem, siue denique potentiae Altitudinem, et maiestatis immensitatem stupeamus, in amplissimo Divinarum laudum campo spatiamur; sed cum nobis propositum sit, harum naturam tantum, et qualitatem breviter describere, unica me quaestione expediam.*

Sole Question: On the nature, and quality, of divine praises

1 That God is not only to be entreated, but also devoutly praised, as the most perfect Being and the highest Good, is taught by D. Thom. *art. 1.* and D. Bonavent. *in the preface to the psalter*, which was wont to be done with musical instruments also resounding, among which was the Psaltery.

> *Devm non modo exorandum, sed etiam devote laudandum, tanquam perfectissimum Ens, et summum Bonum, docent D. Thom.* art. 1. *et D. Bonavent.* praefatione in psalterium, *quod fieri solebat instrumentis etiam musicis resonantibus, inter quae erat Psalterium.*

2 ¶ The S. Doctor observes that the book received in the Church took its three names from this, Psalterium, because it was an instrument of ten strings for alluring men, with sweet melodies, to the keeping of the law of Moses, otherwise harsh. It is called by this name in Greek in Paralipomenon; in Latin *Liber hymnorum*, or *soliloquiorum*, for the psalms are woven together as songs addressing God. In Hebrew it is called *Nablum*, or *Sepher Theillim*, which is *Liber Hymnorum*. Moreover these songs were employed with instruments, nabla or psalteries, trumpets, and citharas, for the praises of God, especially before the Ark, and in the Jubilee.

> ¶ *TRIA autem nomina ideo librum illum in Ecclesia sortitum observat S. Doctor, Psalterium, quod erat instrumentum decem chordarum ad alliciendos modulis suavibus homines ad legem, alioqui asperam, Moysis observandam. Hoc nomine vocatur Graece in Paralipomenon; Latine* Liber hymnorum, *vel* soliloquiorum, *sunt enim psalmi carminibus Deum alloquentibus contexti. Hebraice dicitur* Nablum, *vel* Sepher Theillim *quod est* Liber Hymnorum. *Adhibebantur autem hi cantus cum instrumentis nablis, seu psalteriis, tubis, Cytharisque ad Dei laudes, maxime ante Arcam, et in Iubilaeo.*

3 The new Church, a pilgrim in this world, uses this same psaltery to solace and to soothe the sadness arising from the Bridegroom's absence, as Urban VIII. says *in the preface to the Hymns*, and S. Thomas pursues *in the place cited*.

> *Hoc eodem psalterio utitur nova Ecclesia in hoc mundo peregrina ad solatium, et maestitias ob sponsi absentiam leniendas, ut ait Urbanus VIII.* in praefatione ad Hymnos, *et prosequitur S. Doctor* loco adducto.

[4] David wove together new Canticles, as he often repeats, to be handed on to the new Church for the praising of God on account of the newness of the wonders and benefits of the Incarnation, Hierem. 31. *The Lord will make a new thing.* In the commandments, Ioan. 13. *A new commandment I give you.* In miracles, Ioan. 15. *If I had not done works among them, which no other man has done, etc.* which new things require new songs, as S. Thomas notes *ad Psalm. 32.*

> *CONTEXUIT David Cantica nova, ut saepe repetit, novae Ecclesiae tradenda ad Deum laudandum ob novitates mirabilium, et beneficiorum Incarnationis, Hierem. 31.* Novum faciet Dominus. *In mandatis, Ioan. 13.* mandatum novum do vobis. *In miraculis, Ioan. 15.* Si non fecissem opera in eis, quae nemo alius fecit, etc. *quae nova exigunt cantica, ut notat S. Doctor* ad Psalm. 32.

[5] On account of benefits also continuous He enjoins perpetual praises upon us, Psalm. 23. *I will bless the Lord at all times, etc.* as S. Thomas notes there. And that we may obtain benefits, and sing the praises of God worthily, He sets before us first the preparation of the instrument of the psaltery of ten strings, namely the observance of the Divine law; for he does not praise God worthily who despises Him by his works, as S. Thomas pursues at length *in the preface cited, and ad Psalm. 32.*

> *OB beneficia etiam continua laudes perpetuas nobis iniungit, Psalm. 23.* Benedicam Dominum in omni tempore, etc. *ut notat S. Doctor ibi. Atque ut beneficia consequamur, et Dei laudes digne cantemus, praemittit praeparationem instrumenti psalterii decem chordarum, nempe legis Divinae observantiae; non enim digne Deum laudat, qui operibus eum temnit, ut late prosequitur S. Doctor* in praefatione adducta, et ad Psalm. 32.

[6] That the Church was wont to chant the praises of God is attested frequently by David in the Psalms, and with him S. Thomas *in his commentaries.* Therefore Psalm. 62. *My lips shall praise thee,* from the heart, as the Apostle says, Ephes. 5. *Singing in your hearts to the Lord,* and the Council of Agath. cap. 21. Tolet. IV. cap. 12. defines, not like that people of whom Matth. 15. *This people honors me with their lips: but their heart is far from me,* but with lips of discretion, Psalm. 65. *I will pay you my vows, which my lips have distinguished.* With lips consonant with the heart, Psal. 150. *In cymbals well sounding.* With lips of affectuous jubilation, Psalm. 118. *My lips shall burst forth a hymn.* With lips of confession, Psal. 50. *Lord, you will open my lips, and my mouth shall announce your praise.* With lips of contrition, Habacuc: *At your voice my lips have trembled.* This S. Thomas pursues *ad Psalm. 62.*

> *DEI laudes solitam esse Ecclesiam decantare testatur frequenter David in Psalmis, et cum eo S. Doctor* in commentariis. *Ideo Psalm. 62.* Labia mea laudabunt te, *ex corde, ut ait Apostolus, Ephes. 5.* Psallentes in cordibus vestris Domino, *et definit Concilium Agath. cap. 21. Tolet. IV. cap. 12. non ut populus ille, de quo Matth. 15.* Populus hic labiis me honorat: cor autem eorum longe est a me, *sed labiis discretionis, Psalm. 65.* Reddam tibi vota mea, quae distinxerunt labia mea. *Labiis cordi consonantibus, Psal. 150.* In cymbalis bene sonantibus. *Labiis affectuosae iubilationis, Psalm. 118.* Eructabunt labia mea hymnum. *Labiis confessionis, Psal. 50.* Domine labia mea aperies, et os meum annunciabit laudem tuam. *Labiis contritionis, Habacuc:* A voce tua continuerunt labia mea. *Haec prosequitur S. Doctor* ad Psalm. 62.

[7] But S. Bonavent. observes *ad Psalm. 95.* that God is ever to be praised with new songs, as the most excellent good, and therefore it is said: *God is great, and exceedingly to be praised,* that is, never sufficiently praiseworthy; rather His wonders are to be pursued with perpetual admiration. Therefore the name of man, ADAM, is marked with four Greek letters: αδαμ, which letters signify the four parts of the world: namely the East, the West, the North, and the South; and it expresses the cross of Christ: Therefore it is said: *Tell among the nations that the Lord has reigned,* it is understood *a ligno,* which the Jews scraped away, as the expositors of the Psalter note at Lorinum. New Canticles are surely

owed to God, who by the precious redemption of the cross called man back from the four parts of the world to Paradise, which was erected toward the east, as S. Thomas notes *in the preface cited and ad the cited Psalm.*

> *OBSERVAT autem S. Bonavent.* ad Psalm. 95. *Canticis novis Deum semper laudandum, quippe excellentissimum bonum, et ideo dicitur:* Deus magnus, et laudabilis nimis*, idest, nunquam satis laudabilis, quin potius perpetua admiratione mirabilia eius sunt prosequenda. Hominem propterea ADAM quatuor litteris Graecis notat scribi: αδαμ quae litterae quatuor partes mundi significant: Orientem scilicet, Occidentem, Aquilonem, et Meridiem; et exprimit Christi crucem: Ideo dicitur:* Dicite in gentibus quia Dominus regnavit*, subintelligitur* a ligno*, quod Iudaei abraserunt, ut notant expositores Psalterii apud Lorinum. Debentur sane nova Cantica Deo, qui pretiosa redemptione in cruce hominem a quatuor mundi partibus revocavit ad Paradisum, qui ad orientem erectus est, ut advertit S. Doctor* in praefat. et ad Psalm. citatum.

8 Therefore He again stirs up the new song, Psalm. 97. *Sing to the Lord a new song, because He has done wonderful things. His right hand has saved for Him, and His holy arm. The Lord has made known His salvation, etc.* Therefore He says God is to be praised on the cithara; for it is an instrument on which the strings are drawn by pegs over two pieces of wood; they signify Christ, who, drawn upon the cross, gave forth so sweet a melody that He drew to Himself all creatures, even the witless and insensate, and recalled His spouse from the underworld, and leveled and fitted living stones for building the heavenly city. So S. Thomas *ad the cited psalm, and in serm. de Resurrectione.*

> *IDEO canticum novum rursus excitat Psalm. 97.* Cantate Domino canticum novum, quia mirabilia fecit. Salvavit sibi dextera eius, et brachium sanctum eius. Notum fecit Dominus salutare suum, etc. *Ideo in cithara Deum laudandum ait; est enim instrumentum, quo duobus in lignis chordae clavis trahuntur, significant autem Christum, qui in cruce attractus adeo dulces melos edidit, ut traxerit ad se omnes creaturas, etiam stolidas, et insensatas, sponsamque ab inferis revocavit, ac vivos lapides ad supernam civitatem aedificandam complanavit, et concinnavit. Ita S. Doctor* ad psalmum citatum, et in serm. de Resurrectione.

9 Therefore the excesses of goodness and of diffusion, inexplicable and rather to be pursued with jubilation, He says: *All you nations, clap your hands; shout to God with a voice of exultation. Because the Lord is high, etc.* and Psalm. 47. *Great is the Lord, and exceedingly to be praised. Because behold the kings of the earth have gathered together,* according to that Psalm. 1. *The kings of the earth stood up, and the princes met together in one against the Lord, and against His Christ.* Behold again the excesses of the Passion of Christ, exceedingly praiseworthy; that they may never be praised enough.

> *IGITUR excessus bonitatis, et diffusionis iubilo potius prosequendos inexplicabiles, ait:* Omnes gentes plaudite manibus; iubilate Deo in voce exsultationis. Quoniam Dominus excelsus, etc. *et Psalm. 47.* Magnus Dominus, et laudabilis nimis. Quoniam Ecce Reges terrae congregati sunt*, iuxta id Psalm. 1.* Astiterunt Reges terrae, et Principes convenerunt in unum adversus Dominum, et adversus Christum eius. *En iterum excessus Passionis Christi laudabiles nimis; ut nunquam satis laudentur.*

10 Hence you will perceive the saying of Aristotle *primo Eth. cap. penult.* That the best things have not praise, but something greater and better, not because God is not to be praised, but because His goodness and benefits can never be matched by praises; because, as it is said, Ecclesiastici 43. *He is greater than all praise.*

> *HINC percipies Aristotelis effatum* primo Eth. cap. penult. *Optimorum non esse laudem, sed maius aliquid, et melius, non quia Deus non sit laudandus, sed quia nunquam bonitas eius, et beneficia laudibus valent exaequari; quia, ut dicitur Ecclesiastici 43.* Maior est omni laude.

11 Observe still, that God is not praised so that our praises and the conceptions we form of His eminence may be made known to Him; for He is the searcher of hearts, but so that, hearing His pre-eminence and eminent excellences, we may be raised up to admiration of God, as S. Bonavent. notes above, and D. Thom. *art. 1.* and Tannerus *num 47.*

> *OBSERVA adhuc, non laudari Deum, ut nostrae ei laudes, et conceptus, quem de eius eminentia formamus, pandantur; est enim scrutator cordium, sed ut eius praestantiam, et eximias excellentias audientes erigamur in Dei admirationem, ut notat S. Bonavent. supra, et D. Thom.* art. 1. *ac Tannerus* num 47.

12 Therefore the praise of God profits the very one praising, as it is said, Psalm. 49. *The sacrifice of praise shall glorify me; and there is the way by which I will show him the salvation of God.*

> *IGITUR laus Dei prodest ipsi laudanti, ut dicitur, Psalm. 49.* Sacrificium laudis honorificabit me; et illic iter quo ostendam illi salutare Dei.

13 For praises are offered to God as owed by justice, *a sacrifice of justice*, Psalm. 4. and because they inflame toward penance and return to God, Psalm. 50. *A sacrifice to God is an afflicted spirit, etc.* The heart is inflamed toward the praises of God; the sacrifice of praise toward mortification, etc. See D. Bonavent. *ad Psal. 49.* whom Tannerus imitates, 47. after Boëtius in *the prologue to music.*

> *OFFERUNTUR enim laudes Deo, ut debitae ex iustitia,* Sacrificium iustitiae, *Psalm. 4. et quia accendunt ad poenitentiam, et reversionem in Deum Psalm. 50.* Sacrificium Deo spiritus contribulatus, etc. *Accenditur cor ad Dei encomia; sacrificium laudis ad mortificationem, etc. Vide D. Bonavent.* ad Psal. 49. *quem imitatur Tannerus 47. post Boëtium in* prologo musicae.

14 Therefore praises are raised up in song; as D. Thom. also says *art. 2.* for according to the diverse sounds of melody the minds of men are diversely disposed, as Aristotle says, 8. *Polit. cap. 5. 6. and 7.*

> *IDEO laudes cantibus efferuntur; ut ait etiam D. Thom.* art. 2. *nam iuxta diversos melodiae sonos animi hominum diverse disponuntur, ut ait Aristoteles 8.* Polit. cap. 5. 6. et 7.

15 Although song, when restrained by delectation, abstracts from consideration, yet if the Divine praises are sung attentively and devoutly, they raise up and inflame to the love of God and devotion, as D. Augustinus says *lib. 11. confess. cap. 33.*

> *QUAMVIS autem cantus ex delectatione cohibitus abstrahat a consideratione, tamen si attente, ac devote Divinae canantur laudes, elevant, accendunt in Dei amorem, et devotionem, ut ait D. Augustinus* lib. 11. confess. cap. 33.

16 Truly, moderately and devoutly, musical instruments, if any are added, are to be employed; for the saying of Aristotle is widely known, 8. *Polit. cap. 6.* Neither are pipes to be brought into discipline, nor any other artificial instrument, say the Cithara. For such music moves more to delectation. They were employed more frequently in the Synagogue, for that stiff-necked people, to soften them somehow for grasping Divine things.

> *MODERATE vero, et devote, si quae adduntur, musica instrumenta sunt adhibenda; vulgatum est enim Aristotelis effatum, 8.* Polit. cap. 6. *Neque fistulas ad disciplinam adducendas, neque aliquod aliud artificiale organum, puta Cytharam. Huiusmodi enim musicae magis movent ad delectationem. Adhibebantur frequentius in Synagoga populo illi durae cervicis, ad eos quoquomodo ad Divina capescenda emolliendos.*

17 In the Church also they are conceded, but neither vain, nor tuned to wanton melodies; for this would be a grave sin, as Caietanus warns *ad art. 2.*

> *IN Ecclesia etiam conceduntur, sed neque vana, neque ad modulos concinna lascivos; hoc enim grave esset piaculum, ut monet Caietanus* ad art. 2.

18 Therefore the Council of Trent gravely warns *session 22. in the decree on things to be observed in Mass: Let them banish from the Churches that music, in which whether through the organ or through song something lascivious or impure is mixed, etc.*

> *GRAVITER ideo monet Concilium Tridentinum* sess. 22. decreto de observandis in missa: Ab Ecclesiis musicas eas, ubi sive organo, sive cantu lascivum, aut impurum aliquid miscetur, arceant, etc.

19 Musical songs are to be employed, joyful ones indeed for increasing spiritual joy; and mournful ones for the holy sadness of penance; for such is the nature of music, that him whom it meets joyful it makes more joyful, and him whom it meets sad it increases in that kind of sorrow, as S. Thomas notes on the Lamentations of Jeremiah, at the beginning.

> *ADHIBEANTUR cantus musici, laeti quidem ad laetitiam spiritualem augendam; et moesti ad sanctam poenitentiae tristitiam; est enim musicae haec natura, ut quem laetum offenderit, laetiorem reddat, et quem maestum, augeat in eo genere maerorem, ut notat S. Doctor in Threnos Hieremiae, initio.*

20 Therefore Valentia quaest. 9. teaches, that to set up vain and alien things in the Divine office formally, from the intention that they are vain, as a part of the Divine office, is a grave sin of superstition; for this stands in the way of the end of Divine worship. But if it is done only materially, not from intention, but by applying only consonance to the Divine words, it can be mortal per accidens, if they gravely provoke to evil, or by reason of scandal per se, as he says with Caietano art. 2. and in the summa, under the word *Organorum usus*, he maintains it is not a sin. But if shameful things are inserted of a delectation kind, it will be a mortal sin, by reason of provocation to evil, and to add another mortal from another head of religion, he teaches with Caietano; nor can there be in this a vincibile or invincible ignorance which would excuse from mortal.

> *Itaque Valentia quaest. 9. docet, apponere vana, et aliena in divino officio formaliter ex intentione, ut vana sunt, tanquam partem Divini officii, esse peccatum grave superstitionis; obstat enim hoc fini cultus divini. Si vero materialiter tantum fiat, non ex intentione, sed applicando solum consonantiam ad Divina verba, potest esse per accidens mortale, si ad malum graviter provocent, vel ratione scandali per se, ut ait cum Caietano art. 2. et in summa, verbo* Organorum usus, *astruit non esse peccatum. Quod si inserantur turpia delectationis genere, erit peccatum mortale, ratione provocationis ad malum, et ex alio capite religionis aliud mortale addere, docet cum Caietano; neque in hoc posse esse ignorantiam vincibilem, aut invincibilem, quae excuset a mortali.*

21 *You will say.* Vincibile ignorance sometimes excuses from mortal.

> Dices. *Ignorantia vincibilis nonnunquam a mortali excusat.*

22 *Valentia answers* that it does excuse sometimes, if it is not so easy to learn, or because from the subject matter vincibile ignorance draws away from mortal.

> Respondet *Valentia excusare aliquando, si non adeo sit facile ediscere, aut quia ex materia subiecta, ignorantia vincibilis extrahit a mortali.*

Disputation VIII: On the Observance of Feast Days

1 As God is immense, so He bound His worship to certain places, namely temples, so that it is unlawful without sin to perform anything profane in them: so too, though He is Eternal, He commanded that certain days be kept free for Him and rested from every servile work. But just as God ordained many other things in the law of grace so as to leave their execution to His Church according to place and time, so too the sanctification of the feast day, though it has a Divine origin, nevertheless has its determination of time from the Church, as will appear from what follows immediately.

> *Uti Deus immensus, ita quibusdam locis, nempe templis, suum alligavit cultum, ut absque piaculo non liceat in his profanum quidpiam operari: sic etiam, licet AEternus sit, sibi nonnullis diebus praecepit vacandum, et ab omni servili opere feriandum. Verum sicut alia plurima ita in lege gratiae Deus ordinavit, ut ea pro loco, et tempore Ecclesiae suae exequenda reliquerit; sic festi Diei sanctificatio, esto Divinam habeat originem, ecclesiasticam tamen habet temporis determinationem, ut e proxime sequentibus patebit.*

Question I: On the origin of feast days

1 The observance of feasts is enjoined by the third precept of the Decalogue. And indeed, insofar as it assigns the Sabbath day, it is a ceremonial precept, which pertained to the Jews, not to us; but insofar as it assigns some day or time in which one is to be free for sacred things, it is moral, pertaining also to Christians. So D. Thom. *prima secundae, quaest. 100. art. 3. ad 3. and 2. 2. quaest. 122. art. 4.* Tannerus *Tom. 2. disp. 5. q. 1. dub. 2. etc. Tom. 3. disp. 5. q. 5. dub. 1. and others after D. Bonav. serm. 4. in decem praecepta, and in 3. dist. 37. dub. 3.* where he adds a certain mixture of the moral and the ceremonial.

> *Festorum observantiam iniungit tertium Decalogi praeceptum. Et quidem, quatenus Sabbati diem assignat, est praeceptum caeremoniale, quod ad Iudaeos pertinuit, non ad nos; at vero quatenus assignat diem aliquem, seu tempus, quo sit vacandum sacris, est morale, spectans etiam ad Christianos. Ita D. Thom.* prima secundae, quaest. 100. art. 3. ad 3. et 2. 2. quaest. 122. art. 4. *Tannerus* Tom. 2. disp. 5. q. 1. dub. 2. etc. Tom. 3. disp. 5. q. 5. dub. 1. et alii post D. Bonav. serm. 4. in decem praecepta, et in 3. dist. 37. dub. 3. *ubi addit quoddam mixtum ex morali, et caeremoniali.*

2 For first it commands sanctification at some time, and indeed so that at that time we be free from servile works; for to sanctify the Lord is moral, of which first Peter 3. *Sanctify the Lord in your hearts:* but to cease from works at that time is moral, insofar as one is freed from those works that stand in the way of the worship of God; but it is also figurative, insofar as we are given to understand that we must abstain from every sin, which is a foul servile work.

> *Primo enim sanctificationem aliquo tempore praecipit, atque adeo, ut eo tempore vacemus ab operibus servilibus; Sanctificare enim Dominum morale est, de quo prima Petri 3.* Dominum sanctificate in cordibus vestris: *Cessare vero ab operibus illo tempore, est morale, quatenus vacatur ab iis operibus obstantibus cultui Dei; sed est etiam figurativum, quatenus nobis insinuatur abstinendum ab omni peccato, quod est opus servile sordidum.*

3 Moreover, the keeping of the Sabbath day was ceremonial, to signify God's rest from the works of six days, and the future rest of Christ in the sepulchre, to call men back from death. See S. Thomas.

Caeterum servatae Sabbathi diem, fuit caeremoniale, ad significandam quietem Dei ab operibus sex dierum, et futuram Christi quietem in sepulchro ad homines a morte revocandos. Vide S. Doctorem.

4 From this you will easily draw out by what right the institution of the Lord's day for sanctifying God was made.

Hinc facile erues, quo iure facta sit institutio diei Dominicae ad Deum sanctificandum.

5 There were those who said it was introduced by Divine right. So the Author of the supplement *to the summa Pisana, v. Dominica*, Sylvester *there quaest. 1.* where he adds also the Nativity of the Lord, Easter, Pentecost, Ascension, Epiphany, the Assumption of the Blessed Virgin, and others, Abbas *on cap. Licet de feriis*, and nearly Angelus *V. feria.* Whence they infer that it cannot be taken away by any custom.

Fuere, qui dicerent, esse iure Divino inductam. Ita Author supplementi ad summam Pisanam, v. Dominica, *Sylvester* ibi quaest. 1. *ubi addit etiam Nativitatem Domini, Pascha, Pentecosten, Ascensionem, Epiphaniam, Assumptionem Beatissimae Virginis, et alias, Abbas* in cap. Licet de feriis, *et fere Angelus* V. feria. *Quo fit, ut nulla eam consuetudine auferri posse deducant.*

6 The true opinion, however, is that not only the other feasts, but also the Lord's day, were introduced by Ecclesiastical law. So D. Bonavent. *serm. 4. in decem praecepta, and in 3. dist. 37. around the text*, D. Thom. *2. 2. quaest. 122. art. 4. ad 4.* Caietanus *there*, Antonin. *2. part. tract. 9. cap. 7.* Sotus *lib. 2. de Iustitia, quaest. 4. and others at* Bassaeum *here, and at* Fagundez *de praeceptis Ecclesiae, lib. 1. cap. 2.* Suarez *Tom. primo de Relig. lib. 2. cap. 4.* Tannerus *loco citato.* So also D. Augustinus *serm. 151. de tempore*, and Catech. Rom. *on the third precept of the Decalogue.*

Vera tamen sententia est, non modo caetera festa, sed etiam Dominicam, esse Iure Ecclesiastico inducta. Ita D. Bonavent. serm. 4. in decem praecepta, et in 3. dist. 37. circa litteram, *D. Thom.* 2. 2. quaest. 122. art. 4. ad 4. *Caietanus* ibi, *Antonin.* 2. part. tract. 9. cap. 7. *Sotus* lib. 2. de Iustitia, quaest. 4. et alii apud *Bassaeum* hic, et apud *Fagundez* de praeceptis Ecclesiae, lib. 1. cap. 2. *Suarez* Tom. primo de Relig. lib. 2. cap. 4. *Tannerus* loco citato. *Sic etiam D. Augustinus* serm. 151. de tempore, *et Catech. Rom.* in tertium Decalogi praeceptum.

7 I assert with this opinion, that the institution of feast days is of Ecclesiastical law.

Assero cum hac sententia, festorum dierum institutionem esse Iuris ecclesiastici.

8 It is *proved* by D. Bonaventure, because on this there is only Ecclesiastical institution. For all other things, besides the Sacraments and the Sacrifice and faith, were left to the disposal of the Pastors, as Fagundez also notes *n. 3.* and it is commonly held. It seems indeed to have been handed down by the Apostles, as many Fathers teach, and afterwards confirmed by Canonical law, *cap. Primo, c. Sabbatho de consecr. dist. 3. cap. Quoniam, and cap. licet, and cap. conquestus de feriis;* and the Emperors confirmed it, as appears *under the title de feriis, especially l. 2. and l. omnes dies.*

Probatur *a D. Bonavent. quia de hoc sola Ecclesiastica institutio habetur. Caetera enim praeter Sacramenta, et Sacrificium, ac fidem, relicta sunt Pastorum dispositioni, ut notat etiam Fagundez* n. 3. *et communiter sentitur. Videtur sane ab Apostolis tradita, ut multi Patres docent, et postea confirmata iure Canonico,* cap. Primo, c. Sabbatho de consecr. dist. 3. cap. Quoniam, et cap. licet, et cap. conquestus de feriis; *et Imperatores eam confirmarunt, ut constat* titulo de feriis, praesertim l. 2. et l. omnes dies.

9 Eusebius also *lib. 4. de vita Constantini, cap. 18. and 19.* reports that Constantine, embracing the great Apostolic tradition, religiously observed this day and commanded it to be observed.

> *Eusebius etiam* lib. 4. de vita Constantini, cap. 18. et 19. *refert Constantinum magnam Apostolicam traditionem amplectentem, diem hunc religiose observasse, et observandum praecepisse.*

10 D. Ignatius *epist. 3. ad Magnesianos: In place of the Sabbath every Christian is to celebrate the feast of the Lord's Day, the Royal, and the eminent above all days, of the Resurrection.* And D. Clemens *libro 7. Const. cap. 71. says: On the day of the resurrection, which we call the Lord's, assemble without any interruption of the assembly for giving thanks to God, and for professing the benefits with which God has favored us through Christ.* These indicate human law.

> *D. Ignatius* epist. 3. ad Magnesianos: Pro Sabbatizatione diem festum celebret omnis Christianus Dominicam Resurrectionis Regalem, et eminentissimam omnium dierum. *Et D. Clemens* libro 7. Const. cap. 71. ait: Die resurrectionis, quem Dominicum dicimus, convenite sine ulla conventus intermissione ad agendas Deo gratias, et profitenda beneficia, quibus nos Deus per Christum affecit. *Haec indicant ius humanum.*

11 *You will object.* It would follow that it can be changed by the Church; but it has never yet been changed, which the Doctors commonly teach to be an indication of Divine right, *ad cap. licet, and ad cap. conquestus, de feriis.*

> Obiicies. *Sequeretur, eam posse mutari ab Ecclesia; sed hactenus nunquam mutata est, quod esse indicium iuris Divini docent communiter DD.* ad cap. licet, et ad cap. conquestus, de feriis.

12 *It is answered,* that it can be changed by the supreme Pontiff; nevertheless it has not been changed, because the reason was not present, and besides, the observance is so ancient and perpetual that it would have to be denied even to the guilty, that the Sabbath was instituted by Divine right as a moral precept, for then it would be immutable by the Church. But say that, as to the time, it is now left to the Church, since the ceremonial signification has been fulfilled. See Suarez and Fagundez.

> Respondetur, *posse eam a summo Pontifice mutari; attamen non fuisse mutatam, quia ratio non affuit, et alioqui adeo est antiqua, et perpetua in hoc observantia, ut reis esset etiam negandum, iure Divino Sabbathum esse institutum, tanquam morale praeceptum, tunc enim esset ab Ecclesia immutabile. Sed dic, quoad tempus iam relinqui Ecclesiae, cum significatio caeremonialis adimpleta sit. Vide Suarez et Fagundez.*

13 For the reasons of this perpetual and so firm observance of the Lord's day you have many in D. Bonavent. in 3. dist. 37. art. 3. and serm. 4. de decem praeceptis, and serm. 2. Sabbati sancti, Suarez Tom. 1. lib. 2. cap. 4. Azorio Tom. 2. Institut. moral. lib. 1. cap. 2. quaest. 4. Sayro lib. 7. cap. 1. Fagundez loco citato, num. 8. The sixth Synodus Constantinopol. cap 8. comprehends them excellently, and they are reduced to seven. First, because on it God created light. Second, because on it He rained manna on the Hebrew people in the desert. Third, because on it Christ was born, adored by the Magi, baptized by John, on it He rose, and on the same day the Holy Spirit was sent upon the Apostles; Therefore the holy Synod concludes: *So great must be the observance of the Lord's day, that besides the prayers and the solemn Masses, and those things which pertain to eating, nothing else be done.* You will find nearly these reasons in D. Leone epist. 81. S. Augustino serm. 54. de tempore. S. Thomas adds, that the worship directed to God, which was exhibited on this first day alone, was consecrated to Him by the Pagans. If the feast of the Lord's day is of human law, much more the others, as the Doctors cited above teach.

Huius perpetuae, et tam firmae diei Dominicae observantiae rationes multas habes in D. Bonavent. in 3. dist. 37. art. 3. et serm. 4. de decem praeceptis, et serm. 2. Sabbati sancti, Suarez Tom. 1. lib. 2. cap. 4. Azorio Tom. 2. Institut. moral. lib. 1. cap. 2. quaest. 4. Sayro lib. 7. cap. 1. Fagundez loco citato, num. 8. eas vero egregie comprehendit Synodus sexta Constantinopol. cap 8. et reducuntur ad septem. Prima, quia in ea Deus lucem condidit. Secunda, quia in ea populo Hebraeo manna pluit in deserto. Tertia, quia in ea Christus natus, adoratus a magis, baptizatus a Ioanne, in ea resurrexit, et eadem die Spiritus sanctus missus est super Apostolos; Ideo sancta Synodus concludit: Tanta ergo debet esse diei Dominicae observantia, ut praeter orationes, et missarum solemnia, et ea, quae ad vescendum pertinent, nihil aliud fiat. *Has fere rationes invenies in D. Leone epist. 81. S. Augustino serm. 54. de tempore. Addit S. Doctor, cultum vero Deo intentum, qui exhibebatur sola hac prima die, illi sacrata a Paganis. Quod si dies festus Dominicae est iuris humani, multo magis caeteri, ut docent DD. citati supra.*

Question II: Whose it is to institute feasts to be kept under mortal sin

1 I assert first that it belongs to the supreme Pontiff to institute feasts throughout the whole world.

Cuius sit FESTA instituere sub mortali servanda.

Assero primo, spectare ad summum Pontificem instituere festa in toto orbe.

2 The reason is, because he is the universal supreme Pastor, to whom all the sheep have been entrusted: Ioan. 21. as I showed in the first part, Tract. 1. Disp. on the supreme Pontiff. It is the common doctrine, as Fagundez notes lib. 1. de praeceptis Ecclesiae, cap. 3. num. 2. Ballaeus V. Festum 1. num. 3.

Ratio est, quia is est summus Pastor universalis, cui traditae sunt oves omnes: Ioan. 21. ut ostendi prima parte, Tract. 1. Disp. de summo Pontifice, Est communis doctrina, ut monet Fagundez lib. 1. de praeceptis Ecclesiae, cap. 3. num. 2. Ballaeus V. Festum 1. num. 3.

3 I assert second, that Bishops can institute, in their own dioceses only, feasts of Saints already Canonized or Beatified; and as to Canonized saints, this they commonly teach, as gathered at Fagundez num. 3. Suarez indeed lib. 2. cap. 21. extends it even to the beatified, who adds with Fagundez that there is no need of the Pope's confirmation; and as to the Beatified subscribe Bellarminus lib. 1. de beatitudine sanctorum, cap. 7. Fagundez num. 15.

Assero secundo, posse Episcopos in suis dioecesibus tantum, instituere festa sanctorum iam Canonizatorum, vel Beatificatorum, et quoad Canonizatos, docent communiter apud Fagundez num. 3. Suarez vero lib. 2. cap. 21. etiam beatificatis extendit, qui addit cum Fagundez, non esse opus confirmatione Papae, et quoad Beatificatos subscribunt Bellarminus lib. 1. de beatitudine sanctorum, cap. 7. Fagundez num. 15.

4 Yet they cannot impose such feasts by right without the consent of clergy and people, cap. conquestus, de feriis, and cap. Pronunciandum, de consecr. dist. 3. So Azor Tom. 2. Instit. cap. 26. quaestio 3. Suarez num. 8. Fagundez num. 8. who nevertheless adds that it can be done by custom, at least for some occasion. But by custom it has been introduced that it be done by the sole consent of the Clergy. Suarez de Relig. lib. 2. cap. 11. Sa V. fest. Sanchez lib. 1. moral. cap. 43. Azor part. 2. lib. 1. cap. 26. quaestio 4. Diana 4. part. tract. 4. resol. 178.

Nequeunt tamen talia festa indicere de iure absque cleri, et populi consensu, cap. conquestus, de feriis, et cap. Pronunciandum, de consecr. dist. 3. Ita Azor Tom. 2. Instit. cap. 26. quaestio 3. Suarez num. 8. Fagundez num. 8. qui tamen addit, posse ex consuetudine saltem pro aliqua vice. Consuetudine autem invectum est, ut solo Cleri consensu id

fiat. Suarez de Relig. lib. 2. cap. 11. Sa V. fest. Sanchez lib. 1. moral. cap. 43. Azor part. 2. lib. 1. cap. 26. quaestio 4. Diana 4. part. tract. 4. resol. 178.

5 I assert third, that a secular Prince cannot institute feasts to be observed; and if Kings do this without the consent and authority of the Church, it is of no avail, both as to guilt and as to penalty. So Suarez Tom. 1. de religione, cap. 12. Azorius 2. part. Instit. moral. lib. 1. cap. 26. quaestio 5. Fagundez cap. 5. num. 2. Nor can they punish those who labor with the Bishop's license. So the S. Congreg. decreed, as at Diana part. 4. tract. 1. resol. 94.

Assero tertio, non posse Principem saecularem instituere festa observanda, et si Reges hoc faciunt absque consensu, et authoritate Ecclesiastica, nil valet, et quoad culpam, et quoad poenam. Ita Suarez Tom. 1. de religione, cap. 12. Azorius 2. part. Instit. moral. lib. 1. cap. 26. quaestio 5. Fagundez cap. 5. num. 2. Nec possunt punire laborantes cum licentia Episcopi. Sic statuit S. Congreg. apud Dianam part. 4. tract. 1. resol. 94.

6 I assert fourth, that feasts can be abrogated by custom. See Fagundez cap. 6. yet the consent, at least tacit, of the Bishop must be added. So Fagundez num. 7. For the introduction of a feast day, therefore, a custom of ten years suffices; but for abrogation, one of forty years.

Assero quarto, consuetudine posse festa abrogari. Vide Fagundez cap. 6. debet tamen consensus, saltem tacitus Episcopi accedere. Ita Fagundez num. 7. Ad introductionem diei festi igitur sufficit consuetudo decem annorum; ad abrogandum vero 40. annorum.

7 I assert fifth, that the time during which feasts last depends on the custom of the place, province, etc. namely whether from Vespers to Vespers, or from midnight to midnight. So commonly, as at Fagundez cap. 6. num. 2. according to the Roman manner indeed, as to servile works, it begins from midnight to midnight, leg. more Romano, ff. de feriis.

Assero quinto, tempus, quo durant festa, pendet e consuetudine loci, provinciae, etc. nempe ut sit a vespera ad vesperam, vel a media nocte ad mediam noctem. Ita communiter apud Fagundez cap. 6. num. 2. more quidem Romano quoad servilia incipit a media nocte ad mediam noctem leg. more Romano, ff. de feriis.

Question III: Whether mortal sins on a feast are forbidden by this precept

1 The observance of the feast day is called the sanctification of that time to the honor and worship of God and the veneration of the saints. So Scripture speaks, Exodi 20.: *Remember that you sanctify the Sabbath day.* Therefore it adds: *you shall not do any work in it*, because this consecration is made through cessation from servile works. So S. Bonavent. 3. dist. 37. dub. 3. litt. and in serm. 4. de decem praeceptis, D. Thom. 2. 2. quaest. 122. art. 4. ad 3. Suarez Tom. 1. de Relig. lib. 2. de diebus festis, cap. 2. Azor Tom. 2. cap. 1. Fagundez lib. 1. cap. 3. Since therefore the feast day is ordered to the worship and sanctification of God, the question arises: whether mortal sin is prohibited by this precept, in such a way that to sin lethally on that day be called a transgression of the feast.

Utrum peccata mortalia in Festo sint hoc praecepto vetita.

Observantia diei festi dicitur sanctificatio illius temporis ad honorem, et cultum Dei, et sanctorum venerationem. Sic Exodi 20. loquitur Scriptura: Memento ut diem Sabbathi sanctifices. *Ideo subdit:* non facies opus in eo, *quia haec dedicatio fit per cessationem a servilibus. Ita S. Bonavent. 3. dist. 37. dub. 3. litt. et in serm. 4. de decem praeceptis, D. Thom. 2. 2. quaest. 122. art. 4. ad 3. Suarez Tom. 1. de Relig. lib. 2. de diebus festis, cap. 2. Azor Tom. 2. cap. 1. Fagundez lib. 1. cap. 3. Cum igitur dies festus ordinetur ad Dei cultum, et sanctificationem, oritur quaestio: an prohibeatur hoc praecepto peccatum mortale, ita, ut eo die peccare lethaliter, sit dici festi transgressio.*

2 The first opinion is affirmative. So expressly D. Thom. loco cit. Ales. 3. part. quaest. 32. memb. 3. art. 2. ad ult. and memb. 5. art. 2. Albertus memb. 3. dist. 37. D. Antonin. 3. part. tit. 9. cap. 7. §. 3. and 5. part. tit. 14. cap. 19. §. 7. and tit. 17. cap. 17. §. 4. and 5. where Lyranus cap. 20. Exodi, where the same is taught by Abulensis quaest. 11. and 12. Medina Cod. de oratione, quaest. 10. and 19. Maior 4. dist. 14. quaest. 4. Angelus V. feria, num. 36. and V. Interrogationes circa tertium praeceptum. and V. Praeceptum, Rosella V. confessio, 2. num. 7. Catherinus lib. 5. contra Caietanum, Corduba lib. 1. quaest. 6. who says the opposite opinion is not safe, and he brings forward many.

> *Prima opinio est assertiva. Ita expresse D. Thom. loco cit. Ales. 3. part. quaest. 32. memb. 3. art. 2. ad ult. et memb. 5. art. 2. Albertus memb. 3. dist. 37. D. Antonin. 3. part. tit. 9. cap. 7. §. 3. et 5. part. tit. 14. cap. 19. §. 7. et tit. 17. cap. 17. §. 4. et 5. ubi Lyranus cap. 20. Exodi, ubi idem docent Abulensis quaest. 11. et 12. Medina Cod. de oratione, quaest. 10. et 19. Maior 4. dist. 14. quaest. 4. Angelus V. feria, num. 36. et V. Interrogationes circa tertium praeceptum. et V. Praeceptum, Rosella V. confessio, 2. num. 7. Catherinus lib. 5. contra Caietanum, Corduba lib. 1. quaest. 6. qui ait oppositam non esse tutam, et multos adducit.*

3 The same hold Scotus, and Gabriel. 3. dist. 15. and the same Gabriel in 4. dist. 17. quaest. 1. conclusione 4. Angestus in moral. cap. 8. Nidet in 3. praecepto, cap. 1. and cap. 9. The same seems to be the sense of D. Ambrosius on Lucae 13. as at D. Thom. D. Augustinus epist. 119. and lib. de decem chordis, cap. 5. and cap. consideret. initio de poenit. dist. 15. v. In tempore, and V. orationi conflicto: And it seems to be the approved opinion in the Council of Cologne, convoked in the year of the Lord 1536. In the Tractate on exterior penance, fol. 180. where it teaches that he sins twice who spends the Lord's day with harlots and quarrels, fistfights, and obscenities. Fagundez says it is probable lib. 1. cap. 9. bringing forward also D. Bonaventuram in 3. dist. 37. dub. 3. litt. and in speculo animae, cap. 1. Add also serm. 4. de decem praeceptis. Therefore if the Seraphic Doctor is led to it, all the ancient and illustrious Theologians have it as patrons.

> *Idem tenent Scotus, et Gabriel. 3. dist. 15. et idem Gabriel in 4. dist. 17. quaest. 1. conclusione 4. Angestus in moral. cap. 8. Nidet in 3. praecepto, cap. 1. et cap. 9. Idem videtur sentire D. Ambrosius Lucae 13. apud D. Thom. D. Augustinus epist. 119. et lib. de decem chordis, cap. 5. et cap. consideret. initio de poenit. dist. 15. v. In tempore, et V. orationi conflicto: Et videtur sententia approbata in Concilio Coloniae coacto anno Domini 1536. Tractatu de exteriori poenitentia, fol. 180. ubi docet, quod bis peccat, qui diem Dominicum scortis, et rixis, pugnis, et obscoenis agit. Eam probabilem ait Fagundez lib. 1. cap. 9. adducens etiam D. Bonaventuram in 3. dist. 37. dub. 3. litt. et in speculo animae, cap. 1. Adde et serm. 4. de decem praeceptis. Itaque si ad eam Seraphicum ducant, Doctores omnes antiquos insignesque Theologos habent patronos.*

4 The second opinion, on the contrary, denies that the precept of the observance of the feast day specially forbids all mortal sins. So Suarez Tom. 1. de relig. lib. 2. de diebus festis, cap. 18. Azor tom. 2. cap. 28. quaestio 10. Caietanus prima secundae, quaest. 7. art. 1. and 2. 2. quaest. 122. art. 4. and in summa *v. festorum violatio,* and in *opuscul. quaest. 27. quod, 10. Sotus in 4. dist. 18. quaest. 2. art. 4. lib. 2. de Iustitia, quaest. 4. art. 4. Victoria in summa, de sacram. tit. de confess. num. 195. Abulensis in 4. dist. 17. quaest. 1. Sylvester V. Dominica, quaest. 8. dist. 4. and in Rosa aurea casu 65.* where he says the most learned men of his order commonly hold thus. *Navarras in cap. consideret, num. 22. and Manuali Lat. cap. 6. num. 9. Fumus V. Fevia, num. 12. Tabiens ibi, num. 47. Angles in floribus, quaest. 9. de confess. pag. 288. Couar. in cap. Alma mater, part. 1. §. 5. num. 3. and lib. 3. var. cap. 19. Guttierr. lib. 1. can. qq. cap. 31. Fagundez num. 1.* who brings forward also *D. Thom. 4. dist. 32. art. 5. quaest. 1. and in 3. dist. 37. art. 5. quaest. 2. ad 2. Bonacina puncto 2. Bassaeus 1. num. 3.*

Secunda sententia e regione negat, praeceptum observantiae diei festi specialiter omnia prohibere mortalia. Ita Suarez Tom. 1. de relig. lib. 2. de diebus festis, cap. 18. Azor tom. 2. cap. 28. quaestio 10. Caietanus prima secundae, quaest. 7. art. 1. et 2. 2. quaest. 122. art. 4. et in summa v. festorum violatio, *et in* opuscul. quaest. 27. quod, 10. Sotus in 4. dist. 18. quaest. 2. art. 4. lib. 2. de Iustitia, quaest. 4. art. 4. Victoria in summa, de sacram. tit. de confess. num. 195. Abulensis in 4. dist. 17. quaest. 1. Sylvester V. Dominica, quaest. 8. dist. 4. et in Rosa aurea casu 65. *ubi ait viros doctissimos sui ordinis ita communiter sentire.* Navarras in cap. consideret, num. 22. et Manuali Lat. cap. 6. num. 9. Fumus V. Fevia, num. 12. Tabiens ibi, num. 47. Angles in floribus, quaest. 9. de confess. pag. 288. Couar. in cap. Alma mater, part. 1. §. 5. num. 3. et lib. 3. var. cap. 19. Guttierr. lib. 1. can. qq. cap. 31. Fagundez num. 1. *qui adducit etiam* D. Thom. 4. dist. 32. art. 5. quaest. 1. et in 3. dist. 37. art. 5. quaest. 2. ad 2. Bonacina puncto 2. Bassaeus 1. num. 3.

5 AS TO D. Bonaventure, he indeed seems clearly for the first opinion. Yet if it be thoroughly considered, he asserts indeed that the end of this Precept is the sanctification of the soul through good works, so that for that reason he wills that abstention be made from servile and worldly labors, that we may be free in quiet for the service of God; and so to act against the end intended by God is to yield, for he indeed does not labor in servile physical works, but only in works of sins, which indeed are metaphorically servile, and therefore he says that he does worse who applies himself to sins, frequenting theaters, luxury, drunkenness, than he who labors on the feast, because such a one, although he esteems one mean of being free for God from distracting servile works, yet operates other means contrary to the end, and more diametrically opposed to the Divine law, as overturning the end; and therefore in the places cited, and *serm. 2. Sabbathi sancti*, he complains with D. Augustinus that thus the Sabbath is not observed to the end intended by God; nevertheless he does not seem to impose anything except that we be free from physical servile works, and so he alleges the precept of the Divine law *Exodi 20. and 35. and Levit. 23. and in 3. dist. 37.* he says that cessation from servile works is imposed, and to signify that one must abstain from the servile works of sin, and as such it was significative, not only moral, and wittily for the full impletion of the other morals. And he says that especially by this precept servile works are forbidden, especially those directed to gains. Nor only these, but indeed more and more diligently carnal works, drunkenness, luxury, etc. and he adds the testimony of D. Augustinus saying: *Not to keep the feast day according to the mind of God, in which manner the Jews observe it with carnal idleness; for they will to observe it for their trifles and luxuries; and therefore it would be a lesser evil on feasts, if they labored, than to dance all day impudically at the neomeniae.* And explaining the testimony of D. Augustinus, he says: *But he says this, not because one must cease on solemn days from the business of exterior acts; but because the Prelates of the Church, whose it is to institute these feasts, and to determine how and in what manner one must cease from exterior work, must rather call back from those things which offer a greater occasion of sinning. Whence to avoid idleness, or unfit solace, Augustine says that they ought rather to exercise themselves in works of piety than to apply to disordered and lascivious businesses: On which account on those days they ought to frequent the Churches, hear Masses, etc.*

QUOD AD D. Bonavent. videtur sane pro priori sententia. Enim vero si penitus consideretur, asserit quidem, huius Praecepti finem esse sanctificationem animae per opera bona, ut propterea a servilibus, et mundanis laboribus velit abstineri, ut Dei servitio in quiete vacemus, atque adeo contra finem a Deo intentum agere, qui non laborat quidem servilibus operibus physicis, sed tantum operibus peccatorum, quae sane metaphorice sunt servilia, succumbunt, et ideo ait, peius facere, qui peccatis intendunt, theatra, luxus, ebrietates frequentando, quam qui laborant in festo, quia huiusmodi, etsi medium unum astimant a Deo vacandi ab operibus servilibus distrahentibus, tamen alia operantur media contraria fini, et magis a diametro Divinae legi opposita, ut pote finem evertentia, et ideo locis adductis, et serm. 2. Sabbathi sancti, *conqueritur cum D. Augustino, sic non observari Sabbathum ad finem a Deo intentum, sed tamen*

non videtur imponere, nisi ut vacemus a servilibus physicis, et sic allegat praeceptum Divinae legis Exodi 20. et 35. et Levit. 23. et in 3. dist. 37. *dicit, cessationem a servilibus imponi, et signare abstinendum a peccati operibus servilibus, et ut tale, fuisse signativum, nedum morale, et facete ad aliorum moralium integram impletionem. Et ait, praecipue hoc praecepto inhiberi opera servilia, ea maxime, quibus intenditur lucris. Nec tantum haec, sed imo magis et diligentius opera carnalia, ebrietates, luxus, etc. et subdit testimonium D. Augustini dicentis:* Non servare diem festum ad mentem Dei, quo more Iudaeorum observant carnali otio; observare enim volunt ad nugas, et luxurias suas; et ideo minus malum fore in festis, si laborarent, quam tota die in neomeniis impudice saltarent. *Et explicans testimonium D. Augustini, ait:* Hoc autem dicit, non quia sit cessandum in diebus solemnibus a negotiis actuum exteriorum; sed quia Praelati Ecclesiae, quorum est haec festa indicere, et determinare quomodo, et qualiter sit cessandum ab exteriori opere, magis debent revocare ab his, quae maiorem peccandi praebent occasionem. Unde propter vitandum otium, vel ineptum solatium dicit Augustinus, quod exercere magis se debent in operibus pietatis, quam negotiis inordinatis, et lascivis intendere: Propter quod in diebus illis debent Ecclesias frequentare, Missas audire, etc.

6 HENCE I gather quite soundly, that that precept of sanctifying the feast by abstaining from sins is indeed not the end of the precept, but only imposes a means of abstaining from servile works; and of applying oneself to some work of Religion, which is deputed in the Mass; Moreover it falls more to the Prelates to call the peoples back from sins.

HINC satis probe colligo, praeceptum illud sanctificandi festum abstinendo a peccatis, esse quidem non finem praecepti, sed solum medium imponere abstinendi a servilibus; et incumbendi alicui operi Religionis, quod deputatur in Missa; Caeterum Praelatis incumbere magis populos revocare a peccatis.

7 He says in *serm. 4. cited* that this is truly the perfect vacation, which has joined to it a good operation, and forbids the servile one. Where he seems to intend the perfection indeed of the vacation of the feast, but not to constitute its essence in good works and the turning aside from sins. Therefore it is not so clearly for the first opinion. Which more, in the third argument, I will show from his words, with which he seems to me to embrace the second.

HANC sane perfectam esse vacationem ait serm. 4. adducto*, quae habet adiunctam bonam operationem, et prohibitam servilem. Ubi videtur perfectionem quidem vacationis festi intentam, non vero essentiam in operibus bonis, et peccatorum declinatione constituere. Itaque non adeo clare est pro prima sententia. Quod amplius in tertio argumento verbis illius ostendam, quibus secundam amplecti mihi videtur.*

8 I ASSERT first, that the former opinion can be defended with probability, namely that mortal sins committed on the feast add a circumstance of malice.

ASSERO primo, posse probabiliter priorem sententiam defendi, scilicet peccata mortalia in festo addere circumstantiam malitiae.

9 It is *PROVED* by the authorities brought for it. First indeed by D. Bonav. from D. Augustino *epist. 119. and lib. de decem chordis: The Jew would do better on the Sabbath something useful in his field; than if he were seditious in the theater. And their women would do better to work wool on the Sabbath day, than to dance all day impudically at the neomeniae.*

PROBATUR *authoritatibus pro ea adductis. Primo quidem a D. Bonav. ex D. Augustino* epist. 119. et lib. de decem chordis: Melius faceret Iudaeus in Sabbatho in agro suo aliquid utile; quam si in theatro seditiosus existeret. Et melius foeminae eorum in die Sabbathi lanam facerent, quam si tota die neomeniis impudice saltarent.

10 Yet it can be answered that the S. Father intends only that the works of mortal sin against the law of nature are more against the end intended by God in the sanctification of feasts, than servile labors against the human precept of the feast day.

> *POTEST tamen responderi id solum intendi a S. Patre, magis contra finem a Deo intentum in sanctificatione festorum esse opera peccati mortalis contra legem naturae, quam labores serviles contra praeceptum diei festi humanum.*

11 It is *PROVED* second *from cap. Consideret. initio 15 de poenit. dist. 1. §. under the word In tempore, and the word orationi constituto*, where it is prescribed that we confess the circumstance of the feast time in mortal sin.

> PROBATUR *secundo* ex cap. Consideret. initio 15 de poenit. dist. 1. §. verbo. In tempore, et verbo, orationi constituto*, ubi praecipitur, ut confiteamur circumstantiam temporis festi in peccato mortali.*

12 Yet it can be answered with *Navarro ibi num. 32. Guttierr. lib. 1. de qq. can. cap. 31. Suarez loco cit. num. 17. Fagundez n. 7.* that this is a counsel, not a decree commanding, as appears from the tenor of the words.

> *POTEST tamen responderi cum* Navarro ibi num. 32. Guttierr. lib. 1. de qq. can. cap. 31. Suarez loco cit. num. 17. Fagundez n. 7. *hoc esse consilium, non decretum praecipiens, ut patet ex verborum tenore.*

13 The Council of Cologne above is also brought forward, but it was Provincial, not confirmed by the Apostolic See, and erring even in the matter of justification, as Fagundez notes *num. 12.* with Guttier. *num. 36.*

> *AFFERTUR etiam Coloniense Concilium supra, sed illud Prouinciale fuit, nec confirmatum a Sede Apostolica, et in materia etiam iustificationis aberrans, ut notat Fagundez* num. 12. *cum Guttier.* num. 36.

14 It is *PROVED* third by D. Bonavent. *serm. 2. de Sabbatho sancto*, and other places from Levit. cap. 16. *It is the Sabbath of rest, and you shall afflict your souls, and you shall be cleansed from all your sins*, and *cap. 23. You shall afflict your souls, etc. You shall do no servile work on this day; every soul that shall not be afflicted on this day shall perish from its people, that the Lord may be propitious to you.*

> PROBATUR *tertio a D. Bonavent.* serm. 2. de Sabbatho sancto*, et aliis locis ex Levit. cap. 16.* Sabbathum requietionis est, et affligetis animas vestras, et a peccatis vestris omnibus mundabimini*, et* cap. 23. Affligetis animas vestras, etc. Omne opus servile non facietis in die hac; omnis anima, quae afflicta non fuerit, die hac, peribit de populo, ut propitietur vobis Dominus.

15 *Guttierr. num. 33. Cano, and Couarruvias* answer, to whom Fagundez subserves himself *num. 12.* from D. Bonavent. *sermone 4. cited*, where he says: *But if we understand, as the Jews, who say that a universal cessation must be made from every servile work, so it is insinuated to the Christian that he must abstain from every sin, and so it is figurale. If we understand, that we must abstain from certain things, so it is moral, not as in the precept, and as in the bene esse, and it remained as in the Ecclesiastical institution it is a precept: I say servile works, mechanical works, etc.* These things S. Bonaventure, by which he shows that there the sermon was about propitiation, or ceremonial sanctification; but that to abstain from sin is indeed signified by the precept of vacation from servile works, not commanded: For sin is servitude only metaphorically, as Suarez notes *num. 7.* Fagundez *num. 3.*

> *RESPONDENT* Guttierr. num. 33. Cano, et Couarruvias*, quibus subservit Fagundez* num. 12. *ex D. Bonavent.* sermone 4. adducto*, ubi ait:* Quod si intelligamus, sicut Iudaei, qui dicunt, quod debet fieri universalis

cessatio ab omni opere servili, sic insinuatur Christiano, quod debet abstinere ab omni peccato, et sic est figurale. Si intelligamus, quod ab aliquibus debemus abstinere, sic est morale, non sicut in praecepto, et sicut in bene esse, et remansit sicut in Ecclesiastica institutione est praeceptum: Dico opera servilia, opera moechanica, etc. *Haec S. Bonavent. quibus ostendit, ibi sermonem fuisse de propitiatione, seu sanctificatione caeremoniali; abstinere autem a peccato signari quidem praecepto vacationis a servilibus, non praecipi: Est enim peccatum servitus tantum metaphorice, ut notat Suarez* num. 7. *Fagundez* num. 3.

16 Moreover, that servile work which is forbidden by this precept is mechanical, as D. Bonav. says here, D. Thom. and others at Fagundez. From which you have that the Seraphic Doctor seems to be for the first opinion.

DE caetero illud opus servile, quod hoc praecepto prohibetur, est moechanicum, ut ait D. Bonav. hic, D. Thom. et alii apud Fagundez. Ex quo habes, Seraphicum videri pro prima sententia.

17 It is *PROVED* fourth by S. Thomas *in the places cited*, and D. Thom. *loco cit.* by the argument which the others use: the end of the law is the soul of the law: But the end of the law of sanctifying the feast is the application of man to the service of God. To this mortal sins are more repugnant than manual mechanical works. If therefore by these the feast day is violated, much more is it violated by mortal sins.

PROBATUR *quarto a S. Doctore* locis adductis*, et D. Thom.* loco cit. *argumento, quo caeteri utuntur, finis legis est anima legis: At finis legis sanctificandi festum, est applicatio hominis Dei servitio. Huic autem magis repugnant peccata mortalia, quam opera manualia moechanica. Si igitur per haec violatur dies festus, multo magis violatur peccatis mortalibus.*

18 It is ANSWERED, that not only by this precept is the end of the law, which is Charitas, not commanded, but neither every means; but only that which is properly expressed, which is to be free from servile labor, by which we are distracted; but sins are sufficiently forbidden always by the individual precepts. But if by this precept all impediments were forbidden, we would now be bound to be free the whole day for prayer and other pious works; to avoid walks, conversations, etc.

RESPONDETUR, non modo hoc praecepto, non praecipi finem legis, qui est Charitas, sed neque omne medium; sed illud solum, quod proprie exprimitur, quod est vacare a servili labore, quo distrahimur; peccata vero satis vetita sunt semper singulis praeceptis. Quod si hoc praecepto prohiberentur omnia impedimenta, iam teneremur tota die vacare orationi, et aliis operibus piis; evitare deambulationes, confabulationes, etc.

19 I ASSERT second, that the second, negating opinion is more probable.

ASSERO secundo, probabiliorem esse secundam sententiam negantem.

20 It is PROVED first from D. Bonavent. *in the cited sermon*, in the words brought, by the reason which is the chief foundation, as Fagundez says *num. 2.* for that precept forbids only truly servile works, for Exodi 20. it is thus had: *Remember that you sanctify the Sabbath day. Six days shall you labor, and shall do all your work. But on the seventh day you shall not do all your work, you, and your son, and your daughter, your manservant, and your maidservant, your beast of burden, and the stranger that is within your gates; for in six days God made heaven, and earth, the sea, and all things that are in them, and on the seventh day He rested. Therefore He blessed and sanctified it.* Scripture has similar things cap. 12. 16. and 23. where under the name of servile work mechanical works are explained.

PROBATUR primo ex D. Bonavent. sermone citato*, verbis adductis, ratione, quae est praecipuum fundamentum, ut ait Fagundez* num. 2. *nam praeceptum illud prohibet tantum opera vere servilia, nam Exodi 20. sic habetur:* Memento ut diem Sabbathi sanctifices. Sex diebus operaberis, et facies omne opus tuum. Septima vero die non facies omne opus tuum, tu, et filius tuus, et filia tua, servus tuus, et ancilla tua, iumentum tuum, et advena, qui est intra portas tuas, sex enim diebus fecit Deus caelum, et terram, mare, et omnia, quae in eis sunt, et septima die requievit. Ideo benedixit, et sanctificavit illum. *Similia habet Scriptura cap. 12. 16. et 23. ubi nomine operis servilis opera moechanica explicantur.*

21 From these words S. Thomas draws that the work forbidden by this precept is that which is with the middle labor of the seven days of the week, with the aid of servants, maidservants, or beasts of burden; but this is not sin, but they are mechanical works, which he enumerates as seven, and they are referred to *the following quaest*.

Ex his verbis deducit S. Doctor, opus prohibitum hoc praecepto esse illud, quod sit medio labore septem diebus hebdomadae, auxilio servorum, ancillarum, aut iumentorum; hoc autem non est peccatum, sed sunt opera moechanica, quae septem recenset, et referentur quaest. sequenti.

22 It is CONFIRMED; for that rest is to commemorate the work of the making of the world. Therefore S. Thomas proves it deeply from the law itself.

CONFIRMATUR; nam requies illa est ad memorandum opus fabricae mundi. Quare S. Doctor ex lege ipsa id alte convincit.

23 S. Thomas DEDUCES moreover at the end, that one is bound to abstain from servile works, not only the lord himself, but to bring it about that also those abstain who are under his power, as sons, wife, maidservants, servants, and beasts of burden. But he intersperses some excellent Mystical things, which see there.

DEDUCIT insuper S. Doctor in fine, teneri abstinere a servilibus, non modo Dominum ipsum, sed efficere, ut abstineant etiam, qui sub sua sunt potestate, ut filii, uxor, ancillae, servi, et iumenta. Aliqua vero Mystica intermiscet egregia, quae ibi vide.

24 It is confirmed, because the work of sin, as sin, is not a servile work, as I showed.

Confirmatur, quia opus peccati, ut peccatum, non est opus servile, ut ostendi.

25 It is PROVED second from D. Bonavent. *in the places cited*. The extrinsic end of the precept is not precepted, but only the expressed means, as they teach commonly with D. Thom. 1. 2. quaest. 100. art. 9. and 1. 2. q. 44. art. 1.

PROBATUR secundo ex D. Bonavent. locis adductis. *Finis extrinsecus praecepti non est praeceptus, sed solum media expressa, ut docent communiter cum D. Thom. 1. 2. quaest. 100. art. 9. et 1. 2. q. 44. art. 1.*

26 It is CONFIRMED, for neither was it ever understood by the Jews that by this precept all sins were forbidden, since they are sufficiently forbidden by their own precepts: Therefore much less to the Church, for to it many things are conceded which were not lawful to the Jews, as to walk, etc. as D. Bonavent. notes in 3. *loco cit*.

CONFIRMATUR, nam neque Iudaeis hoc praecepto unquam intellectum fuit prohiberi peccata omnia, cum satis suis prohibeantur praeceptis: Ergo multo minus Ecclesiae, nam huic multa conceduntur, quae non licebant Iudaeis, ut ambulare, etc. ut notat D. Bonavent. in 3. loco cit.

[27] Corduba strives to overturn these most solid foundations.

> *Haec fundamenta solidissima conatur evertere Corduba.*

Question IV: Whether lawful liberal work becomes servile because it is done for gain

[1] The FIRST opinion is that the extrinsic end of the worker makes liberal works servile, and that they are forbidden on the feast day. So hold many interpreters of Canon and civil Law *on cap. 1. de Feriis, and on leg. omnes Iudices, Cod. de Feriis*, and others, as Angel. and Rosella, Tabiena *V. Feria*, Richardus *3. dist. 37. art. 2. quaest. 4.* Sylvester *under the word Dominica, quaest. 4.*

> Utrum Opus licitum liberale reddatur servile, eo quod ob lucrum fiat.
>
> *PRIMA opinio est, finem extrinsecum operantis opera liberalia, reddere ea servilia, et esse vetita die festo. Ita multi Iuris Canonici, et civilis Interpretes* ad cap. 1. de Feriis, et ad leg. omnes Iudices, Cod. de Feriis*, et alii, ut Angel. et Rosella, Tabiena* V. Feria*, Richardus* 3. dist. 37. art. 2. quaest. 4. *Sylvester* verbo Dominica, quaest. 4.

[2] The SECOND opinion is that no liberal work directed to gain thereby becomes servile. So hold very many: Caietanus *2. 2. quaest. 122. art. 4. and in summa, v. Festorum violatio*, Sotus *lib. 2. de Iustitia, quaest. 4. art. 4.* Navar. *in manuali lat. cap. 13.* Tolet. *lib. 4. summa, cap. 24.* Sayrus *lib. 7. cap. 2.* Philiarchus *part. 2. lib. 3. cap. 23.* Fum. *V. fest. num. 23.* Medin. *Instruct. lib. 1. cap. 24. quaest. 1.* Lopez *Instit. p. p. cap. 52.* Bonacina *tom. 2. disp. 5. quaest. unic. puncto 2. num. 25.* Laym. *lib. 4. tract. 7. cap. 2. num. 3.* P. Eligius Bassaeus *V. festum, 2. num. 8.* Azor *2. part. Inst. lib. 1. cap. 28. quaestio 1.* Suarez *tract. 1. de Rel. lib. 2. de festis, cap. 19.* Fagundez *on the first precept of the Church, lib. 1. cap. 10.* This is the opinion of D. Bonaventure *sermone 4. in decem praecepta, about the middle*, where he adds that some mechanical works too are lawful for pleasure, and that no servile work is forbidden if elsewhere necessity or a just excusing cause occurs: to this Suarez subscribes.

> *SECUNDA sententia est, nullum opus liberale directum ad lucrum, fieri ob id servile. Ita plurimi, Caietanus* 2. 2. quaest. 122. art. 4. et in summa, v. Festorum violatio*, Sotus* lib. 2. de Iustitia, quaest. 4. art. 4. *Navar.* in manuali lat. cap. 13. *Tolet.* lib. 4. summa, cap. 24. *Sayrus* lib. 7. cap. 2. *Philiarchus* part. 2. lib. 3. cap. 23. *Fum.* V. fest. num. 23. *Medin.* Instruct. lib. 1. cap. 24. quaest. 1. *Lopez* Instit. p. p. cap. 52. *Bonacina* tom. 2. disp. 5. quaest. unic. puncto 2. num. 25. *Laym.* lib. 4. tract. 7. cap. 2. num. 3. *P. Eligius Bassaeus* V. festum, 2. num. 8. *Azor* 2. part. Inst. lib. 1. cap. 28. quaestio 1. *Suarez* tract. 1. de Rel. lib. 2. de festis, cap. 19. *Fagundez* in primum Ecclesiae praeceptum, lib. 1. cap. 10. Est *sententia D. Bonavent.* sermone 4. in decem praecepta, circa medium*, ubi addit aliqua etiam moechanica ad iucunditatem esse licita, et nullum opus servile esse vetitum, si alias occurrat necessitas, vel causa iusta excusans: huic subscribit Suarez.*

[3] I ASSERT with this opinion that a liberal work, with gain superadded, does not for that reason become servile.

> *ASSERO cum hac sententia, opus liberale ob lucrum superadditum, non ideo fieri servile.*

[4] It is PROVED from D. Bonaventure *loco cit. and in 3. dist. 37. dub. 3. and in serm. 2. Sabbathi sancti:* For God professes to forbid only work servile by its very nature: but an extrinsic end does not make servile that which is not intrinsically such; otherwise all the sciences and liberal arts would at once become mechanical from the end of the one who knows or learns them, which is exploded by the Philosophers. For the reason of liberality is taken from the end of the art, not from the extraneous end of the craftsman.

PROBATUR ex D. Bonavent. loco cit. et in 3. dist. 37. dub. 3. et in serm. 2. Sabbathi sancti: *Nam Deus profitetur prohibere tantum opus servile intrinsece ex natura sua: sed finis extrinsecus non facit servile id, quod intrinsece non est tale, alioqui omnes scientiae, et artes liberales illico fierent moechanicae ex fine scientis, vel discentis, quod est a Philosophis explosum. Ratio enim liberalis sumitur a fine artis, non a fine artificis extraneo.*

5 The ARGUMENTS on the contrary side collapse, by denying that those works become servile from an extrinsic end of mechanical gain. See Fagundez.

ARGUMENTA in contrarium ruunt, negando, ea opera fieri servilia ex fine extrinseco moechanici lucri. Vide Fagundez.

Question V: Which servile works are forbidden on a feast day

1 A servile work can thus be described by St. Bonaventure, *serm. 4. in decem praecepta, et in 3. dist. 37. dub. 3. litt. D.* Thom. ibidem *art. 5. quaest. 2. ad 2.* whom Suarez follows, *Tom. 1. de Relig. lib. 2. de diebus festis, cap. 10.* Fagundez *in primum Eccl. praeceptum, lib. 1. cap. 10. num. 6. Servile works are those to whose exercise the mechanical arts are directed, distinct from the liberal arts.* Others add, *besides* these, that we are accustomed also to employ and assign servants. D. Bonaventure: *etiam servos adhibere, et deputare solemus.* — "we are accustomed also to employ and assign servants."

Quae sint opera servilia, vetita die Festo.

Opus servile sic potest describi a S. Bonavent. serm. 4. in decem praecepta, et in 3. dist. 37. dub. 3. litt. D. *Thom. ibidem* art. 5. quaest. 2. ad 2. *quos sequuntur Suarez* Tom. 1. de Relig. lib. 2. de diebus festis, cap. 10. *Fagundez* in primum Eccl. praeceptum, lib. 1. cap. 10. num. 6. Opera servilia sunt illa, ad quorum exercitium artes moechanicae dirigunt, distinctae a liberalibus. *Addunt alii,* praeter *D. Bonavent.* etiam servos adhibere, et deputare solemus.

2 THEREFORE not all bodily works are servile, but only those exercised by the mechanical arts, and those which are habitually done by servants, according to some; but of this I shall speak below.

ITAQUE non omnia opera corporalia sunt servilia, sed solum quae moechanicis artibus exercentur, et quae per servos factitantur, secundum aliquos; sed de hoc dicam infra.

3 The holy Doctor admirably enumerates the mechanical arts, and their sufficient enumeration, in the *Opusculo, Reductio artium ad Theologiam, et serm. 4. in decem praecepta,* together with Hugh of St. Victor *lib. 2. Didasc. cap. 22.*

EGREGIE vero S. Doctor artes moechanicas recenset, eorumque sufficientem enumerationem, Opusculo, Reductio artium ad Theologiam, et serm. 4. in decem praecepta*, cum Hugone de S. Victore* lib. 2. Didasc. cap. 22.

4 SEVEN therefore are counted: wool-working, armor-making, agriculture, hunting, navigation, the theatrical art, medicine.

SEPTEM igitur numerantur, Lanificium, Armatura, Agricultura, Venatio, Navigatio, Theatrica, Medicina.

5 He sets out their sufficiency thus: every mechanical art is either for solace, whether to banish sadness or need; or for utility, whether it benefits or delights. If it is for solace and delight, then it is the theatrical art, which is the art of games, containing every kind of game, whether in songs, or in instruments, or in images, or in gestures of the body.

HARUM sufficientiam sic promit: Omnis Ars moechanica, aut est ad solatium, sive sit ad excludendam tristitiam, sive indigentiam; aut est ad commodum, sive illud prodest, aut delectat. Si est ad solatium, et delectationem, sic est

Theatrica, quae est Ars ludorum, omne ludorum genus continens, sive sit in cantibus, sive in organis, sive in figmentis, sive in gesticulatione corporis.

6 But if it is ordered to utility, or the profit of the outward man, this can be either with respect to covering, or with respect to nourishment, or with respect to both supports. If it is with respect to covering: either that is of soft and gentle material, and so it is wool-working, linen-working, and silk-working; or it is of strong material, and so it is armor-making, or the smith's art of all arms for defense and offense, whether of metal, or wood, or stone, as ramparts, towers, etc. walls, citadels, houses. But if they help with respect to nourishment, this can be twofold, because we are fed by vegetables and by sentient things. If with respect to vegetables, it is agriculture. If with respect to sentient things, then it is hunting, fishing, fowling. Or in another way: because helping with respect to food can be twofold, either with respect to the generation and multiplication of foods, and so it is the cultivation of fields; or with respect to the preparation of foods, and so it is hunting, fowling, fishing, and every preparatory art of foods; such as are those of bakers, cooks, innkeepers. All these are included under the name of hunting, on account of its preeminent excellence in preparing choice and abundant fare. But if toward both supports, this is twofold: either by supplying a lack, and so it is navigation, under which is contained all commerce, whether of things pertaining to covering or to nourishment; or by removing impediments, such as harms; and so it is medicine, whether that which consists in the compounding of electuaries, potions, ointments by the apothecaries (who also prepare spices and the like for the wholesome seasoning of foods;) so too surgery is ordered to the care of wounds, incision, etc. But the theatrical art is unique. This St. Bonaventure sets forth in the cited opuscule.

Si vero ordinatur ad commodum, sive profectum secundum exteriorem hominem, hoc potest esse, aut quantum ad operimentum, aut quantum ad alimentum, aut quantum ad utrunque adminiculum. Si est quantum ad operimentum; aut illud est de materia molli, et leni, sic est lanificium, et linificium, ac oloseiricum; aut est de materia forti, et sic est armatura, seu ars fabrilis armorum omnium ad defensionem, et offensionem, sive sint e metallo, sive ligno, sive lapide, ut propugnacula, Turres, etc. muri, arces, domus. Si vero iuvant quoad alimentum, hoc potest esse dupliciter, quia cibamur vegetabilibus, et sensibilibus. Si quoad vegetabilia, est agricultura. Si quoad sensibilia, sic est Venatio, Piscatio, Aucupium. Vel alio modo: Quia iuvare quoad cibum potest esse dupliciter, vel quoad ciborum genituram, et multiplicationem, et sic est agrorum cultura, aut quo ad ciborum praeparationem, et sic est Venatio, aucupium, piscatio, et omnis ars praeparatoria ciborum; quales sunt pistorum, cocorum, cauponum. Haec omnia nomine venationis includuntur, ob eius praecipuam excellentiam in exquisitis praeparandis, et copia. Si autem ad utriusque adminiculum, hoc est dupliciter, aut defectum supplendo, et sic est navigatio, sub qua continetur omnis mercatio, sive pertinentium ad operimenta, sive ad alimenta, aut removendo impedimenta, ut nocumenta; et sic est medicina, sive quae consistit in confectione electuariorum, potionum, unguentorum a pharmacopolis (qui etiam aromata, et similia praeparant ad condimenta salubria ciborum;) sic etiam Chirurgia ordinatur ad vulnerum curam, rescissionem, etc. Theatrica autem est unica. Haec S. Bonaventura opusculo adducto.

7 From which the holy Doctor deduces that not only those works are mechanical which we are accustomed to perform through servants, but also certain others, such as hunting, fishing, fowling, which are also practiced by nobles, to which add playing musical instruments, preparing foods, etc., as Fagundez also concedes *cap. 11. num. 1.* Wherefore he does not rightly place, *cap. 10.*, in the definition of a mechanical work, *that it is exercised by servants.* Better are almost all mechanical works called servile, because servants are employed for them, at least for some of them. So in hunting, stretching the nets, etc.; rather are they called mixed and common. There are also certain others

which are reduced to works of the soul, such as reading, writing, studying, and transcribing: there are yet others, though not servile, nevertheless forbidden by the Church, namely markets and the exercises of the forum.

> *Ex quo deducit S. Doctor, non ea sola esse moechanica, quae per servos solemus exercere, sed etiam aliqua alia, ut venari, piscari, aucupari, quae etiam a nobilibus exercentur, quibus adde uti musicis instrumentis, cibos praeparare, etc. ut concedit etiam Fagundez* cap. 11. num. 1. *Quare non recte* cap. 10. *in definitione operis moechanici ponit,* exerceri per servos. *Melius dicuntur, omnia fere moechanica servilia, quia ad ea, saltem quoad aliqua, adhibentur servi. Sic in Venatione tendere retia, etc. et potius dicuntur mixta, et communia. Sunt etiam aliqua alia, quae ad opera animae reducuntur, ut legere, scribere, studere, et transcribere: Sunt et alia, etsi non servilia, vetita tamen ab Ecclesia, scilicet Mercatus, et Fori exercitia.*

8 Of all these I shall treat briefly here.

> *De quibus omnibus hic breviter disseram.*

9 The holy Doctor asserts first, *serm. 4. citato*, that merely servile works are forbidden, necessity being set aside.

> *ASSERIT ergo primo S. Doctor* serm. 4. citato*, mere servilia esse vetita, seclusa necessitate.*

10 It is proved from Exodus 20, *Levit.* 23 and other passages cited, *quaest. 4.* There follow D. Thom. 1. 2. *quaest. 122. art. 4. ad 3.* D. Antonin. 2. *part. tit. 9. cap. 7. §. Quantum ad tertium*, Alens. 3. *part. quaest. 32. memb. 4. art. 4.* Richardus 3. *dist. 37. art. 2. quaest. 5.* Angel. and Tabien. see *Feriae*, Sylvester see *Dominica, quaest. 3.* Toletus *lib. 4. cap. 24.* Clavis Reg. *lib. 7. cap. 1.* Suarez *Tom. 1. de relig. lib. 2. de diebus Festis, cap. 20.* Fagundez *lib. 1. cap. 11.* and commonly the rest, collected by Bassaeus, see *Festum 2.*

> *PROBATUR ex 20.* Exodi*,* Levit. *23. et aliis locis adductis,* quaest. 4. *Sequuntur D. Thom. 1. 2.* quaest. 122. art. 4. ad 3. *D. Antonin. 2.* part. tit. 9. cap. 7. §. Quantum ad tertium*, Alens. 3.* part. quaest. 32. memb. 4. art. 4. *Richardus 3.* dist. 37. art. 2. quaest. 5. *Angel. et Tabien. V.* Feriae*, Sylvester V.* Dominica, quaest. 3. *Toletus* lib. 4. cap. 24. *Clavis Reg.* lib. 7. cap. 1. *Suarez* Tom. 1. de relig. lib. 2. de diebus Festis, cap. 20. *Fagundez* lib. 1. cap. 11. *et communiter caeteri, apud Bassaeum V.* Festum 2.

11 He asserts secondly that certain servile works are permitted on a feast day on account of ordinary necessity, such as cooking and preparing foods. Although so many labors in the seasoning and preparation of foods were not in use in ancient times, yet they are now permitted by custom, as Suarez notes *cap. 21.* Fagundez *cap. 10. in fine, et cap. 11. a num. 19.* The reason of D. Bonaventure is, because necessity is not bound by laws; these are natural works, not simply servile, and necessary for living.

> *ASSERIT secundo, aliqua servilia esse, quae ob necessitatem ordinariam conceduntur in die Festo, ut cibos coquere, praeparare, etc. Quamvis tot labores in ciborum condimentis, et praeparationibus non essent antiquitus in usu; tamen iam consuetudine permissi sunt, ut notat Suarez* cap. 21. *Fagundez* cap. 10. in fine, et cap. 11. a num. 19. *Ratio D. Bonavent. est, quia necessitas non cogitur legibus; haec autem oprea naturalia sunt, non servilia simpliciter, et ad vivendum necessaria.*

12 In the same way, and advancing further, are the works necessary in the medical art.

> *Eodem passu, et altius incedunt opera necessaria in arte medica.*

13 Nor do other works of nature press less, such as eating, drinking, clothing oneself, undressing, washing oneself, etc. So also Suarez *num. 2.* Fagundez *num. 9. cap. 11.* Bassaeus *loco cit.* and others among them.

> *NEC minus urgent alia naturae opera, ut comedere, bibere, vestire, se exuere, lavare se, etc. Ita etiam Suarez* num. 2. *Fagundez* num. 9. cap. 11. *Bassaeus* loco cit. *et alii apud istos.*

14 Likewise making a journey is *necessary, not servile*, whether on foot or on horseback. So Angel. see *Feriae, num. 15.* Rosella *num. 26.* Azor *below*, Suarez *loco cit. num. 27.* Diana *part. 4. tract. 4. miscel. resol. 221.* Per accidens, however, it can be forbidden, if it is done with great labor in procuring a horse, a carriage, etc. So Azor *Tom. 1. lib. 1. cap. 27. quaesito 8.* Suarez *loco cit.* and others: and Caietanus *quaest. 121. art. 4.* Sà *in Aphorism. see Festum*, say these are servile works; but permitted by custom; and Sà adds, when accompanied by much baggage: Fagundez indeed *num. 9.* says this is to be understood when a Prince or Prelate makes the journey. Diana moreover adds *p. p. tract. 15. resol. 36. et part. 2. tract. 1. miscellaneor. resol. 36. et 4. part. tract. 4. resol. 221.* that grooms and the like can, without mortal sin, having heard Mass, lead laden beasts of burden, indeed even load them. Nevertheless, if in loading they spend a notable time, which must exceed two hours, it will be a mortal sin. So also others with Bassaeus *num. 10.*

> *Similiter iter facere est* necessarium, non servile*, sive peditando, sive equitando. Ita Angel. V.* Feriae, num. 15. *Rosella* num. 26. *Azor* infra*, Suarez* loco cit. num. 27. *Diana* part. 4. tract. 4. miscel. resol. 221. *Per accidens tamen potest esse vetitum, si fiat magno labore parandi equi, rheda, etc. Ita Azor* Tom. 1. lib. 1. cap. 27. quaesito 8. *Suarez* loco cit. *et alii: et Caietanus* quaest. 121. art. 4. *Sà* in Aphorism. V. Festum*, dicunt, haec servilia esse; at consuetudine permitti; et addit Sà, etiam comitati multis supellectile: Fagundez vero* num. 9. *id intelligi ait, cum iter facit Princeps, vel Praelatus. Addit autem Diana* p. p. tract. 15. resol. 36. et part. 2. tract. 1. miscellaneor. resol. 36. et 4. part. tract. 4. resol. 221. *posse agasones, et similes absque mortali, audita Missa, ducere iumenta onusta, imo onerare. Attamen si impensas onerando tempus notabile, quod debet excedere duas horas, mortale peccatum erit. Sic et alii cum Bassaeo* num. 10.

15 But sweeping the whole house for many hours is forbidden, says Fagundez.

> *VERRERE autem totam domum per multas horas, vetitum, ait Fagundez.*

16 The holy Doctor asserts thirdly that certain mechanical arts instituted for mere pleasure are licit on a feast. But he calls these the moderate theatrical art, such as song and instrumental music. The reason is, because the Church permits them on account of our infirmity. So also Fagundez *cap. 10.* Tolet. *lib. 4. cap. 24.* Tannerus *disp. 5. quaest. 6. num. 7.* and others among them, and Bonacina *punct. 2. num. 25.* Bassaeus 2. *num. 10.*

> *ASSERIT tertio S. Doctor, aliqua moechanica ad meram iucunditatem instituta, esse licita in festo. Ea vero appellat Theatrica moderata, ut cantus, et musica instrumenta. Ratio est, quia Ecclesia ob nostram infirmitatem ea permittit. Ita etiam Fagundez* cap. 10. *Tolet.* lib. 4. cap. 24. *Tannerus* disp. 5. quaest. 6. num. 7. *et alii apud eos, ac Bonacina* punct. 2. num. 25. *Bassaeus 2.* num. 10.

17 IT IS DOUBTED: Whether on these days fishing, hunting, fowling, and the like are licit.

> *DUBITATUR: An liceat his diebus piscatio, venatio, aucupium, et similia.*

18 The first opinion is that such works are liberal, if done on feast days for recreation. So Angelus, see *Feriae, num. 26.* Sylvester, see *Dominica, numero 7.* Sotus *lib. 2. de Iustitia, quaest. 4. art. 4.* Rosella, see

Feriae, num. 15. and others collected by Azor *part. 1. lib. 1. cap. 27. quaesito 7.* But Granado *2. 2. tract. 12. disp. 14. sect. 7. num. 65.* following Medina, Navarro, and Lopez adds, that neither hunting done for gain, etc. is a servile work, and says that only that fishing is servile which consists in carrying nets, rowing, and performing similar labor. Filliucius indeed teaches *tom. 2. tract. 27. cap. 9. num. 172.* that hunting and fishing as an office, which consist wholly in the weariness of the body, are servile, not that which is devoted to recreation. Azor *loco cit.* subscribes; all are cited by Diana *part. 4. Tract. 4. miscell. resol. 222.* and he attends to those who disagree. Almost subscribes Bassaeus *num. 12.*

> *PRIMA sententia est, talia opera esse liberalia, si ob recreationem diebus festivis fiant. Ita Angelus V.* Feriae, num. 26. *Sylvester V.* Dominica, numero 7. *Sotus* lib. 2. de Iustitia, quaest. 4. art. 4. *Rosella V.* Feriae, num. 15. *et alii apud Azorum* part. 1. lib. 1. cap. 27. quaesito 7. *At Granado* 2. 2. tract. 12. disp. 14. sect. 7. num. 65. *ex Medina, Navarto, et Lopez addit, neque ob lucrum factam venationem, etc. esse opus servile, et illam solam piscationem esse servilem ait, quae sit deferendo retia, remigando, et similem laborem exercendo. Filliucius vero docet* tom. 2. tract. 27. cap. 9. num. 172. *venationem, et piscationem ex officio, quae tota est in corporis fatigatione, esse servilem, non eam, quae ad recreationem in industria posita est. Subscribunt Azor* loco cit. *omnes refert Diana* part. 4. Tract. 4. miscell. resol. 222. *et pugnantes attendit. Subscribit fere Bassaeus* num. 12.

19 The second opinion judges altogether that hunting, etc. is a servile work. So Suarez *cap. 28.* Fagundez *lib. 1. cap. 11. num. 16.* Yet by reason of custom it is licit to hunt, but not to fish, unless on account of urgent necessity. Toletus indeed *lib. 1. cap. 24.* Caietanus *art. 4. quaest. 122.* Sotus above, all say that by custom all are licit.

> *SECUNDA sententia omnino censet, venationem, etc. esse opus servile. Ita Suarez* cap. 28. *Fagundez* lib. 1. cap. 11. num. 16. *Licere tamen ratione consuetudinis venari, non tamen piscari, nisi ob urgentem necessitatem. Toletus vero* lib. 1. cap. 24. *Caietanus* art. 4. quaest. 122. *Sotus supra, consuetudine licere omnes aiunt.*

20 The holy Doctor *serm. citato*, better than all, says that hunting, etc. is indeed a servile and forbidden work, yet that with respect to those things ordered to sustenance it is licit, for instance, to catch a hare on that day.

> *MELIUS omnibus S. Doctor* serm. citato*, ait, venationem, etc. esse quidem opus servile, et vetitum, sed tamen quoad ea, quae ad victum ordinantur, licere, puta ea die capere Leporem.*

21 That they are servile works is proved from Dialectic, where among the mechanical arts even servile ones are counted. It is confirmed, because they consist in great labor. That they are also illicit is proved from *cap. licet, de feriis.*

> *QUOD sint opera servilia, probatur ex Dialectica, ubi inter artes moechanicas computantur etiam serviles. Confirmatur, quia in magno labore consistunt. Quod etiam illicita sint, probatur ex* cap. licet, de feriis.

22 That they are licit with respect to sustenance is proved, because just as seasonings for preparing are licit, so is preparing what is to be seasoned. For they are natural works, necessary in this respect.

> *QUOD vero ad victum liceat, probatur, quia sicuti licent praeparationes condiendo, ita parando condienda. Sunt enim opera naturalia, quoad hoc necessaria.*

23 IT IS DOUBTED secondly: Whether barbers may shave beards on feasts.

> *DUBITATUR secundo: An liceat in festis barbitonsoribus radere barbas.*

24 Diana answers *p. p. Tract. 15. miscell. resol. 54.* that on account of the parvity of matter they do not sin if they shave the beard of one or another, and he cites Graffius *decis. part. 1. lib. II. cap. 23.* Navarr. *cap. 13.* Vega *Tom. 1. cap. 114. casu 2.* Rodriguez *tract. 1. c. 21.* Sayrus *lib. VII. cap. 2.* Molfesius *Tom. 1. tract. 11. cap. 17. num. 68.* Azor *lib. I. cap. 28. quaestio 5. Tom. 2.* He adds, if they shave all who come, they are excused by reason of custom, if it exists; for since the things forbidden on a feast day were introduced by human custom, nothing prevents their being removed by a contrary custom, tolerated by prelates, as Sotus and Caietanus note, cited by Reginaldus *tom. 2. lib. XIX. cap. 3.* and others, cited in the Clavis Regiae *lib. VII. cap. 2.* Fernandez adds, in *exam. part. 1. cap. 7.* that they are also excused for another reason, namely cessation of gain, because on weekdays, on account of occupations, they do not come for haircutting; and he relies on *cap. licet,* where the Pontiff grants fishing for herrings on feasts for this cause: But I say with Reginaldus *Tom. 2. lib. XIX. cap. ciu. num. 51.* Suarez *cap. 33.* Diana above, that the reason is unlike; for that fishing is granted because it occurs at a fixed season of the year and passes; but it is not the same with daily hair-cutting; otherwise it will be licit to frequent almost all servile works.

> *RESPONDET Diana* p. p. Tract. 15. miscell. resol. 54. *ratione parvitatis materiae eos non peccare, si unius, vel alterius barbam radant, et refert Graffium* decis. part. 1. lib. II. cap. 23. *Navar.* cap. 13. *Vegam* Tom. 1. cap. 114. casu 2. *Rodriguez* tract. 1. c. 21. *Sayrum* lib. VII. cap. 2. *Molfesium* Tom. 1. tract. 11. cap. 17. num. 68. *Azor* lib. I. cap. 28. quaestio 5. Tom. 2. *Addit, si omnes radant, qui occurrunt ratione consuetudinis si adsit, excusari; nam cum prohibita in die festo; sint invecta humana consuetudine, nil obstat, ea tolli per contrariam consuetudinem, toleratam a praelatis, ut notant Sotus, et Caietanus apud Reginaldum* tom. 2. lib. XIX. cap. 3. *et alii apud Clauim Reglam* lib. VII. cap. 2. *Addit Fernandez in* exam. part. 1. cap. 7. *alia etiam de causa excusari ob lucrum cessans, quia ob occupationes diebus ferialibus non veniunt ad tonsionem, et nititur* cap. licet, *ubi Pontifex concedit in festis piscationem halecum, ob hanc causam: Sed dico cum Reginaldo* Tom. 2. lib. XIX. cap. ciu. num. 51. *Suarez* cap. 33. *Diana supra, disparem esse rationem; nam expiscatio illa ideo conceditur, quia statuto anni tempore occurrit, et praeterit; sed non est idem de quotidiana tonsione; alioqui omnia fere servilia licebit frequentare.*

25 Indeed Fagundez *lib. I. cap. 14.* with others says, that one hour will be light, if they cut hair on one or another feast; but if they continue on every feast, it will be lethal, by reason of the continuation of matter. But this is not proved to me, for the time of one hour of this Sunday is not continued with the hour of the future Sunday.

> *ENIM vero Fagundez* lib. I. cap. 14. *cum aliis dicit, unam horam fore levem, si uno, vel altero festo tondeant; at si continuent singulis festis, fore lethale, ratione continuationis materiae. Sed hoc mihi non probatur, non enim continuatur tempus unius horae huius diei Dominici cum hora futurae Dominicae.*

26 IT IS DOUBTED thirdly: Whether it is licit to paint on a feast day.

> *DUBITATUR tertio: An liceat die festo pingere.*

27 Ludovicus Lopez *p. p. Institut. cap. 25.* Medina *Instruct. lib. I. cap. 14.* assert that it is licit even for gain.

> *ASSERUNT Ludovicus Lopez* p. p. Institut. cap. 25. *Medina* Instruct. lib. I. cap. 14. *id licere etiam ex lucro.*

28 Others deny that it is licit for gain, but only without gain. So Azor *Tom. 2. lib. II. cap. 27. quaestio 6.* Sylvester, see *Dominica, quaest. 5.* Armill. see *Festum,* Angelus, Rosella, Tabiena, under the word *feria,* Saytus *lib. VII. cap. 2. num. 16.* and others cited by Pasqualigo *decis. 142.*

ALII negant, licere ob lucrum, sed solum absque lucro. Ita Azor Tom. 2. lib. II. cap. 27. quaestio 6. *Sylvester* V. Dominica, quaest. 5. *Armill.* V. Festum, *Angelus, Rosella, Tabiena* verbo feria, *Saytus* lib. VII. cap. 2. num. 16. *et alii apud Pasqualig*. decis. 142.

29 Suarez *cap. 26.* Caietanus *art. 4.* Fagundez *cap. 11. num. 10.* judge the art of painting to be mechanical and altogether forbidden; who, *num. 13.*, proclaims it altogether prohibited, even gratis. And so they reprehend this license: for painting is a mechanical art in itself, nor does it change its nature from an extrinsic liberal end, as I said above, as Fagundez notes *loco citato,* and Bassaeus *num. 7.*

Pingendi artem moechanicam esse censent, et omnino vetitam Suarez cap. 26. *Caietanus* art. 4. *Fagundez* cap. 11. num. 10. *qui* num. 13. *eam omnino prohibitam clamat, etiam gratis. Itaque hanc licentiam reprehendunt: nam pictura ars est moechanica in se, neque mutat naturam ex fine extrinseco liberali, ut dixi supra, et notat Fagundez* loco citato, *ac Bassaeus* num. 7.

30 Nor does it help that certain nobles sometimes exercise it; for this is per accidens.

NEQUE iuvat, si aliqui nobiles eam aliquando exerceant; hoc enim per accidens est.

31 You will ask fourthly: Whether fighting (bellari) is forbidden on a feast day.

QUAERES quarto: An bellari sit vetitum die festo.

32 It is answered, that it is a mechanical work. So Suarez *cap. 28.* Fagundez *num. 12.* with D. Bonaventure *serm. 4. citato,* and the *Opusc. Reductio artium ad Theol.* For the military art is mechanical, as is clear from Dialectic. Yet it seems to have been introduced by custom, that the art of fencing may be licitly learned on feast days.

RESPONDETUR, esse opus moechanicum. Ita Suarez cap. 28. *Fagundez* num. 12. *cum D. Bonavent.* serm. 4. citato, *et* Opusc. Reductio artium ad Theol. *Ars enim militaris est moechanica, ut constat ex Dialectica. Videtur tamen consuetudine inductum, ut ars gladiandi diebus festis licite discatur.*

33 Yet acts of warring can be licit on account of necessity, as is clear from *cap. Quod non licet, de reg. iuris, in 6.* where among the things not licit on a feast day is placed military action, unless on account of necessity. See the Doctors in Bassaeus *num. 13.*

LICERE tamen potest actus bellandi ob necessitatem, ut patet ex cap. Quod non licet, de reg. iuris, in 6. *ubi inter ea, quae non licent in die festo, ponitur militare, nisi ob necessitatem. Vide DD. in Bassaeo* num. 13.

34 A truly defensive war is licit, of which is understood *leg. omnes Iudices, Cod. de feriis, et leg. Divus, ff. de feriis.* But an aggressive one is not ordinarily licit, unless through Epikeia in a just war there be an occasion of victory.

BELLUM sane defensivum licet, de quo intelligitur leg. omnes Iudices, Cod. de feriis, et leg. Divus, ff. de feriis. *Aggressivum vero non licet ordinarie, nisi per Epikeiam in bello iusto adsit occasio victoriae.*

35 You will ask fifthly: Whether transcribing is forbidden on a feast.

QUAERES quinto: An transcribere sit vetitum in festo.

36 It is answered, that transcribing is not a servile work, even if done for gain. So Suarez *cap. 25.* Medina *Instruct. lib. I. cap. 14. §. 8.* Ludovicus Lopez *p. p. cap. 52.* Sà see *Festum,* Sayrus *lib. VII. cap. 2.*

num. 14. Fagundez *lib. I. cap. 11. num. 7.* Diana *p. p. Tract. 15. resol. 35.* citing others with Bassaeus *l. num. 8.*

> *RESPONDETUR, transcribere non esse opus servile, etiamsi fiat ob lucrum. Ita Suarez* cap. 25. *Medina* Instruct. lib. I. cap. 14. §. 8. *Ludovicus Lopez* p. p. cap. 52. *Sà* V. Festum, *Sayrus* lib. VII. cap. 2. num. 14. *Fagundez* lib. I. cap. 11. num. 7. *Diana* p. p. Tract. 15. resol. 35. *adducens alios cum Bassaeo* l. num. 8.

37 It is proved, because this action is in itself liberal and mental: therefore from the extrinsic end of gain it does not become mechanical. Others, however, judge it a servile work, but not liberal. As also arranging types for the printer. See Bassaeus *loco cit. contra Dianam part. IV. tract. 4. resol. 62.*

> *PROBATUR, quia haec actio per se est liberalis, et mentalis: Ergo ex fine lucri extrinseco non fit moechanica. Alii tamen servile opus id censent, non autem liberale. Sicut et typographo characteres ordinare. Vide Bassaeum* loco cit. contra Dianam part. IV. tract. 4. resol. 62.

Sole Doubt: Which works are forbidden on a feast by canon law

1 Many works which are not servile, indeed very many works of the soul, otherwise licit, are forbidden by this law.

> Qua opera iure Canonico sint vetita in festo.
>
> *OPERA multa non servilia, imo et opera plurima animae, alioqui licita, vetantur hoc iure.*

2 Of the former kind, two such works there are: markets and the forum, *cap. 1. et ultimo de feriis,* as Suarez notes *cap. 29.* Fagundez *cap. 12. sic et in* the Council of Macon II *cap. 1. judicial actions* are forbidden; and in the Council of Tours *cap. 40. markets and pleadings are interdicted.*

> *PRIORIS generis duo sunt huiusmodi opera, Mercatus, et Fori,* cap. 1. et ultimo de feriis, *ut notant Suarez* cap. 29. *Fagundez* cap. 12. sic et in *Concilio Matisconensi* II. cap. 1. actiones iudiciales *prohibentur;et in Concilio Turon.* cap. 40. Mercatus, et Placitum interdicuntur.

3 This prohibition accords with the old civil law, for *leg. ult. ff. de feriis,* it is said that festivals are to grant vacations from forensic business. So they are forbidden also by the newer law, *Cod. de feriis, leg. 1. 2. 3. et ult.*

> *CONSONAT haec prohibitio iuri civili antiquo, nam* leg. ult. ff. de feriis, *dicitur, ferias dare vacationes a negotiis forensibus. Sic prohibentur, et iure nouiori* Cod. de feriis, leg. 1. 2. 3. et ult.

4 The reason is, that on account of quarrels and contentions men are distracted from the service of God, and because those clamors draw to sin, as Suarez noted *cap. 29.* with the Panormitan *cap. ult. de feriis.*

> *RATIO est, quia ob iurgia, et contentiones distrahuntur homines a Dei servitio, et quia strepitus illi trahunt ad peccatum, ut notavit Suarez* cap. 29. *cum Panormitano* cap. ult. de feriis.

5 The first forbidden work, therefore, is the market, and by this name the law understands contracts of purchases, leases, etc. which are indeed valid, but illicit on a feast; judicial acts, however, are both illicit and invalid, if done on a feast.

> *PRIMUM ergo opus vetitum, est mercatus, et nomine hoc, iure intelliguntur contractus emptionum, locationum, etc. qui validi quidem, sed illiciti sunt in festo; actus vero iudiciales, et illiciti sunt, et invalidi, si in Festo sint facti.*

6 Yet custom now renders these contracts licit; not so judicial acts. So Suarez *cap. 30.* Fagundez *cap. 12. num. 1.* and others among them.

> *HOS tamen contractus consuetudo iam reddit licitos; non sic actus iudiciales. Ita Suarez* cap. 30. *Fagundez* cap. 12. num. 1. *et alii apud hos.*

7 ¶ First, therefore, public fairs are forbidden, which are celebrated once or twice a year: yet custom renders them licit, as Navarr. *man. Lat. cap. 13. art. 4.* Fagundez *lib. I. cap. 12. num. 4.* and others with Bassaeus *num. 15.* teach. For custom can abrogate things which are of human law, as the Doctors commonly teach.

> ¶ *PRIMO igitur prohibentur Nundinae publicae, quae semel, vel bis in anno celebrantur: eas tamen consuetudine licitas docent Nauar.* man. Lat. cap. 13. art. 4. *Fagundez* lib. I. cap. 12. num. 4. *et alii cum Bassaeo* num. 15. *Potest enim consuetudo, ea, quae sunt iuris humani, abrogare, ut communiter docent Doctores.*

8 Yet custom cannot, while the feast remains, remove the obligation of Mass, as Fagundez notes *num. 6.* Suarez *cap. 29.* Navarrus, Toletus above, and others.

> *NON potest tamen consuetudo, manente festo, tollere obligationem Missae, ut notat Fagundez* num. 6. *Suarez* cap. 29. *Nauarrus, Toletus supra, et alii.*

9 There are also other markets, often celebrated, and they are illicit by law; yet they can be removed by reasonable custom. Bassaeus, however, warns that custom be not extended to these, urged by private authority.

> *SUNT etiam alii mercatus saepe celebrati, et sunt iure illiciti; possunt tamen consuetudine rationabili tolli. Monet autem Bassaeus, ne ad haec extendatur consuetudo, privata authoritate repens.*

10 To the third kind of market belong daily contracts, with shops open, which are interdicted by Canon law, which is in vigorous observance. So Navarr. loco cit. Fagundez 8. Sylvester, see Dominica. Others, however, do not condemn rustic contracts on a feast day, with whom Diana subscribes, p. p. Tract. 15. resol. 34. Bass. loco cit. if they can hardly be done on other days.

> *AD tertium genus mercatus spectant contractus quotidiani, apertis officinis, quae interdicuntur iure Canonico, quod est in viridi observantia. Ita Nauar. loco cit. Fagundez 8. Sylvester V. Dominica. Alii tamen rusticorum contractus in die festo non damnant, quibus subscribit Diana p. p. Tract. 15. resol. 34. Bass. loco cit. si diebus aliis difficile fieri possint.*

11 Yet it was never, nor is it, forbidden to buy necessaries for the sustenance of that day. So Caietanus art. 4. Suarez loc. cit. Fagundez num. 8. with St. Bonaventure, serm. 4. in Decal. Bassaeus num. 15. Indeed they say that not even to sell shoes is a sin. So Suarez and Fagundez. Yet in all other things the holy Doctor warns, in the Speculum animae, cap. 2., that it must be observed whether by universal custom each of them is permitted by the Church.

> *NUNQUAM tamen fuit, aut est vetitum emere necessaria ad victum illius diei. Ita Caietanus art. 4. Suarez loc. cit. Fagundez num. 8. cum S. Bonavent. serm. 4. in Decal. Bassaeus num. 15. Imo nec vendere calceos esse peccatum aiunt. Ita Suarez, et Fagundez. In omnibus tamen aliatis monet S. Doctor in speculo animae, cap. 2. observandum : An universali consuetudine unumquodque illorum ab Ecclesia permittatur.*

12 The other kind of works forbidden on a feast is the work of pleading, or the forensic judgment. For in canon law all actions constituting a forensic judgment are signified by the name of a work of pleading, as Suarez notes cap. 19. Fagundez num. 9. For strictly, placitum signifies an election of the

will. Hence also the object applied to the will is called placitum, *Genes. 24. A Domino egressus est sermo : Non possumus extra placitum eius quidquam aliud loqui.* ("A word came forth from the Lord: we cannot speak anything else besides His decree.") It also signifies a decree of the mind. Thus the opinions of Philosophers and Physicians are called Placita. And in this way things decreed by God or the Prince are called Placita, *Prou. 10. Labia iusta considerant placita.* ("The lips of the just consider pleasing things.") And *Ioan. 8. Quae placita sunt ei facio,* ("I do the things that are pleasing to him,") as the holy Doctor observes there. Also a term appointed for defining is called a Placitum, *2. Reg. 10. Moratus est extra placitum, quod ei constituerat Rex.* ("He delayed beyond the term which the king had appointed him.") Since, therefore, in a forensic judgment, according to the will and arbitration of the judge regulated by the laws, either a term for appearing is appointed, or decrees and sentences are pronounced, therefore the whole cognizance of a forensic cause is called a pleading, *cap. 1. de feriis, 15. quaest. 4. et cap. ultimo.*

> *ALTERUM genus operum, quae prohibentur in festo, est opus placitum, seu iudicium forense. Significantur enim in iure canonico nomine operis placiti omnes actiones constituentes forense iudicium, ut notat Suarez cap. 19. Fagundez num. 9. Proprie enim placitum significat electionem voluntatis. Unde etiam obiectum, voluntati applicitum, dicitur placitum,* Genes. 24. A Domino egressus est sermo : Non possumus extra placitum eius quidquam aliud loqui. *Significat etiam mentis decretum. Sic Philosophorum, et Medicorum sententiae Placita vocantur. Et hoc modo ea, quae a Deo, vel Principe decreta sunt, Placita vocantur,* Prou. 10. Labia iusta considerant placita. *Et* Ioan. 8. Quae placita sunt ei facio, *ut observat S. Doctor ibi. Terminus etiam constitutus ad definiendum, Placitum dicitur* 2. Reg. 10. Moratus est extra placitum, quod ei constituerat Rex. *Quia igitur in forensi iudicio iuxta voluntatem, et arbitrium iudicis legibus regulatum, vel terminus dictum ad comparendum constituitur, vel decreta, et sententiae proferuntur, ideo tota cognitio forensis causae placitum dicitur* cap. 1. de feriis, 15. quaest. 4. et cap. ultimo.

13 In a judgment many persons intervene, who are bound to keep the feasts with respect to forensic actions.

> *IN iudicio multae personae interveniunt, quae festa servare tenentur, quoad actiones forenses.*

14 The parts of a judgment are: the inception of the cause, which begins with the citation, the formation of the process, and the term of the judgment, or the pronouncing of the sentence. And all these are void of themselves on feast days, *cap. ultimo de feriis.* So the Doctors commonly teach, Suarez *cap. 30.* Fagundez *cap. 12. num. 12.* and others among them.

> *PARTES iudicii sunt, inchoatio causae, quae a citatione incipit, formatio processus, et terminus iudicii, seu prolatio sententiae. Et haec omnia irritantur ipso facto in diebus festis* cap. ultimo de feriis. *Ita docent communiter DD. Suarez* cap. 30. *Fagundez* cap. 12. num. 12. *et alii apud istos.*

15 Yet judicial acts done with the consent of the parties are valid on rural holidays introduced for the gathering of the fruits, as Suarez, Fagundez loc. cit. and Maranta note *part. 4. ord. iud. dist. 16. num. 83.*; but not on the feasts of festival days in honor of God.

> *VALENT tamen actus iudiciales facti de consensu partium in feriis ruralibus introductis propter collectionem fructuum, ut notant Suarez, Fagundez loc. cit. et Maranata* part. 4. ord. iud. dist. 16. num. 83. *non vero in feriis dierum festorum in honorem Dei.*

16 Yet if judicial acts are done for the public peace, for piety, for urgent necessity, they are valid even on God's holidays. See Fagundez *num. 12.* Bassaeus *num. 16.* where he allows that in wills it is licit, where otherwise they would not be fitting.

> *SI tamen fiant actus iudiciales pro pace publica, pro pietate, pro necessitate urgente, valent etiam in feriis Dei. Vide Fagundez* num. 12. *Bassaeum* num. 16. *ubi admittit in iuribus licere, ubi alias non convenirent.*

17 Acts of voluntary jurisdiction are also valid: to emancipate, to adopt, to free slaves, to establish tutors, to make wills, and instruments of manumission. So Sylvest. see *Dominica.* Maranta *6. part. ord. iud.* and others, cited by Fagundez *num. 14.* Bassaeus *num. 14.*

> *VALENT etiam actus voluntariae iurisdictionis, ut emancipare, adoptare, liberare servos, tutores constituere, testamenta conficere, et instrumenta libertatis. Ita Sylvest.* V. Dominica. *Maranata* 6. part. ord. iud. *et alii apud Fagundez* num. 14. *Bassaeum* num. 14.

18 First, therefore, invalid is a citation made on a holiday in honor of God, indeed even, according to some, if they are cited for a feast day: yet others say they are bound to appear on the following day. See Fagundez *cap. 13.*

> *PRIMO igitur invalida est citatio, facta die feriato ad honorem Dei, imo etiam secundum aliquos, si pro die festo citentur : alii tamen dicunt teneri comparere die sequenti. Vide Fagundez* cap. 13.

19 Second, neither can suits be promoted, witnesses examined, etc. And indeed it is certain that on a feast day a juridical oath cannot be exacted. But whether witnesses can be examined on a feast day, provided they have sworn on a non-festal day, the negative part seems more certain. See Fagundez *cap. 13.* Suarez *cap. 30.* Bassaeus *num. 20.* Some limit this in a spiritual cause, such as matrimony. So Caietanus, citing D. Thomas *2. 2. quaest. 89. art. 10.*

> *SEGUNDO, nec possunt lites promoveri, examinari testes, etc. Et quidem certum est, non posse in die festo iuridicum exigi iuramentum. An vero possint testes examinari die festo, dummodo die non festo iuraverint ; videtur pars negativa certior. Vide Fagundez* cap. 13. *Suarez* cap. 30. *Bassaeum* num. 20. *Limitant aliqui in causa spirituali, ut matrimonii. Ita Caietanus, adducens D. Thomam* 2. 2. quaest. 89. art. 10.

20 Others likewise limit, that this prohibition does not proceed to the presentation of a libellus against a party already cited. So Maranta *part. 6. titulo isto.* But Baldus and many Canonists hold the opposite, cited by Fagundez *num. 20.* who nevertheless inclines to the former opinion.

> *LIMITANT etiam alii, hanc prohibitionem non procedere in oblatione libelli contra partem iam citatam. Ita Maranata* part. 6. titulo isto. *Sed oppositum tenent Baldus, et multi Canonistae apud Fagundez* num. 20. *qui tamen in priorem sententiam inclinat.*

21 Third, a sentence passed on a feast day is illicit and invalid, *cap. ultimo de feriis,* where we read: *Nec processus habitus teneat, nec sententia ;* ("Nor shall the process had hold, nor the sentence;") and it is confirmed by *l. ult. C. de feriis.*

> *TERTIO, sententia lata die festo, illicita, et invalida est* cap. ultimo de feriis, *ubi habetur :* Nec processus habitus teneat, nec sententia ; *et confirmatur* l. ult. C. de feriis.

22 Similarly execution is forbidden on a feast day, as Felin. teaches *in cap. ultimo de Iud.* Suarez *cap. 30.* The reason is, for by *cap. 1. de feriis, et l. ult. C. de feriis,* cited, all things pertaining to the contentious forum are forbidden. Fagundez approves *cap. 13. num. 23.*

> *SIMILITER prohibetur executio die festo, ut docent Felin.* in cap. ultimo de Iud. *Suarez* cap. 30. *Ratio est, nam* cap. 1. de feriis, et l. ult. C. de feriis, *citatis, vetantur omnia spectantia ad forum contentiosum. Arridet Fagundez* cap. 13. num. 23.

23 Yet an appeal can be intimated. So it is to be held without doubt, says Fagundez *num. 24.* citing very many. Indeed Bassaeus *num. 18.* says it is absolutely licit, by the more common opinion.

> *POTEST tamen insinuari appellatio. Ita indubitanter tenendum, ait Fagundez* num. 24. *plurimos allegans. Imo eam absolute licitam ait Bassaeus* num. 18. *e communiori sententia.*

24 A grave doubt is: whether the sentence of an arbitrator is valid on a feast day.

> *GRAVE dubium est : An sententia arbitri sit valida die festo.*

25 Arbiter and Arbitrator differ, for the latter is a friendly composer, compromiser, and mediator of peace, as Suarez says *cap. 30.* and he can decide on a feast day. But the Arbiter is he who, by the consent of the parties, is chosen as judge, so that, with the order of law preserved and the process made, he may pronounce sentence, and to whom the parties are bound under a stipulated penalty, as Fagundez notes *num. 26. cum Maranata 4. parte, tit. Iudicium arbitrarium,* and Suarez *loc. cit.* and he is bound to preserve the order of a judgment, and therefore, although a compromissum can be made on a feast day, because it is a contract, nevertheless he cannot pronounce sentence on a feast day.

> *DIFFERUNT Arbiter, et Arbitrator, nam hic est amicabilis compositor, compromissor, et mediator pacis, ut ait Suarez* cap. 30. *et hic potest die festo decernere. Arbiter autem est, qui de partium consensu eligitur in iudicem, ut servato iuris ordine, et facto processu ferat sententiam, et in quem sub poenae stipulatione compromittuntur partes, ut notat Fagundez* num. 26. cum Maranata 4. parte, tit. Iudicium arbitrarium, *et Suarez* loc. cit. *et hic tenetur servare iudicii ordinem, et ideo, licet possit die festo fieri compromissum, quia est contractus, tamen non potest die festo ferre sententiam.*

26 There is also another Judge, who is called Arbiter iuris, who is chosen by necessity of law, e.g. when a judge is alleged to be suspect, and he is bound to provide, with the order of law preserved, and he cannot pronounce sentence on a feast day.

> *EST etiam alius Iudex, qui dicitur Arbiter iuris, qui eligitur ex necessitate iuris, v. g. quando iudex allegatur suspectus, et hic tenetur providere, servato iuris ordine, et non potest in die festo sententiam ferre.*

27 Inquisitors of the faith can pronounce sentence against heretics on a feast day, justly and validly. So Fagundez *num. 28.* citing others.

> *INQUISITORES fidei possunt contra haereticos sententiam ferre die festo, iuste, et valide. Ita Fagundez* num. 28. *alios citans.*

28 I conclude with D. Bonaventure *in speculo animae, cap. 2.* that in all the things said above universal custom and the permission of the Church must be attended to; for it hangs on the mind of the Legislator. But if the Church still gravely forbids, then one must abstain, he concludes, from vacations, markets, etc. Add: from annual reckonings without necessity. See Bassaeus *num. 23.* Pasqualigo *decis. 150.* but Sylvester, Tabiena, Medina, and others approve.

> *EGO cum D. Bonavent.* in speculo animae, cap. 2. *concludo, in omnibus supradictis attendendam consuetudinem universalem, et Ecclesiae permissionem ; nam a mente Legislatoris pendet. Quod si adhuc Ecclesia prohibeat graviter, iam abstinendum concludit a vacationibus, mercatis, etc. Adde a supputationibus annuis sine necessitate. Vide Bassaeum* num. 23. *Pasqualig.* decis. 150. *sed approbant. Sylvester, Tabiena, Medina, et alii.*

Question VI: What length of servile labor makes a grave violation of a feast

[1] A notable part of the day, for mortal sin, they say is one hour. So Azorius *part. 2. lib. 1. cap. 28. quaestio 5.* Bonacina *Tract. de legibus, d. 5. quaest. unica, puncto 3.* Reginaldus *Tom. 2. lib. 16. cap. 3. num. 53.* Fagundez indeed, so that avarice may creep in, adds a quarter of an hour *lib. 1. de primo praecepto Ecclesiae, cap. 14.* citing Azorius, as if he thought one hour insufficient for grave matter; but he is cited falsely.

> *PARTEM notabilem diei, ad mortale, dicunt esse unam horam. Ita Azorius* part. 2. lib. 1. cap. 28. quaestio 5. *Bonacina* Tract. de legibus, d. 5. quaest. unica, puncto 3. *Reginaldus* Tom. 2. lib. 16. cap. 3. num. 53. *Fagundez vero, ut avaritia erepet, addit quadrantem* lib. 1. de primo praecepto Ecclesiae, cap. 14. *citans Azorium, quasi unam horam non sufficere existimet materiam gravem, sed falso adducitur.*

[2] *Suarez* indeed says *Tom. 1. de Relig. lib. 2. de diebus festis, cap. 31.* that the time of one hour is too narrow; just as, on the contrary, too lax is the opinion of certain jurists, who say that the quantity of time is not to be taken in itself, but in comparison with the whole day, and therefore that a third part of the day is not grave matter. Fagundez rejects them *num. 2.*

> Suarez *quidem ait* Tom. 1. de Relig. lib. 2. de diebus festis, cap. 31. *nimis arctum esse tempus unius horae: sicuti nimis laxa, e contra, est sententia aliquorum luristarum, qui temporis quantitatem non in se, sed in comparatione ad diem integrum sumendam dicunt, et ideo tertiam partem diei non esse materiam gravem. Eos explodit Fagundez* num. 2.

[3] On the same foundation Diana *part. 1. Tract. 15. primo Miscell. resol. 36. says* that two hours are a light part. So also Philiarch. *Tomo 2. tract. 27. cap. 11. num. 105.* Then *p. 2. loco citando*, he adds also Granado *controv. 6. tract. 2. d. 2. sect. 6. num. 54.* But Marchant. *cap. 3. q. 2.* says even three hours are light matter.

> *Eodem fundamento Diana* part. 1. Tract. 15. primo Miscell. resol. 36. ait, *duas horas esse partem levem. Ita etiam Philiarch.* Tomo 2. tract. 27. cap. 11. num. 105. *Deinde* p. 2. loco citando, *addit etiam Granadum* controv. 6. tract. 2. d. 2. sect. 6. num. 54. *Sed Marchant.* cap. 3. q. 2. *etiam tres horas ait, esse levem materiam.*

[4] Some also say that the matter of labor is continued over the individual feasts, and thus, if one labored a half hour at servile works on all feasts, he would sin mortally; so Toletus *lib. 4. cap. 15.* Fagundez *lib. 1. cap. 14. num. 3.* But others rightly deride this, with Bassaeus 3. *num. 4. §. Nota.*

> *Aliqvi etiam continuari dicunt materiam laboris singulis festis, et ita, si quis omnibus festis media hora laboraret servilibus, peccaret mortaliter; ita Toletus* lib. 4. cap. 15. *Fagundez* lib. 1. cap. 14. num. 3. *Sed iure alii irrident cum Bassaeo 3.* num. 4. §. Nota.

[5] I confess that I do not perceive this continuation of matter across feasts that are disjoined, indeed even across contiguous ones. For continuous things are those whose limits are one: but where is here the unity of time?

> *Fateor, me non percipere hanc materiae continuationem in festis disiunctis, imo et in contiguis. Continuum est enim, quorum extrema sunt unum: At ubinam hic unitas temporis?*

[6] Hence I argue ad hominem. Fagundez posits that an hour and a quarter is grave matter *num. 2.*; then *num. 3.*, if on two or three feasts they labor three hours, one hour on each, he excuses them. If they are continued, they are already grave matter. Wherefore I judge, with Diana *part. 2. tract. 5. resol. 8.*, that opinion to be too rigid and without foundation.

Hinc arguo ad hominem. Fagundez ponit, horam, et quadrantem esse materiam gravem num. 2. *deinde* num. 3. *Si duobus festis, vel tribus laborent tres horas, singulis singulas, excusat. Si continuantur, iam sunt materia gravis. Quare arbitror cum Diana* part. 2. tract. 5. resol. 8. *sententiam illam esse nimis rigidam, et sine fundamento.*

7 He concludes that to labor two hours on individual feasts is not a lethal time, because time must be measured in comparison with the whole day of twenty-four hours: but two hours are a very small part.

Conclvdit, singulis festis duas horas laborare non esse tempus lethale, quia debet tempus mensurari comparatum ad totam diem vigintiquatuor horarum: At geminae horae sunt pars exigua.

8 Hence Diana infers that he who invites many to a labor of one or two hours does not sin mortally, because the labor of each is slight. So also Bonacina *de legibus, d. 5. quaest. unica, punct. 3.* Bassaeus *loc. cit. §. Sed petes.*

Hinc infert Diana, cum, qui plures ad laborem unius, vel duarum horarum invitat, non peccate mortaliter, quia singulorum labor est modicus. Ita et Bonacina de legibus, d. 5. quaest. unica, punct. 3. *Bassaeus* loc. cit. §. Sed petes.

9 They excuse a girl working with the needle on a feast day in order to avoid idleness: Sà, see *festum*, Ioan. de la Cruz *part. 1. praecep. 3. art. 1. d. 1.* Villalob. *Manuali confessar. cap. 22. num. 99. et in summa, tomo 2. tract. 31. d. 4. num. 10.* Others cite for this opinion St. Antoninus, Angelus, and Sylvester. But it is not probable, as Diana himself holds.

Excvsant puellam laborantem acu die festo ad otium vitandum, Sà V. festum*, Ioan. de la Cruz* part. 1. praecep. 3. art. 1. d. 1. *Villalob.* Manuali confessar. cap. 22. num. 99. et in summa, tomo 2. tract. 31. d. 4. num. 10. *Alii citant pro hac sententia S. Antoninum, Angelum, et Sylvestrum. Sed non est probabilis, ut ipse Diana tenet.*

10 It is asked here: Whether those who adorn the walls of churches with tapestries and hangings can do this on feast days.

Qvaeritvr hic: An qui templorum parietes tapetibus, et aulaeis ornant, possint haec exercere diebus festis.

11 Conradus answers negatively *in resp. part. 2. quaest. 233. et alii.*

Negative respondet Conradus in resp. part. 2. quaest. 233. et alii.

12 Yet Diana asserts here with Bonacina *d. 5. quaest. unica, punct. 3. de legibus*, citing Caietanus, Suarez, and Toletus, to whom Fagundez is added *praecepto 1. lib. 1. cap. 14. num. 1.*

Asservnt tamen Diana hic cum Bonacina d. 5. quaest. unica, punct. 3. de legibus *citante Caietanum, Suarez, et Toletum, quibus addit Fagundez* praecepto 1. lib. 1. cap. 14. num. 1.

Question VII: On the causes excusing from violation of a feast

1 At the outset they excuse from sin certain works done for the worship of God. These are found in a threefold distinction. The first is immediate, as playing organs, ringing bells, carrying Crosses, and these proceed on a par unharmed with Divine worship. So Suarez *Tom. 1. lib. 2. cap. 21. et alii.*

De causis excusantibus a Festi violatione.

Initio excusant a peccato aliqua opera ob Dei cultum. Haec autem sunt in triplici differentia. Primum est immediatum, ut pulsare organa, campanas, portare Cruces, et haec pari passu illaesa cum Divino cultu incedunt. Ita Suarez Tom. 1.

lib. 2. cap. 21. et alii.

2 There are, however, some works that could be prepared on the preceding day, as cooking the sacrificial animals, decorating the altars, and these are not yet condemned under mortal sin. Toletus *lib. 4. cap. 25.* Suarez *num. 11.* Azorius *Tom. 2. lib. 1. cap. 28. quaestio 5.* Caietanus *quaest. 122. art. 4. et in summa, V. festorum violatio.*

> *Svnt vero aliqua, quae possent die praecedente praeparari, ut coquere hostias, ornare altaria, et haec non adhuc lethali damnant Toletus* lib. 4. cap. 25. *Suarez* num. 11. *Azorius* Tom. 2. lib. 1. cap. 28. quaestio 5. *Caietanus* quaest. 122. art. 4. et in summa, V. festorum violatio.

3 Similarly other works among these are not so close to the worship of God, as sweeping the temples with brooms, hanging the walls with tapestries, adorning them with hangings, preparing the public roads for processions; nor do Suarez, Azorius, Toletus, Caietanus above, and Fagundez *lib. 1. cap. 14. num. 4.* condemn these under mortal sin.

> *Similiter alia opera ex his sunt non tam vicina cultui Dei, ut templa scopis verrere, pariete tapetibus, et aulaeis adornare, vias publicas praeparare ad processiones; neque haec mortali damnant Suarez, Azorius, Toletus, Caietanus supra, et Fagundez* lib. 1. cap. 14. num. 4.

4 In the second kind are other servile works, more remote from the worship of God, as carrying tables, making flooring, erecting scaffolds for the Theatre of the Most Holy Sacrament, or of a holy Relic, which if they cannot be done on the preceding days are excused from mortal sin; otherwise if they could have been, as Fagundez says with the others alleged, with whom he says it is lawful even to erect a Theatre for public games, and for public recreation.

> *In secundo genere sunt alia opera servilia, magis a cultu Dei remota, ut tabulas portare, tabulatum conficere, scalas ad Theatrum Sanctissimi, vel sanctae Reliquiae erigendum, quae si non possunt diebus praecedentibus fieri, excusantur a mortali; secus si potuerint, ut ait Fagundez cum caeteris allegatis, quibuscum ait licere etiam Theatrum erigere ad publicos ludos, et ob recreationem publicam.*

5 In the third kind of works for the worship of God are the tilling of the fields of the Church, building its houses, etc., which are still more remote, and these are mortal sins, unless they belong to some poor Church which can scarcely otherwise be relieved. So the authors alleged in Fagundez *num. 4.* where he adds others.

> *In tertio genere operum ad Dei cultum sunt colere agros Ecclesiae, aedificare domos eius, etc. quae adhuc remota sunt, et haec mortalia sunt, nisi sint alicuius Ecclesiae pauperis, cui aliter vix nequeat subveniri. Ita allegati apud Fagundez* num. 4. *ubi alios superaddit.*

6 The second excusing cause is servile works on feasts done out of necessity, as D. Bonaventure admonishes, *serm. 4. de Decalogo.* This necessity can be that of oneself, of some neighbor, or of the public, and in whatever way it is, the law does not bind, as the Holy Doctor admonishes, *in speculo animae, cap. 2.*

> *Secvndvm caput excusans opera servilia in festis, est necessitas, ut monet D. Bonavent.* serm. 4. de Decalogo. *Haec autem potest esse vel propria, vel proximi alicuius, vel publici, et quocumque modo sit, legem non habet, ut monet S. Doctor* in speculo animae, cap. 2.

[7] Necessity of one's own is that of the poor, who otherwise cannot support themselves and their family. So Toletus *lib. 4. cap. 25.* Azor. *loc. cit. quaestio 4.* Suarez *cap. 31.* Rostella, Sylvester, Tabiena *V. feriae*, Fagundez *num. 7.* citing others; and it is found in *cap. ult. de feriis* there: *Nisi Necessitas urgeat, vel pietas.* But Suarez and Fagundez admonish that this necessity be laid before the judgment of a prudent counselor. Such also is the necessity of coercion, while they are compelled by grave fear, or danger. Thus the Machabees *lib. 1. cap. 2.* fought on the Sabbath day. Thus it is lawful for servants to labor when compelled by their Masters, provided they are not forced into contempt of the faith; for then death rather must be undergone. So the authors alleged in Fagundez *num. 9.* Bass. 3. *num.* 2.

> *Necessitas propria est pauperum, qui aliter nequeunt se, suamque sustentare familiam. Ita Toletus* lib. 4. cap. 25. *Azor.* loc. cit. quaestio 4. *Suarez* cap. 31. *Rostella, Sylvester, Tabiena* V. feriae, *Fagundez* num. 7. *alios referens, et habetur* cap. ult. de feriis *ibi:* Nisi Necessitas urgeat, vel pietas. *Monet vero Suarez, et Fagundez, ut haec necessitas iudicio prudentis consetlarii exponatur. Talis est etiam coactionis necessitas, dum metu gravi incutiuntur, vel periculo. Sic Machabaei* lib. 1. cap. 2. *pugnarunt die Sabbathi. Ita licet servis laborare coactis a Dominis, dummodo non cogantur in fidei contemptum; tunc enim mors potius est subeunda. Ita allegati apud Fagundez* num. 9. *Bass. 3.* num. 2.

[8] Thus soldiers are excused on a feast day by throwing up earthworks, carrying military engines, etc. So Suarez *cap. 31.* Fagundez *num. 10.* Toletus *cap. 25.* Bass. 3. *num. 2. et apud hos alii.*

> *Sic excusantur milites die festo aggeres extruendo, tormenta portando bellica, etc. Ita Suarez* cap. 31. *Fagundez* num. 10. *Toletus* cap. 25. *Bass. 3.* num. 2. et apud hos alii.

[9] Farmers are excused who gather, reap, carry away, thresh, harvest the vintage, and sow the grains on account of rains or impending storms, when unseasonable weather is feared. So the authors alleged in Fagundez *num. 15.* Thus also millers, especially if they do this without great labor; so Bassaeus 1. *num. 4. et alii.*

> *Excvsantvr agricolae, qui frumenta ob pluvias, vel tempestates ingruentes colligunt, merunt, asportant, exeutiunt, vindemiant, et seminant, cum timetur tempus importunum. Ita, allegati apud Fagundez* num. 15. *Sic etiam molentes, maxime si id faciant sine magno labore; Ita Bassaeus 1.* num. 4. et alii.

[10] Fishermen of certain fish are also excused, the catching of which comes only at certain seasons of the year, as tunnies, herrings, and sardines. So Fagundez *num. 13.* citing others. For although *cap. licet de feriis.* speaks only of herrings, or pickled herrings; nevertheless the same holds for the other similar cases. Yet certain outstanding solemnities of the Lord are excepted. But these fishermen ought for this reason to bestow some alms on the Church, though it is not commanded there.

> *Excvsantvr etiam piscatores quorundam piscium, quorum expiscatio certis anni temporibus solum advenit, ut sunt thunni, haleces, et sardae. Ita Fagundez* num. 13. *alios adducens. Quamvis enim* cap. licet de feriis. *loquatur solum de halecibus, seu aringhis; tamen idem de caeteris similibus valet. Excipiuntur tamen aliquae insignes solemnitates Domini. Hi vero piscatores debent ideo aliquam eleemosynam Ecclesiae impendere, non tamen ibi praecipitur.*

[11] From this cause coopers of bricks, tiles, lime, pots, glass, iron, and other similar things, whose boiling cannot be interrupted without great loss, are excused by Caietan, Suarez above, Fagundez, *numero 13.* and Soto among them.

> *Excvsantvr ex hoc capite a Caietano, Suarez supra, Fagundez,* numero 13. *et Soto apud hos, coquentes lateres, tegulas, calcem, ollas, vitrum, ferrum, et alia similia, quorum decoctio intermitti non potest absque magno detrimento.*

12 From the second cause, the necessity of a neighbor, those are excused who labor so that they may be preserved from imminent dangers of the collapse, fire, flooding of a house, and similar things. So also those who sew garments for a poor man, etc. Toletus cap 25. Suarez cap. 32. Nauarr. Manu. Lat. cap. 13. D. Antonin. part. 2. tit. 9. cap. 7. §. 5. Fagundez num. 16. They prove it from *cap. Conquestus de feriis*, where it is said: *Nisi necessitas urgeat, vel pietas*. They also excuse works of piety for relieving Poor men and Pilgrims pressing in, likewise the sick, as by preparing medicines, etc. So also by grinding grain. Yet Bass. 3. *num.* 11. notes that *cap. Conquestus* speaks of court sessions, not of servile works.

> *E secundo capite necessitatum proximi excusantur, qui laborant, ut a periculis ruinae, incendii, inundationis domus, et similibus praeserventur imminentibus. Sic et qui vestes pauperi consuunt, etc. Toletus cap 25. Suarez cap. 32. Nauarr. Manu. Lat. cap. 13. D. Antonin. part. 2. tit. 9. cap. 7. §. 5. Fagundez num. 16. Probant ex* cap. Conquestus de feriis*, ubi dicitur :* Nisi necessitas urgeat, vel pietas. *Excusant etiam pietatis opera ad sublevandos ingruentes Pauperes, et Peregrinos, similiter aegrotos, ut pharmaca componendo, etc. Sic et molendo grana. Notat tamen Bass. 3.* num. *11.* cap. Conquestus*, loqui de placitis, non de servilibus.*

13 THOSE SKINNING oxen are also excused, the flayers in the shambles, etc. So the Doctors in Fagundez *num.* 21.

> *EXCUSANTUR etiam Laniores in macellis excoriantes boues, etc. Ita DD. apud Fagundez* num. *21.*

14 From the third cause, the public good, those are excused who labor in repairing bridges, roads, public fountains, etc., when it cannot be deferred without great inconvenience. For the Church does not will to oblige to rest with public loss, as is found in *cap. Licet*. Indeed Suarez *loc. cit.* and Fagundez *num.* 23. excuse those laboring in servile works for public gladness, or joy, as on account of the arrival of the King, a coronation, the birth of a Prince, etc.

> *E tertio capite boni publici excusantur laborantes in reficiendis pontibus, viis, fontibus publicis, etc. quando non potest sine magno incommodo differri. Neque enim Ecclesia vult obligare ad quietem cum damno publico, ut habetur* cap. Licet. *Imo Suarez* loc. cit. *et Fagundez* num. *23. excusant laborantes in servilibus ad publicam laetitiam, vel iocunditatem, puta ob Regis adventum, coronationem, natale Principis, etc.*

15 It seems the Holy Doctor *serm. citato* stands firm in these and similar cases, where he excuses those things which are done for public, not to say even for private delight.

> *VIDETUR subsistere in his, et similibus S. Doctor* serm. citato*, ubi ea, quae ad publicam, nedum etiam ad privatam iucunditatem fiunt, excusat.*

16 Those laboring in the erection of a Church, or of a needy Monastery, are also excused, provided Mass has been heard; so Tabiena *V. ferie*, Fagundez *num. 25.*

> *Excusantur etiam laborantes in erectione Ecclesiae, Monasterii inopis, modo Missa sit audita, ita Tabiena* V. ferie*, Fagundez* num. 25.

17 I admonish that the excusing causes hold even without the license of Superiors, provided they are undoubted, so that if a Bishop should pronounce excommunication on those laboring, it would not hold. So Tabiena *V. Feriae, num. 44.* Nauarr. *Mann. Lat. cap. 13.* Sylvest. *V. Dominica, quaest. 7.* Rosella *V. ferie, num. 27.* Azor. *Tom. 2. lib. 2. cap. 28. quaest. 6.* Suarez *lib. 4. Decal. Tom. 2. cap. 45. num. 10.* Fagundez *num. 26.*

Admoneo, causas excusantes valere etiam sine licentia Superiorum, dummodo indubitatae sint, adeo ut, si Episcopus excommunicationem laborantibus indiceret, ea non valeret. Ita Tabiena V. Feriae, num. 44. *Nauarr.* Mann. Lat. cap. 13. *Sylvest.* V. Dominica, quaest. 7. *Rosella* V. ferie, num. 27. *Azor.* Tom. 2. lib. 2. cap. 28. quaest. 6. *Suarez* lib. 4. Decal. Tom. 2. cap. 45. num. 10. *Fagundez* num. 26.

18 Bishops, or the ordinaries of places, can also dispense for a cause, among whom are counted the Provincial and local Superiors of the Religious Orders, as the Gloss explains in *cap. Quemquam, de usuris in 6. V. loci ordinario*; and Azorius *quaestio 5.* Fagundez *num. 28.* Bass. 3 *num. 7.* teach, adding that on feasts instituted by themselves they can dispense without a cause. In a doubtful case, however, he refers to the counsel of a wise man.

POSSUNT etiam ex causa dispensare Episcopi, vel ordinarii locorum, inter quos veniunt Provinciales, et superiores locales Religionum, ut explicat Glossa in cap. Quemquam, de usuris in 6. V. loci ordinario *; et docent Azorius* quaestio 5. *Fagundez* num. 28. *Bass. 3* num. 7. *addens posse sine causa in festis, a se institutis. In dubio vero remittit ad sapientis consilium.*

Question VIII: Whether, having heard Mass only, it is forbidden to spend the whole feast day in idleness

1 They ASSERT that it is not, Alens. 3. *part. quaest. 32. m. 5. art. 2. ad 4.* Sotus in 3. *d. 27. §. Quantum ad 2.* Angel. *V. feriae, num. 36.* and *V. Interrogationis, num. 6.* and *V. Praeceptum, num. 5.* Rosella *V. Confessio, 2. num. 7.* D. Antonin. 2. *part. tit. 9. cap. 7. §. 3.* and 2. *part. in 13. cap. 1. §. 1.* Lyra *Exodi 20.* and it seems to D. Thomas 2. 2. *quaest. 122. art. 4. ad 3.* and D. Bonavent. 12. 3. *d. 37. dub. 3. litt. et serm. 4. in Decal.* thus it is reported by Fagundez on the first precept of the Church, *cap. 4. num. 29.* but already in *quaest. 3.* I explained the meaning of D. Bonaventure.

An audito tantum *SACRO* tota die Festi otiari sit vetitum.

ASSERUNT Alens. 3. part. quaest. 32. m. 5. art. 2. ad 4. *Sotus in 3.* d. 27. §. Quantum ad 2. *Angel.* V. feriae, num. 36. *et* V. Interrogationis, num. 6. *et* V. Praeceptum, num. 5. *Rosella* V. Confessio, 2. num. 7. *D. Antonin. 2.* part. tit. 9. cap. 7. §. 3. *et 2.* part. in 13. cap. 1. §. 1. *Lyra* Exodi 20. *et videtur D. Thomae 2. 2.* quaest. 122. art. 4. ad 3. *et D. Bonavent. 12. 3.* d. 37. dub. 3. litt. et serm. 4. in Decal. *sic refertur a Fagundez in primum praecept. Eccl.* cap. 4. num. 29. *sed iam* quaest. 3. *sensum D. Bonavent. explicui.*

2 To the NEGATIVE opinion have followed all those who in *quaest. 3.* deny that it is a special sin, not only to rest, but even to commit mortal sins.

NEGATIVAM sententiam secuti sunt quotquot quaest. 3. *negant, esse speciale peccatum, nedum otiari, sed lethalia patrare.*

3 I judge this opinion the more probable, which seems to me more according to the mind of our Holy Doctor. Fagundez refers to them again in *cap. 14. num. 30.*

PROBABILIOREM iudico hanc sententiam, quae videtur magis mihi ad mentem S. Doctoris nostri. Eos refert iterum Fagundez cap. 14. num. 30.

4 It is PROVED, because the precept of feasts only enjoins rest from servile works, and the hearing of Mass: Therefore it obliges to nothing else, even if the intention of the lawgiver directs to the end of keeping holiday for God. The consequence is proved, because the law is not violated even if the end

of the lawgiver is not attained, provided the substance of the law be kept, as D. Thomas teaches, *prima secundae, quaest. 100. art. 9. ad 2.*

> *PROBATUR, quia festorum praeceptum solum iniungit vacationem a servilibus, et auditionem Missae : Ergo ad nihil aliud obligat, etiamsi intentio legislatoris dirigat ad finem vacandi Deo. Probatur consequentia, quia in legem non impingitur, etiamsi finis legislatoris non attingatur, dummodo substantia legis servetur, ut docet D. Thom.* prima secundae, quaest. 100. art. 9. ad 2.

5 The ARGUMENTS on either side were examined in *question 3*.

> *ARGUMENTA hinc inde examinata sunt* quaestione 3.

6 Concerning the Precept of hearing the holy Sacrifice, I shall defer it to the 3. *part, Treatise on Mass, disp. 12.*

> *DE Praecepto audiendi sacrum, differam 3.* parte Tractatu de Missa, disp. 12.

Disputation IX: On Superstition

1 I shall now treat of the sins and vices opposed to Religion, which indeed on both sides lie at the extremes, whether by excess or by defect; in excess the first place is occupied by Superstition: For since, according to the saying of Tertullian, the Daemon presents himself as the Ape of Divine worship, he strives above all that men, under the appearance of piety, should abuse the Most Sacred names, rites, and mysteries in his own worship; whence the sense of true Religion will often degenerate into the most wicked abominations, and he strives to take all creatures into the ministry of wickedness. Hence have arisen several species of superstitions, which I shall run through in order below.

> ***De Superstitione.***
>
> *AGAM iam de peccatis, et vitiis Religioni oppositis, quae quidem in extremis utrinque versantur, sive per excessum, sive per defectum ; in excessu primum locum occupat Superstitio : Cum enim, iuxta dictum Tertulliani, Daemon se exhibeat Simiam Divini cultus, id maxime molitur, ut homines Sacratissimis nominibus, ritibus, et mysteriis, sub pietatis specie in ipsius cultum abutantur ; unde verae Religionis sensus in pessimas saepe abominationes degenerabit, omnesque creaturas in nequitiae ministerium assumere conatur. Hinc ortum habent plures superstitionum species, quas infra, ordine percurram.*

Question I: What superstition is, and of how many kinds

1 SUPERSTITION is defined by D. Bonaventure *in 4. d. 13. dub. 4.* and D. Thomas 2. 2. *quaest. 92. art. 1. A false religion, or a vicious cult, and a superfluous institution of the cult of a true or false deity*, and thus also Lessius *lib. 2. de Iustitia, cap. 43. d. 1.* Sanchez *Tom. 1. Decal. lib. 2. cap. 37.* Fagundez on the first precept of the Decal. *lib. 1. cap. 34.* Tanner *d. 5. de Religione, quaest. 7. d. 1.*

> ***Quid SUPERSTITIO, et quotuplex.***
>
> *SUPERSTITIO definitur a D. Bonaventu.* in 4. d. 13. dub. 4. *et D. Thom. 2. 2.* quaest. 92. art. 1. Falsa religio, seu vitiosus cultus, et superflua institutio cultus veri, vel falsi numinis, *sic et Lessius* lib. 2. de Iustitia, cap. 43. d. 1. *Sanchez* Tom. 1. Decal. lib. 2. cap. 37. *Fagundez in primum praeceptum Decal.* lib. 1. cap. 34. *Tanner* d. 5. de Religione, quaest. 7. d. 1.

2 OF THIS there are three species: Idolatry, divinatory Superstition, and Superstition of vain observances.

> *HVIUS tres sunt species : Idolatria, Superstitio diuinatoria, et Superstitio vanarum obseruationum.*

3 OF Idolatry I have treated sufficiently on faith, *disput. 2. quaest. 1. et seqq.*

> *DE Idolatria satis egi de fide,* disput. 2. quaest. 1. et seqq.

4 AS TO divination, *it is a superstitious foretelling of things to come, or an investigation, or manifestation of hidden things through means adverse to Religion.* Thus define it D. Bonaventure *p. p. Centil. sect. 29. et in 2. d. 7. part. 2. quaest. 3. in resolutione*, D. Thomas *hic art. 1.* Sanchez in Tom. 1. Decal. lib. 2. cap. 38. Lessius Tom. 1. lib. 2. cap. 53. dub. 5. num. 23. who defines it in other words with D. Bonaventure in 2. loc. cit.: *it is a foretelling which someone makes, by the help or the discipline of the Demon, concerning some hidden thing which he cannot know in a human way.*

QUOAD divinationem, est superstitiosa praenunciatio futurorum, seu est investigatio, vel manifestatio occultorum per media, Religioni adversa. *Ita definiunt D. Bonavent.* p. p. Centil. sect. 29. et in 2. d. 7. part. 2. quaest. 3. in resolutione, *D. Thom.* hic art. 1. *Sanchez chez Tom. 1. Decal. lib. 2. cap. 38. Lessius Tom. 1. lib. 2. cap. 53. dub. 5. num. 23. qui aliis verbis sic eam definit cum D. Bonavent. in 2. loc. cit.* est praenuntiatio, quae quis ope, vel disciplina Daemonis de aliquo occulto, quod humano modo cognoscere non potest, praenunciat.

5 It is moreover a grave sin, gravely reprehended *Isa. 8. et 47. et Levit. 28.*: those who consult these magi are condemned to the punishment of death, as the holy Doctor warns in 2. d. 7. part. 2. art. 2. quaest. 3.

EST autem peccatum grave, quod graviter reprehenditur Isa. 8. et 47. et Levit. 28. *poena mortis damnantur, qui hos magos consulunt, ut monet S. Doctor in 2. d. 7. part. 2. art. 2. quaest. 3.*

6 It is committed in TWO WAYS, by an express or a tacit invocation of the Demon.

DUPLICITER autem fit, invocatione expressa, vel tacita Daemonis.

7 One sins gravely indeed who has an express pact with the Demon, as D. Bonaventure teaches above *in Centil.*, because he renders to the enemy, against the prohibition, the homage owed to God, asking of him what is proper to God, namely to announce future contingents. Similarly one who has an implicit pact, for the same reason. These St. Augustine pursues *lib. 2. de Doctrina Christiana, cap. 22. et 23.* and D. Thomas *hic art. 2. et 3. Sanchez Tom. 1. Decal. lib. 2. cap. 38. num. 3. Fagundez in primum praeceptum Decal. lib. 1. cap. 35.* where he remarks with D. Bonaventure *in 2. loc. cit. ex D. Augustino de divinat. daemonum, cap. 5. et 6. et lib. 2. de Genes. ad litt. cap. 17. et si* the Demons cannot certainly foreknow those things that depend most upon causes contingent through free will, yet they can conjecture. For first they know natural causes excellently: then, since they mingle themselves with them, exciting tempests, etc. They also know the temperaments, inclinations, and affections of men. They also see causes moved from afar, e. g. ships loosed from India. Besides, they can receive some things from the Angels of God, God willing, etc. Thus also Less. *Tom. 1. lib. 2. cap. 43. d. 5. num. 23.* These things the Demons, when invoked, predict and disclose.

PECCAT sane graviter, qui habet expressum cum Daemone pactum, ut docet D. Bonavent. supra in Centil. *quia obsequium Dei, hosti, contra vetitum, exhibet, postulans ab eo, quod Dei proprium est, scilicet futura nunciare contingentia. Similiter qui implicitum habet pactum, ob eandem rationem. Hos insectatur D. Augustinus* lib. 2. de Doctrina Christiana, cap. 22. et 23. *et D. Thom.* hic art. 2. et 3. Sanchez Tom. 1. Decal. lib. 2. cap. 38. num. 3. Fagundez in primum praeceptum Decal. lib. 1. cap. 35. *ubi animadvertit cum D. Bonavent.* in 2. lo. . cit. ex D. Augustino de divinat. daemonum, cap. 5. et 6. et lib. 2. de Genes. ad litt. cap. 17. et si *Daemones nequeant certe praescire, quae a causis contingentibus libero arbitrio maxime futura pendent, tamen posse coniicere. Primo enim causas naturales optime norunt: Deinde cum eis ipsi se intermiscent excitando tempestates, etc. Callent etiam hominum temperies, inclinationes, et affectus. Vident etiam longe causas motas, v. g. ex India solutas naves. Praeterea nonnulla possunt ab Angelis Dei accipere, Deo volente, etc. Ita etiam Less.* Tom. 1. lib. 2. cap. 43. d. 5. num. 23. *Haec Daemones invocati praedicunt, et pandunt.*

8 The Demon is invoked expressly, however, either by actions, in which the Demon is known to intervene, or by words. Tacitly, on the other hand, one invokes him when someone procures an effect reserved to God alone through means in themselves powerless and improper. Thus commonly the Doctors.

> *INVOCATUR autem Daemon expresse, vel actionibus, quibus scitur Daemon intervenire, vel verbis. Tacite autem invocatur, quando quis effectum, soli Deo reservatum, mediis ex se invalidis, et indebitis procurat. Ita communiter DD.*

9 *Less. Tom. 1. lib. 2. cap. 43. d. 5. num. 28. Tolet. lib. 4. summa, cap. 16. Sanchez Tom. 1. Decal. lib. 2. cap. 38. num. 26. Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 8. a num. 22. Fagundez cap. 35. citato* remark, with D. Bonaventure *in Centil. loc. cit.*, that every invocation of the Demon is a malediction, because there either the cult due to God is rendered to the devil, or that which is God's is demanded, and it is often joined with heresy and apostasy from the faith, as the holy Doctor again warns *in 4. d. 13. dub. 4.* Therefore confessors are admonished by the holy Doctor *sermone 2. in Decal. et in confessionali, cap. 2. particula 9. et cap. 5. particula 37. et 38.* and by the cited Doctors to attend to what pact he made and under what formula; whether adoration from the heart intervened, or only extrinsic: whether he used sacred things, or the Sacrament; likewise the harm they inflict upon persons, beasts, fields, etc.

> *ANIMADVERTUNT autem* Less. Tom. 1. lib. 2. cap. 43. d. 5. num. 28. Tolet. lib. 4. summa, cap. 16. Sanchez Tom. 1. Decal. lib. 2. cap. 38. num. 26. Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 8. a num. 22. Fagundez cap. 35. citato *cum D. Bonavent.* in Centil. loc. cit. *omnem invocationem Daemonis esse maledictum, quia ibi vel exhibetur diabolo cultus Deo debitus, vel requiritur, id quod est Dei, et saepe coniunctum est cum haeresi, et apostasia a fide, ut iterum monet S. Doctor* in 4. d. 13. dub. 4. *Ideo monentur confessarii a S. Doctore* sermone 2. in Decal. et in confessionali, cap. 2. particula 9. et cap. 5. particula 37. et 38. *et allegatis Doctoribus, ut attendant, quod pactum, et qua formula inierit; an adoratio ex corde intervenerit, vel tantum extrinseca: An adhibuerit res sacras, vel Sacramentum, item damnum, quod inferunt personis, bestiis, campis, etc.*

10 SIMILARLY in the implicit pact, by which that knowledge is pretended which is proper to God alone, and hence it is always mortal. Thus Valentia *d. 6. quaest. 12. puncto 4. Delrius lib. 4. disq. mag. cap. 2. quaest. 4. Sanchez tom. 1. decal. lib. 2. cap. 38. num. 18.* Ignorance, however, can excuse. Thus Caietanus *quaest. 5. art. 2.* Valentia, and Delrius *loc. cit.* Sanchez *num. 10; et alii apud hos.*

> *SIMILITER in pacto implicito, quo praetenditur ea cognitio, quae soli Deo est propria, atque adeo semper est mortale. Ita Valentia* d. 6. quaest. 12. puncto 4. Delrius lib. 4. disq. mag. cap. 2. quaest. 4. Sanchez tom. 1. decal. lib. 2. cap. 38. num. 18. *Potest tamen ignorantia excusare. Ita Caietanus* quaest. 5. art. 2. *Valentia, et Delrius* loc. cit. *Sanchez* num. 10; et alii apud hos.

11 The SIGNS of an implicit pact with the Demon will be, if some vain condition is added in words to deeds, as that the Gospel be written on a lamina. Second, when falsehoods are mingled with the words, or unknown characters are employed, when the effects are vain or transcendent, as Tannerus notes *dubio 2. et alii.*

> *SIGNA autem pacti impliciti cum Daemone erunt, si aliqua conditio vana factis verbis apponatur, ut Evangelium scriptum sit in lamina. Secundo quando verbis immiscentur falsa, vel adhibentur characteres incogniti, quando effectus sunt vani, vel transcendentes, ut notat Tannerus* dubio 2. et alii.

- If, however, these things are done in jest, e.g. with the astrolabe, etc., not in order to know the future, there will be no superstition; if indeed they are done seriously to investigate hidden things, as theft; grave penance is imposed by Alexander III. *extra. de furtis.* and the Priest is deprived of his ministry by right, and the Bishop shall proceed against him *26. quaest. 5. cap. Non oportet, si quis Episcopus*, as the holy Doctor transmits *in confessionali, cap. 3. particula 38.* Bassaeus adds *V. Magia*, that no parvity of matter is granted in this genus of sin.

- *Si tamen haec ioci causa fiant, v.g. astrolabi, etc. non ad scienda futura, non erit superstitio; si vero fiant serio ad occulta indaganda, puta furtum; gravis poenitentia imponitur ab Alexandro III.* extra. de furtis. *et privatur Sacerdos ex iure Altatis ministerio, et Episcopus procedet contra eum* 26. quaest. 5. cap. Non oportet, si quis Episcopus*, ut tradit S. Doctor* in confessionali, cap. 3. particula 38. *Addit Bassaeus* V. Magia*, non dari parvitatem materiae in hoc genere peccati.*

13 THERE are indeed certain prayers that circulate as rendering one safe from death inflicted by sword, iron, etc.; they may be carried, if they contain nothing superstitious; nor let the secure promise be held. Thus Sanchez *Tom. 1. lib. 2. cap. 40. num. 20. et alii apud Fagundez num. 16.*

> *SUNT vero aliquae orationes, quae circumferuntur, ut reddentes tutos a morte illata ab ense, ferro, etc. possunt autem ferri, si nil superstitiosum contineant; neque secura promissio teneatur. Ita Sanchez* Tom. 1. lib. 2. cap. 40. num. 20. et alii apud Fagundez num. 16.

14 He notes also *num. 17.* with Ciruelo, that those prayers are vain in whose titles a number of days is decreed during which they are to be recited to obtain grace; for no term can be set to God.

> *NOTAT etiam* num. 17. *cum Ciruelo, vanas esse orationes illas, in quarum titulis decernitur numerus dierum, quibus sunt recitandae ad obtinendam gratiam; non enim potest terminus Deo praefigi.*

15 Superstition indeed arises from an inordinate desire of obtaining some good, or of avoiding some evil; and this is more connatural to women. Thus the holy Doctor *LL. CC. et cum eo Fagund. num. 4.*

> *ORITUR sane superstitio ex inordinato desiderio aliquod bonum consequendi, aut malum evitandi; et hoc magis foeminis est connaturale. Ita S. Doctor* LL. CC. et cum eo Fagund. num. 4.

16 Now Divination, in which there is an express invocation of the Demon, has five species, according to D. Bonaventure *in Centil. loc. cit.*: Mantia, Sortilegium, Augury, Maleficium, and Prestige.

> *IAM vero Divinatio, in qua est expressa Daemonis invocatio, habet quinque species, iuxta D. Bonavent.* in Centil. loc. cit. *Mantiam, Sortilegium, Augurium, Maleficium, et Praestigium.*

17 AS TO practice, however, they hold only three species to be distinctly expounded in confession, Valentia *d. 6. quaest. 12. puncto 2. in calce, Tannerus d. 5. quaest. 7. dub. 1. Azorius lib. 9. cap. 13. quaestio 3.* The first is that which has an express pact with the Demon. The second is that by which knowledge is sought from the disposition that bodies have, which can be called by a bodily name Augury. The third is that by which knowledge is sought from certain things deliberately done, and in both there is an implicit invocation of the Demon.

> *QUOAD praxim tamen tres solas species distincte explicandas in confessione ponunt Valentia* d. 6. quaest. 12. puncto 2. in calce, Tannerus d. 5. quaest. 7. dub. 1. Azorius lib. 9. cap. 13. quaestio 3. *Prima est, quae habet pactum expressum cum Daemone. Secunda est, qua quaeritur cognitio ex dispositione, quam habent corpora, quae corporali nomine potest dici Augurium. Tertia est, qua quaeritur cognitio ex quibusdum consulto factis, et in utraque est invocatio Daemonis implicita.*

18 MANTIA is named from Mantis, a distinguished Diviner among the Athenians, and this has other species: The first is Necromancy, divining through appearing images of the dead, from *Necron*, which is dead, and *Mantia*, which signifies divination. Second, Geomancy through signs appearing in earthly bodies, from *Gea*, which is earth, as in a circle. Third is Hydromancy through signs appearing in

water, from *Hydros*, water. Fourth is Aeromancy, through signs in the air. Fifth, Pyromancy from *Pyros*, fire, through signs in fire.

> *MANTIA dicta est a Mante, insigni apud Athenienses Divinatore, et haec habet alias species: Prima est Necromantia, divinans per apparentes imagines mortuorum a* Necron*, quod est mortuus, et* Mantia*, quae significat divinationem. Secunda, Geomantia per signa apparentia in corporibus terrestribus a* Gea*, quod est terra, ut in circulo. Tertia est Hydromantia per signa apparentia, in aqua ad* Hydros *aqua. Quarta est Aeromantia, per signa in aëre. Quinta, Pyromantia a* Pyros*, ignis, per signa in igne.*

19 Other less principal species of divination are enumerated by the holy Doctor *loc. cit. Centil. et aliis locis*. The first is Divination, which predicts from fates and constellations; and it is called *Mathesis*, and Astronomantia. The second, through inspection of the air, keeping days and hours in one's actions, and it is called *Auruspicium*. The third, which inspects the entrails or intestines of beasts, and is called *Extipex*. The fourth, which receives responses from Demons on the altars of Idols; it is called Ariolus, a diviner on altars. The fifth, which observes dreams, and is called *Onyrocritica*; but the observer of dreams is called *Coniector*. The sixth, from the words or accidental deeds of men, and is called *Omen*; the seventh is Phytonia, speaking through a malignant spirit, and this one is called *Phyto*, or *Phytius*, from Phytius, that is, so named from Apollo, or a ventriloquist. The eighth is Genethliacs, observing the moments of births, and this superstition is called *Constellatio*. So also Horoscopy, which observes the Hours of birth, agrees with the preceding. The ninth is *Saltatio*, whence Saliator, who, whatever part of the members shall leap, divines what is prosperous or fatal. The tenth Physiognomy, which augurs from the signs of the human body. The eleventh *Spatulamantia*, which conjectures from the signs in the shoulder-blade of some animal. The twelfth *Motescopia*, which from the forehead. The thirteenth is from the signs of the hands, and is called *Chiromantia*.

> *ALIAE etiam species minus principales divinationis numerantur a S. Doctore* loc. cit. Centil. et aliis locis. *Prima est Divinatio, quae praedicit e fatis, et constellationibus; diciturque* Mathesis*, et Astronomantia. Secunda per Aurae inspectionem, dies, et horas custodiens in agendis, et dicitur* Auruspicium. *Tertia, quae exta, vel intestina pecudum inspicit, et dicitur* Extipex. *Quarta, quae in aris Idolorum responsa a Daemonibus accipit, dicitur autem Ariolus, divinator in aris. Quinta, quae somnia observat, et dicitur* Onyrocritica*; dicitur autem observator somniorum* Coniector. *Sexta ex vocibus, vel factis hominum fortuitis, et dicitur* Omen*, septima est Phytonia, per spiritum malignum loquens, et hic dicitur* Phyto*, vel* Phytius *a Phytio, idest, Apolline dictus, aut ventriloquus. Octava est Genethliaca observans puncta nativitatum, et haec superstitio dicitur* Constellatio. *Sic et Horoscopia, quae Horas nativitatis observat, cum praecedenti convenit. Nona est* Saltatio*, unde Saliator, qui, quaecunque pars membrorum salierit, divinat, quidve prosperum, vel funestum. Decima Physionomia, quae ex signis humani corporis auguratur. Undecima* Spatulamantia*, quae ex signis in spatulis alicuius animalis coniicit. Duodecima* Motescopia*, quae ex fronte. Tertiadecima, est ex signis manuum, et dicitur* Chiromantia.

20 The species of maleficium which is called Magia is subordinate, and is subdivided into others; for divination is made either from the entrails and fat of infants, or from the blood of abortives, or by the killing of some man or woman, by means of laminas, etc.

> *Species maleficii, quae dicitur Magia, est subalterna, quae subdividitur in alias; nam divinatur vel e praecordiis, et adipe infantium, vel sanguine abortivum, vel occisione alicuius viri, aut mulieris, mediis laminis, etc.*

21 *Sortilegium* by lots cast, whether in water, or on papers, or in books, is manifold.

> Sortilegium *per sortes iactas, vel in aqua, vel in chartis, vel in libris sit multipliciter.*

22 *Augurium* from the chattering of birds and the various voices of animals is various; to which is also reduced *Auspicium*, taken from the flight of birds and the movement of other animals.

> Augurium *ex garritu auium, vocibusque variis animalium, varium est; ad quod reducitur etiam* Auspicium *ex volatu auium, et motu aliorum animalium sumptum.*

23 *Similarly* Prestige is wrought through the various apparitions of the devil himself, whether true or phantastic, and it happens in many ways, as may be seen in Valentia *quaest. 12. puncto 2.* For first the Demon is wont to present true bodies, translated from elsewhere, or quickly made by himself through the application of actives to passives. In which way are said to be true serpents those which the magi of Pharaoh *Exodi 7.* fashioned, as St. Augustine holds *lib. 3. de Trinitate, cap. 7. et 8. et lib. 83. qq. quaestione 79.* D. Thomas *quaest. 7. de potentia, art. 5. ad 8.* and D. Bonaventure *in 2. d. 7. part. 2. art. 2. quaest. 2.* Second, the Demon is wont to present apparent bodies. In this way Augustine says *18. de ciuit. cap. 18.* is to be understood what is narrated of the companions of Ulysses changed into beasts; And what is told of the Arcadians, that when they crossed a pool they were turned into Wolves. Thus the same St. Augustine *lib. 2. ad simpl. quaest. 3.* says it is better understood what is said *1. Reg. 28.* of Samuel, who is said to have appeared to Saul.

> Similiter *Praestigium per varias ipsius diaboli apparitiones, seu veras, seu phantasticas fit, et multis modis accidit, ut videre est apud Valentiam* quaest. 12. puncto 2. *Primo enim solet Daemon obiicere vera corpora, aliunde translata, vel a se facta celeriter per applicationem activorum passivis. Quo pacto dicuntur veri serpentes, quos magi Pharaonis* Exodi 7. *confecerunt, ut sentit D. Augustinus* lib. 3. de Trinitate, cap. 7. et 8. et lib. 83. qq. quaestione 79. *D. Thom.* quaest. 7. de potentia, art. 5. ad 8. *et D. Bonavent.* in 2. d. 7. part. 2. art. 2. quaest. 2. *Secundo solet Daemon obiicere corpora apparentia. Hoc pacto dicit Augustinus* 18. de ciuit. cap. 18. *intelligi quod de sociis Ulyssis in bestias mutatis enarratur; Et quod de Arcadibus perhibetur, dum stagnum traiecerunt eos versos fuisse in Lupos. Sic idem D. Augustinus* lib. 2. ad simpl. quaest. 3. *ait, melius intelligi, quod dicitur* 1. Reg. 28. *de Samuele, qui dicitur apparuisse Sauli.*

24 *Third* the Demon mocks by altering the senses, confusing the species, disturbing the organ, so that, like phrenetics, they seem to see marvels.

> Tertio *illudit Daemon alterando sensus, confundendo species, perturbando organum, ut veluti phrenetici videantur videre mirabilia.*

25 *Fourth*, in mockery, the internal senses being disturbed and the phantasy confounded, so that some seem to have visions. See Valentia with D. Bonaventure *locis adductis, Tract. de Angelis, disp. 11. ubi de potentia Angelorum.*

> Quarto *illudendo, sensibus internis perturbatis, phantasia confusa, ut videantur aliqui visiones habere. Vide Valentiam cum D. Bonavent.* locis adductis, Tract. de Angelis, disp. 11. ubi de potentia Angelorum.

Question II: On divination by the stars

1 I assume here that Astrology, which argues from the motion of the stars and their various influxes that effects of the same kind follow from purely natural causes, is a true and lawful science; for it is natural to deduce effects from causes. Therefore most holy Sixtus V, in the Bull by which he condemns judicial astrology, speaking of those who conjecture free effects from the motions of the stars, says: *Excepting only future events arising from necessary natural causes, or occurring frequently, which do not pertain to divination.*

> *Suppono hic, Astrologiam, quae ex Astrorum motu, et influxibus variis, argumentatur effectus eiusdem generis puris naturalibus esse veram scientiam, et licitam; Naturale enim est e causis effectus deducere. Ideo sanctissimus Sixtus V. in Bulla, qua Iudiciarios damnat, coniicientes e motibus astrorum effectus liberos, ait:* Exceptis dumtaxat futuris euentibus ex naturalibus causis necessariis, vel frequenter prouenientibus, quae ad diuinationem non pertinent.

2 That astrology, however, which predicts free effects from natural causes is not a science but a superstitious fable, as the Doctors note. Since the stars cannot produce effects of a higher order, namely of free will, as I showed in my *Treatise on the heavens, disputation 2, question 17*, no one can divine those from them. For these lie hidden in the secrets of God. Hence the Saintly Doctor admonishes, *ad 8. Eccl.*, that while we have time we should do good, because man cannot know future things by any announcement, as is said there; and Fagundez also subjoins this, *lib. 1. on the first precept of the Decalogue, cap. 38.*

> *Ea vero Astronomantia, quae ex naturalibus causis praedicit effectus liberos, non est scientia, sed fabella superstitiosa, ut notant Doctores. Cum enim astra nequeant producere effectus superioris ordinis, nempe liberi arbitrii, ut ostendi* Tract. de caelo disp. 2. quaest. 17. *neque potest aliquis illos inde diuinare. Haec enim in Dei arcanis latent. Hinc admonet S. Doctor,* ad 8. Eccl. *ut dum tempus habemus, operemur bonum, quia homo futura nullo potest scire nuncio, ut dicitur ibi, et subaduertit etiam Fagundez* lib. 1. in primum praeceptum Decalogi, cap. 38.

3 *I assert*, therefore, that natural astrology is lawful, while judicial astrology alone is illicit. So D. Bonaventure and D. Thomas, *here; Less. Tom. 1. lib. 2. cap. 43. d. 6. circulo de superstit. 2. part. cap. 3. and 4.* Suarez *Tom. 1. de Relig. lib. 2. de superstit. cap. 11.* Sanchez *Tomo primo Decal. lib. 2. cap. 38. a num. 17.* Fagundez *lib. 1. cap. 38.*

> Assero *igitur, naturalem Astrologiam licitam esse solam vero iudiciariam illicitam. Ita D. Bonau. et D. Thom.* hic, Less. Tom. 1. lib. 2. cap. 43. d. 6. circulo de superstit. 2. part. cap. 3. et 4. *Suarez* Tom. 1. de Relig. lib. 2. de superstit. cap. 11. *Sanchez* Tomo primo Decal. lib. 2. cap. 38. a num. 17. *Fagundez* lib. 1. cap. 38.

4 *The former* part is proved by the Saintly Doctors, because like cause, like effect; but the stars were created as causes of sublunary natural things, as is said in *Genesis 1. Deuteronomy 4.* Therefore from them conjectures can be drawn.

> Prior *pars probatur a Sanctis Doctoribus, quia qualis causa, talis effectus; sed astra condita sunt, ut causae sublunarium naturalium, ut dicitur* Genesi 1. Deuter. 4. *Ergo ex his possunt coniici.*

5 *Moderately*, however, must these things be predicted, because since they depend on many causes, which can be impeded, they often fail. But things that are casual fail more, as that a passing lightning bolt should strike someone, etc.

> Moderate *tamen et haec debent praedici, quia cum pendeant a multis causis, quae possunt impediti, saepe fallunt. Quae vero casualia sunt, magis fallunt, ut quod transeuntem fulgur percutiat, etc.*

6 *I assert* secondly, that to divine voluntary events from the stars is superstitious.

> Assero *secundo, diuinare ex astris euentus voluntarios superstitiosum esse.*

7 *It is proved* first by the Saintly Doctor. That which is subjected to another does not predominate; but the stars and other natural causes were made in the service of man, as is said in *Deuteronomy 4.* Therefore they do not predominate over their free wills.

Probatur *a S. Doctore primo. Id, quod alteri subiicitur, non praedominatur; sed astra, et aliae causae naturales factae sunt in ministerium hominis, ut dicitur* Deuter. 4. *Ergo non praedominantur liberis eorum voluntatibus.*

8 *It is proved* secondly. Whoever uses the light of the intellect for free works does not depend on the extrinsic determination of natural things, but determines himself; such is man, above all the Wise man. Therefore Ptolemy says:

Probatur *secundo. Quisquis utitur lumine intellectus ad opera libera, non pendet a determinatione extrinseca naturalium, sed seipsum determinat; talis est homo, maxime Sapiens. Ideo dicit Ptolemaeus:*

9 *The wise man will rule the stars:*

Sapiens dominabitur astris:

10 *It is proved* thirdly, because what is rightly ordered always tends toward good: Therefore either all will always do good; or they will not move their free will.

Probatur *tertio, quia, quod est recte ordinatum, tendit semper in bonum: Ergo vel omnes bonum semper agent; vel non mouebunt arbitrium.*

11 *It is proved* fourthly. If the variety of morals were caused by the motions and influxes of the stars, it would follow that we act all moral things of necessity, and liberty would be wholly taken away: the consequence is Manichaean: Therefore. The consequence is proved; every cause produces according to what it is in act, and not beyond its order; but the stars are natural causes, determined to effects: Therefore all effects of the will would be produced of necessity: Therefore liberty would be taken away, counsels would be removed, merits destroyed, there would be no work worthy of praise or blame, which are absurd.

Probatur *quarto. Si varietas morum causetur a motibus, et influxibus astrorum, sequeretur, nos omnia moralia operati necessario, et omnino toli libertatem: consequens est Manichaeum: Ergo. Probatur sequela; omnis causa producit secundum quod est actu, et non super ordinem suum; sed astra sunt causae naturales, determinatae ad effectus: Ergo necessario operabantur omnes effectus arbitrii: Ergo auferetur libertas, auferentur consilia, tollerentur merita, non erit opus dignum laude, aut vituperatione, quae sunt absona.*

12 *It is proved* fifthly *in the body* by the Saintly Doctor, because many good works are commanded to us, many urged by counsel, many forbidden: of these eternal punishments are intimated: to those the rewards of glory are promised, as is clear from the Holy Scriptures: But all these are taken away if the stars cause these works in us determinately: for since they would then be necessary, they have neither law nor counsel; nor can they merit either reward or punishment. Thus even grace assisting our operations would be taken away, and glory too. Thus the Justice of God perishes, while our good and evil works are poured back into the stars; and honor and veneration are hurled at the stars, and thus men are snatched away to Idolatry.

Probatur *quinto* in corpore *a S. Doctore, quia opera bona multa sunt nobis praecepta, multa consilio suasa, multa prohibita: His intimantur poenae aeternae: illis promittuntur praemia gloriae, ut constat e Scripturis Sanctis: Sed haec omnia tolluntur, si astra in nobis causant haec opera determinata: sic enim cum sint necessaria, nec legem habent, nec consilium; nec praemium, nec poenam mereri valent. Sic tolletur etiam gratia adiuuans nostras operationes, tolletur et gloria. Sic Iustitia Dei perit, dum opera nostra bona, et mala in astra refunduntur; et inuehitur honor, et veneratio syderibus, et sic ad Idolatriam rapiuntur homines.*

13 *It is proved* sixthly by experience. For Esau and Jacob were born of the same birth under the same Horoscope, etc., and yet they were so different in morals in life and death. Under the same constellation also there are born the rustic and the king's son; there are born a man and an ass.

> Probatur *sexto experimento. Nam Esau, et Iacob nati sunt eodem partu sub eodem Horoscopo, etc. et tamen adeo moribus erant in vita, et morte diuersi. Nascitur etiam eadem sub constellatione Rustici, et Regis filius; nascitur homo, et asinus.*

14 *It is confirmed* against certain observations of the astrologers, for instance, that those born under Aquarius should be fishermen, and those under the sign of Libra, money-changers; and yet in Getulia under the sign of Aquarius they are not fishermen, and in the kingdoms under Libra no money-changers are found.

> Confirmatur *contra quasdam obseruationes Astronomantium, puta, ut qui sub Aquatio nascuntur, piscatores sint, et qui sub signo Librae, sint Trapezitae; et tamen in Getulia sub signo Aquarii, non sunt piscatores, et in Regnis sub Libra, nulli Trapezitae inueniuntur.*

15 *It is proved* seventhly. That which is lower does not predominate over what is above; but the body is lower than the spirit: Therefore the spirit is not subject to the stars.

> Probatur *septimo. Id, quod inferius est, non praedominatur superiori; sed corpus est inserius spiritu: Ergo spiritus non subiicitur astris.*

16 *PROVED* eighthly from the inconvenience which they bring in, that the stars are therefore to be venerated. For either the stars induce their effects on man inevitably of necessity, or not. If not, why are they to be venerated or feared? If of necessity; what due service, or what supplications?

> PROBATUR *octavo ex inconvenienti, quod inducunt, Astra propterea esse veneranda. Vel enim Astra necessario inducunt homini suos effectus inevitabiliter, aut non. Si non, cur sunt veneranda, aut metuenda? Si necessario; quodnam eis debitum, aut quae supplicationes?*

17 *PROVED* ninthly. Constellations are to be observed from birth, or not. If from birth, as the Genethliaci hold: Therefore also in the following times. Why then do they observe the Horoscope at the nativity? why the royal house? why the Anaphoras and Cataphoras of the houses? If in the first constellation they are not to be observed. Therefore neither in the following ones. Indeed they seem to be observed rather at conception, where the formation of the fetus takes place: for birth is often hastened, delayed, etc. But who knows the moment of conception, in the animation?

> PROBATUR *nono. Constellationes observandae sunt ex ortu, vel non. Si ex ortu, ut Genethliaci: Ergo et sequentibus temporibus. Cur ergo Horoscopum in nativitate observant? cur domum regiam? cur domus Anaphoras, Cataphoras? Si in prima Constellatione non sunt observandae. Ergo neque in sequentibus. Imo in conceptione magis videntur observandae, ubi est foetus efformatio: Nativitas enim saepe acceleratur, retardatur, etc. Conceptionis vero punctum in animatione quis novit?*

18 The Saintly Doctor draws these arguments from D. Augustine in the places cited, from D. Gregory, homil. 10. on the Gospel, from Damascene lib. 2. de fide, cap. 7. And so it is concluded that hence heresies are brought in.

> *Haec argumenta deducit S. Doctor. ex D. Augustino locis adductis, D. Gregorio homil. 10. in Evang. Damasceno lib. 2. de fide, cap. 7. Itaque concluditur, hinc haereses inferri.*

19 Finally the Saintly Doctor urges it from the faith, *Isaiah 47.* it is said: *Stand now, and let the diviners of the heavens save thee, who gaze upon the stars, that from them they might announce to thee things to come.* For it is a kind of imprecation. Where in the place of *Augurs*, the LXX have *Astrologers.* And D. Jerome says of them, *who are called Mathematici, and believe that human affairs are governed by the course and fall of the stars.*

> *Tandem urget S. Doctor ex fide* Isaie 47. *dicitur:* Stent, et salvent te augures caeli, qui contemplantur sidera, ut ex eis annunciarent ventura tibi. *Est enim quaedam imprecatio. Ubi loco* Augurum, *habent LXX.* Astrologi. *Et D. Hieronymus,* qui vocantur Mathematici, et Astrorum cursu, lapsuque res humanas regi arbitrantur.

20 *JEREM. 10. Learn not according to the ways of the nations: and be not afraid of the signs of heaven, which the nations fear: For the laws of the peoples are vain.*

> HIEREM. 10. Iuxta vias gentium nolite discere: Et a signis Caeli nolite metuere, quae timent Gentes: Quia leges populorum vanae sunt.

21 *These things are prohibited* also in the Council of Toledo, first, in the assertion of the faith, and in the chapter *Non liceat*, 26. quaest. 5., and finally by Sixtus V, motu proprio 21, which begins: *Moderator caeli, et terrae.* See Suarez *Tom. 1. de Relig. lib. 2. de superstit. cap. 11.* Delrium *lib. 4. disquis. mag. cap. 3. quaest. 1.* Fagundez *cap. 38.*

> PROHIBENTUR *haec etiam in Concilio Tolet. primo in assert. fidei, et c.* Non liceat, *26. quaest. 5. et tandem Sixti V. motu proprio 21. qui incipit:* Moderator caeli, et terrae. *Vide Suarez* Tom. 1. de Relig. lib. 2. de superstit. cap. 11. *Delrium* lib. 4. disquis. mag. cap. 3. quaest. 1. *Fagundez* cap. 38.

22 ADD Suates *num. 31.* Sanchez *Tom. 1. Decal. lib. 1. cap. 38. num. 33.* Less. *lib. 2. de Iust. cap. 43. dub. 6. num. 42.* Fagundez *num. 8.*, that even if the astrologer believes inwardly that the judgment from the stars is not certain but only probable, he is still superstitious. The reason of D. Bonaventure which they use is, because from the stars no such cause can be had as would make a probable indication, but only one that is most remote, and yields doubtful and uncertain judgments.

> *ADDUNT Suates* num. 31. *Sanchez* Tom. 1. Decal. lib. 1. cap. 38. num. 33. *Less.* lib. 2. de Iust. cap. 43. dub. 6. num. 42. *Fagundez* num. 8. *etiamsi Astrologus credat interius, iudicium illud ex Astris non esse certum, sed tantum probabile, superstitiosum esse. Ratio D. Bonavent. qua utuntur, est, quia ex Astris non potest talis causa haberi, quae faciat indicium probabile, sed tantum quae remotissima, et dubia, incertaque iudicia praebeat.*

23 I ASSERT thirdly, that it is not forbidden to conjecture from the constellations one's temperament and in some degree one's inclination. The reason of D. Bonaventure is, because natural causes communicate an inclining temperament. Hence the choleric are irascible; the sanguine benign, the melancholic spiteful, the phlegmatic sluggish; yet this is not of necessity; for the soul dominates the affections, especially when aided by grace. For we have seen many choleric men gentle, etc. And so, although from natural causes the organization and mixture of the body be such as to incline, yet not so much that you could even probably divine from it; Therefore St. Augustine, *lib. 5. de Civit. cap. 2.*, cited by D. Bonaventure, relating a certain case of two brothers who fell ill together and were cured together, praises rather the answer of the physician, who said this happened from a symmetry of complexions; than that of the astrologer, who said it happened from the same constellation.

> *ASSERO tertio, non esse vetitum e Constellationibus coniicere temperamentum, et aliqualiter inclinationem. Ratio D. Bonavent. est, quia causae naturales communicant temperiem inclinantem. Unde cholerici sunt iracundi; sanguinei sunt*

benigni, melancholici lividi, flegmatici pigri; hoc tamen non necessario; anima enim dominatur affectibus, maxime adiuta gratia. Multos enim vidimus cholericos mansuetos, etc. Itaque, tametsi a causis naturalibus organizatio, et mixtio corporis sit talis, ut inclinet, non tamen adeo, ut vel etiam probabiliter diuinate possis; Ideo ait S. Augustinus lib. 5. de Civit. cap. 2. *apud D. Bonavent. casum quemdam referens duorum fratrum, qui simul infirmabantur, et simul curabantur, laudat magis responsum Mediei, qui dicebat hoc evenire ex complexionum Simmettria; quam Astronomi, qui aiebat hoc evenire ex eadem Constellatione.*

24 Nor is such conjecturing forbidden by Sixtus V in the motu cited, as Fagund. notes, *num. 10*. Yet this conjecture, since it comes from afar, cannot assert anything with probability, as Fagund. says with D. Bonaventure, *in the body.*

NEQUE sic coniicere prohibetur a Sixto V. motu allegato, ut notat Fagund. num. 10. *Haec tamen coniectura, quia a longinquo venit, non potest aliquid probabiliter asserere, ut ait Fagund. cum D. Bonavent.* in corpore.

25 *YOU OBJECT* first from Boethius, *lib. 4. de consol.*, prose 6: *Fate is an inherent disposition in movable things, by which the Divine Providence weaves each thing into its own orders:* But fate, according to D. Augustine, *5. de Civit. cap. 1.*, is the force of the position of the stars, which, when it exists at the time one is conceived or born, makes known what he will be. If therefore fate is truly real, and consists in the influxes of the stars, and in this consists the whole governance of life: Therefore the diversity of morals depends on these.

OBIICIES *primo ex Boëtio* lib. 4. de consol. *in prosa 6.* Fatum est rebus mobilibus inhaerens dispositio, per quam Divina Providentia suis quaeque nectit ordinibus: *Fatum autem ex D. Augustino* 5. de Civit. cap. 1. *est vis positionis syderum, qua existente, quando quis concipitur, vel nascitur, cognoscitur qualis futurus sit. Si ergo fatum vere est, et consistit in influxibus stellarum, et in hoc consistit totum regimen vitae: Ergo diversitas morum ex his dependet.*

26 The Saintly Doctor *answers* that Boethius takes fate as it truly is a disposition of divine providence, binding all genera of causes to act according to their proper orders; but D. Augustine takes fate in the sense of the philosophers' estimation, and shows it to be nothing. Whence he adds: *If anyone calls fate the order of causes which God has instituted, in so doing he holds the true opinion, and corrects the word.* And so it is not permitted to infer from fate as truly real, which consists in the sweet yet firm providence of God, that it consists in the force of the stars, and that the governance of life hangs on these.

Respondet *S. Doctor, Boëtium accipere fatum, ut vere est dispositio divinae providentiae, finentis omnia genera causarum agere secundum proprios ordines; at D. Augustinus accipit fatum ad aestimationem Philosophorum, et ostendit, nil esse. Unde addit:* Si quis fatum vocat ordinem causarum, quem Deus instituit, cum hoc sit, veram sententiam teneat, et linguam corrigat. *Itaque non licet inferre ex fato vero, quod consistit in suavi, firma tamen, Dei providentia, illud consistere in vi stellarum, et ab his regimen vitae pendere.*

27 *YOU OBJECT* secondly, from the various constellations various effects are produced in men, even free ones. Thus Aristotle relates, *lib. de propriet. elem. and 5. Polit. cap. 7.: Kingdoms have been made empty, and lands depopulated, at the conjunction of two great stars, namely of Jupiter and Saturn.* To this tends what the astronomers say, that the transit of Saturn from one sign to another always causes something extraordinary, especially in the conjunction which they call the Great, with Jupiter; and when that took place on the twenty-first of October 1663, Piscator Clarevallensis and others predicted a comet for the following year, which appeared in that same month of December, at which time Saturn was passing from the fiery sign of Sagittarius to the earthy sign of Capricorn; and about that comet indeed

many have written many things: but especially in those kingdoms over which it was vertical, it produced, they say, its various influxes, namely under Virgo, Leo, Gemini, Cancer, and Aries. And to prove this they bring forward many examples of events in those regions in which comets, or certain violent stars, were made vertical.

> OBIICIES *secundo e constellationibus variis, varii sunt effectus producti in hominibus liberi. Sic refert Aristoteles* lib. de propriet. elem. et 5. Polit. cap. 7. Regna vacua facta sunt, et terrae depopulatae ad coniunctionem duarum magnarum stellarum, Iovis scilicet, et Saturni. *Huc spectat id, quod dicunt Astronomi, transitum Saturni ab uno signo ad aliud, semper extrauagans aliquid causare, maxime in coniunctione, quam Magnam vocant, cum Iove, quae cum facta esset vigesima-prima Octobris 1663. praedixere Piscator Clarevallensis, et alii, futurum Cometam anno sequenti, qui apparuit eodem mense Decembri, quo tempore Saturnus ab igneo signo Sagittarii ad terreum Capricorni transibat, de quo sane Comete multa scripsere multi: maxime vero in regnis, quibus esset verticalis, eum varios produxisse influxus, nempe sub Virgine, Leone, Gemini, Cancro, et Ariete. Ad hoc autem comprobandum multa adducunt exempla eventuum regionibus illis, quibus aut Cometae, aut stellae aliquae violentae factae sunt verticales.*

28 In Europe they note very many cases. Thus they note that a star of the second magnitude in the right arm of Auriga, made vertical as the sygnet of Mercury and Mars, brought that horrible contagion upon Milan and the neighboring cities, but especially Brescia, where of 45,000 only fourteen thousand survived, besides innumerable others laid low in the vast surrounding territory; and at Bergamo there was nearly the same calamity. Thus they say that a star in the head of Medusa, the sygnet of Saturn and Jupiter, of the third magnitude, made vertical over Polyflipponus, in the year 1640, stirred up that great revolution in which, casting off the scepter of King Philip IV, they acclaimed John Duke of Braganza as King. The boreal star in Ursa Major, like Mars, of the third magnitude, in the zenith of the royal city of the Venetians, in the year 1643, is said to have brought innumerable evils upon our most serene republic (may God grant it eternal life) from the Turkish tyrant; thus an ill-formed star in Helice, not unlike Mars, of the second magnitude, in the zenith of the royal city of Parthenope, which is Naples, is said to have stirred up dark seditions under the leader Thomas Aniello (who is also called Masaniello): but the bright star in the head of the Dragon, connected with Saturn, Jupiter, and Mars as its sygnet, while it brooded over the vertex of the royal city of London in England, in the year 1648, is said to have wickedly inflamed that people, like a Fury roused by the Dire Ones, into rebellion against its most clement King Charles Stuart, into horrible parricide, so that, by an example unheard of for centuries, the King himself was most unjustly condemned to death by judges sitting on the tribunal of the filthy rabble, Fairfax acting, and in the broad square of the city, from the lofty scaffold, with his head struck off at the feet of the executioner, his body was laid down. And that monarchy was rolled into the turbulent tyranny of a Democracy and Aristocracy, with the sons of the kingdom, the heirs, sought out for extermination. Likewise the star on the right side of Perseus, friendly to Saturn and Jupiter, in the zenith of that region of the world, the city of Paris, set high, in the year 1650, was believed to have loosed those savage tempests upon the young King Louis the Great XIV, unconquered Firstborn of Louis XIII the Just, now happily reigning, bursting forth in bloody vortices even to the stars to be belched forth.

> *In Europa adnotant plurimos casus. Sic stella secundae magnitudinis in armo Aurigae dextro, Symbola Mercurio, et Marti facta verticali, horrendum illud contagium Mediolano, ac finitimis urbibus notant adduxisse, maxime autem Brixiae ubi e 45. Millibus, soli quater, et decies mille superstites fuerunt, praeter innumeros in territorio vastissimo prostratos, et Bergomi eadem fere clades fuit. Sic stellam in capite medusae, Symbolam Saturno, et Iovi tertiae*

magnitudinis, factam Polyflipone verticalem, anno 1640. magnam illam dicunt excitasse revolutionem, qua Regis Philippi IV. sceptrum deferentes, Ioannem Bragantiae Ducem in Regem acclamarunt. Borealis stella in ursa maiori, Marti assimilis tertiae magnitudinis in Venetiarum regia Zenit, anno 1643. innumera nostrae serenissimae (faxit Deus aeviternae,) mala a Turcarum Tyranno dicitur aduexisse; sic deformis stella in Helice, Marti non absimilis, secundae magnitudinis, regiae Parthenopes, quae est Neapolis in Zenit, seditiones atras, Duce Thoma Agniello (qui et dicitur Massaniellus) fertur excitasse: Lucida autem stella in capite Draconis, Saturnina Iovi, ac Marti foemmetra, dum Regiae Londini Angliae vertice incubuit, anno 1648. veluti a Diris Alecto excitatam rebellem suo Regi clementissimo, Carolo Stuarto, gentem illam dicitur maligne in horribile patricidium inflammasse, ut inaudito a seculis exemplo, a sedentibus e tribunali sordidae plebis iudicibus, agente Fairfaix, Rex ipse iniquissime capitis damnatus, in ampla urbis platea, e sublimi prostaenio, capite ad carnificis pedes detruncatum deponeret. Et Monarchia illa in turbidam Democratiae, et Aristocratiae tyrannidem, filiis regni haeredibus ad internecionem conquaesitis, volveretur. Item stella in dextero Perseï latere Saturni, et Iovis amica mundo illi regio Parisiorum in Zenit, alte constituta, anno 1650. truculentas illas tempestates in adolescentem Regem Ludovicum Magnum XIV. invictissimum Ludovici XIII. Iusti Primogenitum, nunc feliciter regnantem, sanguineis vorticibus despumantes ad usque sydera eructuanda credidit immisisse.

29 NUMBERLESS other things they report that happened under stars or comets made vertical, or treading the horizon.

INNUMERA alia ferunt, quae syderibus, vel Cometis factis verticalibus, aut Horizontem gradientibus, acciderunt.

30 To these, and other such things, the Saintly Doctor answers that the Philosopher attributes to the constellations, etc., only certain dispositions arising from temperament, which indeed can be repelled by the soul; yet because the majority follow them, therefore the astrologers often predict truly, especially concerning men living in the manner of animals; but concerning men who use reason they can say very few things truly.

HIS, aliisque respondet S. Doctor, Philosophum tribuere constellationibus, etc. tantum dispositiones quasdam e temperie ortas, quae sane ab anima repelli possunt, attamen quia plurimi eas insequuntur, ideo saepe astronomi vera praedicunt, maxime circa homines animalium more viventes ; de hominibus ratione vero utentibus pauca admodum valent dicere vera.

31 YOU OBJECT thirdly from Scripture. The Magi, from the star that rose, knew the Lord to be adored, *Matth. 1.* and Christ, *Ioan. 8.: My hour is not yet come:* Therefore if Christ hung upon Horoscopes and the stars, much more the rest.

OBIICIES tertio e scriptura. Magi nascente stella Dominum adorandum cognoverunt. Matth. 1. *et Christus* Ioan. 8. Nondum venit hora mea : *Ergo si Christus ab Horoscopis, et astris pendebat ; multo magis caeteri.*

32 The Saintly Doctor *answers* that that star was created as a sign of the newborn Messiah, whom they recognized as from the sign of his nativity, with divine revelation irradiating them, and that Christ did not depend on the stars, but awaited the predestined time to fulfill the figures and to redeem the world.

RESPONDet S. Doctor, stellam illam creatam fuisse in signum nati Messiae, quem agnovere, tanquam e nativitatis signo, divina eis irradiante revelatione, neque Christum pependisse ab astris, sed expectasse tempus praedestinatum ad figuras implendas, et orbem redimendum.

33 YOU OBJECT fourthly: Stars and comets often appear at the death of Kings, and the astronomers divine many true things from them, and these notable signs of wars, revolutions, etc., as I said in my *Treatise on the heavens, disputation 9. question 9.*, where I described many comets in various centuries

together with the gravest calamities, even the downfall of Princes; and most recently, in the year 1664, in the month of December, there appeared a remarkable comet, which was struck by the rays of the sun from behind, out of the East, and these, refracted (not otherwise than when, refracted in a crystal sphere, they are shot forth toward the opposite farthest part) showed a bearded shape toward the west, and that radiant coma persevered as long as the comet, between the penultimate flexure of Hydra, below the Vase, all the way to the tree of the Argonauts, and thence above the prow toward the Dog, not far from the belt of Orion, preceding the sun, was struck by the vibrating sun from the East; but the rays were rolled toward the summer Tropic, since the sun, near the opposite winter Tropic, was making his way toward the Antarctic. But when it grew toward the belt of Orion, where it was seen stationary for several days, before it passed across the equinoctial, it was seen to be comated and shorn. For when it stood directly opposite the sun, it shot its rays upward; but when, withdrawing from the belt of Orion, fleeing beneath the eye of the Bull, and rising above the high head of the Whale toward the joining of the Fishes, it made its way between the equinoctial and the Ecliptic, where it also placed its station; drinking in the rays of the sun from the west it poured them out toward the East, and little by little it perished as it came to the Zodiac, where comets cannot long remain, since they approach the sun too nearly.

> *OBIICIES quarto : Apparent saepe in morte Regum Stellae Cometae, multaque Astronomi ex eis divinant vera, eaque insignia bellorum, revolutionum, etc. ut dixi* Tract. de caelis, disp. 9. quaest. 9. *ubi plurimos Cometes variis saeculis cum gravissimis casibus, etiam excidiis Principum, descripsi ; et novissime, anno 1664. mense Decembri apparuit Cometes insignis, qui solis radiis a tergo ex Oriente erat percussus, iique refracti, (non secus ac in Sphaera chrystallina refracti ad partem ultimam oppositam eiaculantur) barbatum occidentem versus ostendebant, eaque radiosa coma perseveravit, quamdiu Cometes inter penultimam flexionem Hydrae, sub Vase usque ad Argonautis arborem, indeque super proram ad Canem, non longe ab Orionis cingulo Solem praecedens, vibrante sole feriebatur ab Oriente ; volvebantur autem radii ad Tropicum AEstivum, quippe Sole, iuxta Tropicum oppositum hyemalem, perambulante ad Antarcticum. Cum autem ad cingulum Orionis accresceret, ubi aliquot dies stationarius visus est, antequam aequinoctialem pertransiret, excomatus, et tonsus visus est. Cum enim Soli e diametro opponeretur, radios sursum eiaculabatur ; cum autem e cingulo Orionis recedens, sub Tauri oculo aufugiens, et super altum Cete caput ad Piscium colligationem attolleret, permeavit inter aequinoctialem, et Eclypticam, ubi etiam stationem posuit ; ab occidente radios solis ebibens ad Orientem effundebat, et paulatim deperiit ad Zodiacum perveniens, ubi diu Cometae permanere nequeunt, nimis quippe Soli accedentes.*

34 And so it was seen by me even after the Easter feasts. But I always observed that it scarcely appeared greater with the spyglass than without it, although the moon through the same glass appeared far greater. From which I deduced, according to the rules of Perspective, that the comet existed far above the moon, much higher than it, emitting a sharper pyramid, appearing far thinner in proportion than the moon. Now at this time the opinion of Tycho Brahe is most flourishing, that comets wander not in the air, but in the Spheres of the heavens. Nor indeed could this one have been concocted from terrestrial exhalations, since it extended over 22 degrees of longitude in its orb, which are 1980 miles, which, translated into the supreme region of the air, would constitute a corresponding globe far larger than the whole terrestrial globe. This one seems to have been concocted from the great preceding conjunction of Jupiter and Saturn; more proximately indeed from a universal conjunction of almost all the Planets, which at this time, when the comet first appeared, were moving under the sign of Capricorn; and Saturn himself, after the greatest copulation with Jupiter, was joined first to Mars, then to Venus, to the Sun, and finally to Mercury; according to P.

Cabeo, *in meteoris*. And so it was rolled about within the ambit of the Moon and of Mercury, and it would have received from both those Planets, and from its parent Saturn, a cognate organization; malignant births from it were augured; in color too, similar to Saturn, leaden mixed with some varied and sub-white, with other Planets indicated by the Gemini, the birth was seen to be most similar. Wherefore they ominously predicted malignant diseases, sudden deaths, exiles, and straits. And because it ran against the order of the signs, according to the doctrine of Cardano, they argued a change of Laws and of Kingdoms, a Tyranny; and according to the sayings of Origani, the death of those Princes whose states are subject to the signs which the comet traverses: And in our case under Virgo, Leo, Cancer, Gemini, Taurus, Aries, but especially under Leo, Gemini, and Aries, where it placed its station; but the long horse-like tail indicates lasting seditions, according to *text 54. in the second Book of the quadripartitum of Ptolemy.* — not indeed to all, but to those over which it was vertical, or whose horizon it grazed; otherwise, since that comet traversed a greater area of the signs of the Zodiac, whether by reason of the signs, or by reason of the responding Trigon, almost the whole world would be shaken.

> *ITAQUE etiam post Paschalia festa a me visus est. Semper autem observavi, eum inspicilio maiorem vix apparere, quam sine illo, cum tamen Luna eodem perspicillo maior longe videretur. Ex quo deduxi, iuxta regulas Perspectivae, Cometem supra Lunam extitisse longe ab ea altiorem, ut pyramidem acutiorem emittens, valde tenuior proportione, quam Luna videretur. Est autem his temporibus florentissima Ticonis-Brahe opinio, Cometes non in aëre, sed in Sphaeris Caelorum peregrinari. Neque vero hic e terrestribus exhalationibus conflatus esse potuit, cum ad 22. gradus longitudinis extenderetur in orbe, qui sunt 1980. milliaria, quae translata in regionem aëris supremam globum constituent correspondentem, toto terrae globo valde ampliorem. Hic conflatus videtur ex magna coniunctione Iovis, atque Saturni praecedente ; proprius vero a coniunctione universali fere omnium Planetarum, qui hoc tempore, quo primo Cometes apparuit, sub Capricorni signo commeabat, ipseque Saturnus post maximam cum Iove copulationem, Marti primo, deinde Veneri, Soli, ac denique Mercurio copulatus est ; ex P. Cabeo* in meteoris. *Itaque inter Lunae, atque Mercurii ambitum volvebatur, atque amborum Planetarum, suique parentis Saturni cognatam accepisset organizationem, malignos ex eo partus auspicati sunt ; colore quoque Saturno similis, plumbeo vario aliquo, et subalbo intermixto, Geminis aliis indicatis Planetis, simillimus partus visus est. Quare malignas infirmitates, mortes repentinas, exilia, et angustias ominabantur. Cumque contra signorum ordinem curreret, iuxta doctrinam Cardani, argumentati sunt, Legum, ac Regnorum mutationem, Tyrannidem, et iuxta Origani dicta, eorum Principum mortem, quorum status subiecti sunt signis, quos Cometes perambulat : Et in casu nostro sub Virgine, Leone, Cancro, Geminis, Tauro, Ariete, maxime vero sub Leone, Geminis, et Ariete, ubi stationem posuit ; Cauda autem equina oblonga seditiones diuturnas indicat ex* textu 54. in secundum Librum quadripartitum Ptolemaei. *non autem omnibus, sed quibus aut verticalis erat, aut quorum raserit horizontem, alioqui cum is Cometes maiorem signorum Zodiaci perlustraverit aream, vel ratione signorum, vel ratione Trigoni respondentis, universus fere orbis concuteretur.*

35 THENCE, step by step, they deduced that this comet, which on the 16th of December, across the Tropic of Capricorn by seven degrees, and 18 above our Horizon, was finally raised 58 degrees above our Horizon, had already been made vertical over many kingdoms, as below the Tropic of Capricorn in Tibiquiri of the Island of St. Lawrence, and many others of the AEthiopian sea, and between the Tropic of Capricorn and the Equator in the kingdoms of Peru, Brazil, Cephalae, Madagascar, Mozambique, Quiloa, Manicogni, Caphatae, Quarz, Damus, Cemae, Melinda, Vanguae, Janz the greater and lesser, and New Guinea. Above the Equator by 12 degrees, the kingdoms of Tangar, Madagazo Mechae Diasar, etc., Bexin, Melgetae, Giuper Mapan with all Guinea, Zocorote, Calicut, Cochin, Onori, Marsingae, Goa, Zelandae, Malaccae, Samonae, Siam, Baloan, Borneo, Molucci, Mindanao; it was also Horizontal over the kingdoms of Sweden, Norway, Finmark, Lapland,

Scriphinia, Bodiae, Finland, Novgorod, Volgdae, Bernia, Corelia, Braimia, Sarmatia, Condorae, Iceland, Greenland, up to the Zenith of the arctic pole, to which the Equinoctial is the Horizon. So has the book published at Milan, in the year 1664.

> *HINC pedetensim deduxere, Cometen hunc qui, 16. Decembris, trans Tropicum Capri gradibus septem, et 18. super nostrum Horizontem, tandem 58. gradus super Horizontem nostrum elevatus est, factum iam verticalem multis regnis, ut sub Tropico Capricorni Tibiquiri Insulae S. Laurentii, multisque aliis AEthiopici maris, et inter Tropicum Capri, et AEquinoctialem Regnis Peruanis, Brasiliae, Cephalae, Madagascar, Mozambiquae, Quiloae, Manicogni, Caphatae, Quarz, Damus, Cemae, Melindae, Vanguae, Ianz maiori, et minori, Guineaeque novae. Super AEquinoctialem per gradus 12. Regni Tangar, Madagazo Mechae Diasar, etc. Bexin, Melgetae, Giuper Mapan cum tota Guinea, Zocorote, Calecut, Cochino, Onori, Marsingae, Goae, Zelandae, Malacae, Samonae, Siam, Baloan, Borneo, Moluchi, Mindanao ; fuit etiam Horizontalis Regnis Sueciae, Norvegiae, Finmarchiae, Lappae, Scriphiniae, Bodiae, Finlandiae, Novogardiae, Volgdiae, Berniae, Coreilae, Braimiae, Sarmatiae, Condorae, Islandiae, Grotlandiae, usque ad Zenit poli arctici, cui AEquinoctialis est Horizon. Ita habet editus Liber Mediolani, anno 1664.*

36 This scaffold of narrations unveils the vanity of the astrologers with regard to free operations. And so the Saintly Doctor answers that comets are produced by God, and moved by Angels, to deter men from vices, but not to strike only those over whom they were vertical or horizontal. But this the here-and-now experiment teaches; for in this year, in that region, nothing new came of it; but on the contrary, in the regions of Europe the Princes of Austria died, the Emperor fell sick unto death, indeed even the Supreme Pontiff Alexander VII died, as did also the Duke of Mantua, Charles II. There rested in peace also the heroic Queen, most worthy mother of Louis XIV King of France: the King of Spain passed away. Also at the same time died P. Matc. Antonius Galitius, General Minister of our Religion, the Oracle of Rome, and constantly at the side of the Supreme Pontiff in counsel. And so the comet sent into the world threatened these losses to Christian lands, but not to the kingdoms of Madagascar and Finland, nor was it going to aim any operations at free will.

> *HAEC narrationum Catasta vanitatem detegit Astrologorum quoad liberas operationes. Itaque respondet S. Doctor, cometes a Deo produci, atque moveri ab Angelis ad homines a vitiis deterrendos, non autem eos, ut inficiant tantum, quibus fuerint verticales, aut horizontales. Hoc autem docet hic, et nunc experimentum ; hoc enim anno e regione nulla e reciratis noui aliquid venit; at e contra in regionibus Europae mortui sunt Principes Austriae, aegrotauit ad mortem Imperator, imo et Summus Pontifex Alexander VII. mortuus est, sicut et Dux Mantuae Carolus II. Quieuit in pace etiam Regina virago, Regis Galliae Ludouici XIV. Mater dignissima: Rex Hispaniarum occubuit. Item eodem tempore occidit P. Matc. Antonius Galitius, nostrae Religionis Minister Generalis, Romae Oraculum, et Summo Pontifici iugiter a consiliis. Itaque immissus Cometes mundo haec damna minabatur Christiano, non autem Regnis Madagascar, et Finliandiae, neque operationes ullas libero arbitrio intentaturus erat.*

37 You object lastly: The most excellent Governance of God directs lower things through higher, and earthly things through the heavenly, as St. Dionysius says in *de cael. Hier.*; and what is governed ought to be subject to its perfect governor.

> *Obiicies ultimo: Regimen Dei optimum dirigit inferiora per superiora, et per caelestia, terrena, ut ait S. Dionysius* de cael. Hier. *quod autem regitur debet perfecte regenti subdi.*

38 It is answered, that God governs the lower bodies through the higher; but not spirits through bodies; for although spirits inhabit the earth, they are far higher than bodies. Therefore the heavenly bodies serve these in ministry, not in dominion.

Respondetur, Deum regere inferiora corpora per superiora; non autem spiritus per corpora; quamuis enim spiritus terram incolant, longe sunt corporibus altiores. Igitur inseruiunt his corpora Caelestia in ministerium, non in dominium.

Question III: On divination by the elements, and other mixed things

1 The Demon has devised a thousand ways of doing harm, so that men might abuse the creatures, founded for their use. And not only did he arm the stars, as it were the Militia of Heaven, so that, fighting against God, they might prostitute to senseless lights the honor owed to the creative Majesty, but he packed the elements for our ruin. Thus he instructed the magi, so that they might hold the luminaries of heaven sacred. But first Sazoba Zoroaster the King began to worship the Sun, as Porphyry relates in *de Nympharum antro*. His subjects the Persians imitated him, and among the Assyrians Nemrod was adored under the name of the Sun, as Salianus relates, in the year of the world 1931. The Egyptians also, the Phoenicians, and the Greeks began to invoke the militia of heaven, as many relate, cited by Serlogus, *analog. 5. sectione 5.*

De Diuinatione per Elementa; et caetera Mixta.

Mille nocendi modos excogitauit Daemon, ut homines creaturis, ad usum sibi conditis, abuterentur. Neque modo astra, veluti Militiam Caeli armauit, ut contra Deum pugnantes, honorem creatrici Maiestati debitum, insensatis luminibus prostituerent, sed elementa constipauit ad nostrum exterminium. Sic autem magos instruxit, ut luminaribus Caeli sacros haberent honores. Primus autem Sazoba Zoroastres Rex Solem colere coepit, ut refert Porphirius de Nympharum antro. *Eum imitati sunt subditi Persae, et inter Assyrios Nemrod, Solis nomine adoratus, ut refert Salianus, anno mundi 1931. AEgyptii etiam, Phoenices, et Graeci militiam caeli inuocare coeperunt, ut referunt multi apud Serlogum* analog. 5. sectione 5.

2 At almost the same time among the Persians and Assyrians fire was invoked. Hence they relate that Abraham was cast into the fire, which he had refused to worship, as D. Jerome narrates in *de traditionibus Hebraeis*, where he mocks that fable. The cult shown to the other creatures is treated in the law in Serlogo.

Eodem fere tempore apud Persas, atque Assyrios ignis est inuocatus. Hinc referunt Abrahamum in ignem coniectum, quem noluisset colere, ut narrat D. Hyeronymus de traditionibus Hebraeis*, ubi hanc fabellam ridet. Caeteris creaturis cultum exhibitum lege in Serlogo.*

3 Therefore the Demon taught men Geomancy, so that, imprinting certain signs, points, and figures on the earth, in dust, on stones, on papers, or on other earthly bodies, they might thence attain the power of divining the future. Thus also he taught Hydromancy, so that they might impart some motion to water in a basin, and gaze into it for taking omens: in the air he created insane variations in the sounds of the winds and of the fanings, whether sharp or booming, unto musical Steromantic tones. He placed Pyromancy in observations of fire; namely, whether it was smoky or clear, etc., that they might thence predict things to come — as if indeed the green woods did not by nature exhale an obscure, turbid, and blood-colored fire, while the dry exhale a clear one, in the form of a pyramid, into the open field.

Igitur homines docuit Daemon Geomantiam, ut certa signa, puncta, et figuras in terra, puluere, lapidibus, papyris, vel aliis terrestribus corporibus, imprimentes, inde futura diuinandi vim assequerentur. Sic etiam Hydromantiam docuit, ut aquae aliquam infunderent motum in pelui, perpenderentque ad ominandum: In aëre flatus ventorum, et flabellationum sonitus varios, seu acutos, seu reboantes ad musicos tonos Steromanticos creauit insanos. Pyromantiam posuit in ignis obseruationibus; an scilicet fumosus esset, vel clarus, etc. ut inde futura praedicerent, quasi vero non vitidantia ligna a

natura obscurum, turbidum, et sanguineum ignem; arida vero clarum, pyramidis in formam, in campum liberum non exhalent.

4 He taught men to consider many natural things for divining: in the hands the signs, lines, the vital, etc., the Mounts of Venus, of Jupiter, etc., chimerically contrived, that they might thence argue whether they were going to enjoy a happy life, a faithful wife, treacherous friends, dangers of iron, fire, and similar ravings. Indeed in the lineaments the parts beget sons like themselves, and in events altogether unlike. These lineaments accordingly are disfigured by fatness, leanness, wrinkles, etc.

Docuit in hominibus multa naturalia considerare, ad diuinandum in manibus signa, lineas, vitalem, etc. Montes Veneris, Iouis, etc. Chimaerice confictos, ut inde argumententur, an foelicem sint sortituri vitam, uxorem fidelem, amicos infidos, pericula, ferri, ignis, et similia deliramenta. Sane in lineamentis Partes gignunt filios assimiles, et in euentibus omnino dissimiles. Haec proinde lineamenta dissultantur pinguedine, macie, laberibus, etc.

5 Grave also is the fact that in these times it is permitted to extend the hand of the Gypsy, that they may augur our fortune for us, as Navarrus teaches, *summa, cap. 11. num. 31.* Alcozer *summa, cap. 14. fol. 46.* Ludouicus Lopez *p. p. Instruct. cap. 41.* Sanchez *Tom. 1. Decal. lib. 2. cap. 38. num. 47.* Fagundez *lib. 1. cap. 39. num. 4. in primum praeceptum Decal.* — provided, however, that this be done in jest and for sport, it will not be lethally illicit, unless from the dignity of the person a scandal breaks out.

Graue etiam est, quod his temporibus permittitur manus Cingaris porrigere, ut fortunam nobis ominerentur, ut docent Nauar. summa, cap. 11. num. 31. *Alcozer* summa, cap. 14. fol. 46. *Ludouicus Lopez* p. p. Instruct. cap. 41. *Sanchez* Tom. 1. Decal. lib. 2. cap. 38. num. 47. *Fagundez* lib. 1. cap. 39. num. 4. in primum praeceptum Decal. *si tamen risus, et ioci gratia id fiat, non erit lethale, nisi ex dignitate personae scandalum erumpat.*

6 That physiognomy, however, which is a part of natural Philosophy, which from the disposition of the body, the habit and proportion of the members, conjectures with probability the affections of the mind, and a good or evil disposition of character, a keen intelligence, the temperament of the body, a firm or infirm state of health, is lawful, because from these things these can be known with probability; otherwise if these are predicted with certainty; for they cannot exhibit anything with certainty, as Delrius proves at length, *lib. 4. disq. cap. 3. quaest. 4.* Azorius *Tom. 1. lib. 9. cap. 16.* Less. *lib. 2. cap. 43. d. 7. num. 45.* Sanchez *tom. 1. Decal. lib. 2. cap. 38. num. 44.* after D. Bonaventure, *in compend. Theol. veritatis, lib. 2. cap. 58.*, where, in favor of the nearly probable conjecture from these signs, he alleges Aristotle, Avicenna, Constantius, Philemon, Loxeus, Palaemotius, and he distinguishes excellently: and his book was published by order of Sixtus V, who issued his own Motu against vain divination, and this book was dedicated to Clement VIII. You should see that most excellent one distinguishing, from which you will receive no small pleasure. See also the last disputation of tome 3, where I discussed physiognomy at length according to the mind of the Saintly Doctor.

Physionomia tamen illa, quae est pars naturalis Philosophiae, quae ex corporis dispositione, membrorum habitudine, proportioneque, probabiliter coniicit animi affectus, et bonam, vel malam indolem, acutum ingenium, corporis temperiem, firmam, vel infirmam valetudinem, est licita, quia ex his possunt probabiliter cognosci; secus, si certo haec praedicatur; non enim possunt certo aliquid exhibere, ut late probat Delrius lib. 4. disq. cap. 3. quaest. 4. *Azorius* Tom. 1. lib. 9. cap. 16. *Less.* lib. 2. cap. 43. d. 7. num. 45. *Sanchez* tom. 1. Decal. lib. 2. cap. 38. num. 44. *post D. Bonauent.* in compend. Theol. veritatis, lib. 2. cap. 58. *ubi pro probabili ex his ferme coniectura, allegat Aristotelem, Auicennam, Constantium, Philemonem, Loxeum, Palaemotium, et egregie differit: Eiusque liber cum aliis iussu Sixti V. editus est, qui Motum proprium contra inanem diuinationem edidit, et hic liber Clementi VIII. dedicatus*

est. Ipsum videre praeclare differentem, inde voluptatem non modicam accepturi. Videte etiam disputationem ultimam tomi 3. ubi late de phisionomia ad mentem S. Doctoris disserui.

7 But the physiognomy which, from the aspects of the parts of the human body, predicts prosperous and adverse events of a man, is superstitious and condemned by Sixtus V, as the cited Doctors relate, and it is detested by S. Bonaventure, *loc. cit. et alibi passim.*

Physionomia tamen, quae ex aspectis humani corporis partibus, prosperos, et aduersos hominis euentus praedicit, superstitiosa, et damnata est a Sixto V. ut referunt allati Doctores, eamque S. Bonau. loc. cit. et alibi passim, detestatur.

8 From the motions of the human body no, or a very weak, conjecture can be taken for divining things to come; for they often depend on the free will. Whence it is a superstition. So Sanchez *num. 44.* Valentia *d. 6. quaest. 12. puncto 5.* Fagundez *num. 6.*

Ex motibus humani corporis nulla, aut valde infirma coniectura capi potest ad futura diuinanda; pendent enim saepe a libera voluntate. Unde superstitio est. Ita Sanchez num. 44. *Valentia* d. 6. quaest. 12. puncto 5. *Fagundez* num. 6.

9 Similarly, to divine from fortuitous accidents is superstitious, for instance from the double encounter of the same person on the same journey; from the breaking of a strap, the spilling of salt, etc. So Sanchez *num. 42.* Azorius *Tom. 1. lib. 5. cap. 22. quaestio unica*, Fagundez *num. 7.*

Similiter e casibus fortuitis diuinare, est superstitiosum, puta ex bino occurfu eiusdem personae in eodem itinere; e fractione corrigiae, effusione salis, etc. Ita Sanchez num. 42. *Azorius* Tom. 1. lib. 5. cap. 22. quaestio unica, *Fagundez* num. 7.

10 Thus to divine contingencies from the voices of men is vain and superstitious, as Valentia notes, *puncto 3.* Azorius *Tom. 1. lib. 9. cap. 12.* — unless indeed God reveal something from them, as Gedeon, *Iudic. 7.*, on the dream being narrated to him, predicted victory.

Sic ex hominum vocibus diuinare contingentia, vanum est, ac superstitiosum, ut notat Valentia puncto 3. *Azorius* Tom. 1. lib. 9. cap. 12. *nisi tamen inde Deus reuelet aliqua, sicuti Gedeon* Iudic. *7. enarrato sibi somnio, praedixit victoriam.*

11 From the motion, flight, and song of birds, free events are divined superstitiously; for these natural things are determined to one thing. They have, indeed, a phantasy directed by the stars to their proper acts, their food, sleep, and prey; whence their animal spirits are excited by a change in the air, their brain is affected, so that they flee, cry out, etc., as D. Bonaventure teaches above, D. Thom. *quaest. 95. art. 7.* Caietanus there, Azorius *tom. 1. lib. 9. cap. 15. in fine*, Less. *lib. 2. cap. 43. d. 7. num. 45.*

E motibus, volatu, et cantu auium, superstitiose diuinantur liberi euentus; haec enim naturalia determinata sunt ad unum: Habent sane phantasiam, ab Astris directam ad proprios actus, pastum, somnum, et praedam, unde spiritus eorum animales excitantur aëris mutatione, eorum cerebrum afficitur, ut aufugiant, clament, etc. ut docent D. Bonauent. supra, D. Thom. quaest. 95. art. 7. *Caietanus ibi, Azorius* tom. 1. lib. 9. cap. 15. in fine *Less.* lib. 2. cap. 43. d. 7. num. 45.

12 These indeed indicate certain intemperies in the air and in the other Elements, insofar as they are accustomed to excite dispositions in the blood and the choler; whence one conjectures quarrels, wars, and seditions, but most remotely and uncertainly, as the Saintly Doctor says, and with him Fagundez *num. 9.* Sanchez *num. 30.* Valentia *puncto 3. col. 2.*

Haec sane indicant intemperies aliquas in aëre, et aliis Elementis, quatenus dispositiones in sanguine, et cholera excitare solent; unde rixas, bella, et seditiones coniicias, sed remotissime, et incerte, ut ait S. Doctor, et cum eo Fagundez num. 9. *Sanchez* num. 30. *Valentia* puncto 3. col. 2.

Question IV: On divination from dreams

1 CONCERNING dreams it should be noted, from D. Bonaventure, 3. part. Centil. sect. 23., and the little work, Declaratio terminorum Theologiae, and in 2. d. 7. part. 2. quaest. 3. ad argumenta, and d. 23. art. 2. quaest. 2. ad argumenta, that they come about from many causes. First, from the singular Providence of God, such were the dreams of Joseph. Second, from the constellation of the sky and the impression of the air. Third, from the affection and disposition of the human body. Fourth, from prior anxieties. Fifth, from the act of demons.

De Divinatione e Somniis.

QUOAD somnia notandum e D. Bonavent. 3. part. Centil. sect. 23. et opusculo, Declaratio terminorum Theologiae, et in 2. d. 7. part. 2. quaest. 3. ad argumenta, et d. 23. art. 2. quaest. 2. ad argumenta, multis e causis ea evenire. Primo e singulari Dei Providentia, qualia fuere somnia Ioseph. Secundo ex constellatione caeli, et impressione aëris. Tertio ex affectione, et dispositione corporis humani. Quarto e sollicitudinibus praeviis. Quinto actu daemonum.

2 From God indeed come dreams for unfolding the Divine will: Such was the dream of Joseph about the Virgin not to be abandoned, about the flight into Egypt, about the return; more even about the way to be turned aside, Matth. 1. and 2.; and these are good, since they come from God.

A Deo quidem veniunt somnia ad voluntatem Divinam pandendam: Tale fuit somnium Ioseph de Virgine non deserenda, de fuga in AEgyptum, de reditu; Magis etiam de via declinanda, Matth. 1. et 2. et haec bona sunt, cum a Deo sint.

3 About these you have Numbers 12, Job 33, Genesis 40 and 41, Daniel 2, 4 and 7, Judges 7, 3 Kings 3, Esther 10, and also 2 Machab. 15, and elsewhere monitions and examples. Yet if there is not probability that those dreams are from God, it will not be permitted to give faith to them, for knowledge of future contingents cannot be had from elsewhere. Therefore they are prohibited in Deuteronomy 13, where he decrees that they are to be punished with death; and Ecclesiasticus 34, where it is said: *Dreams lift up fools: Unless the visitation be from the Most High, give not thy heart upon them: For dreams have led many into error, and they have fallen who hoped in them.* So it is proved by the Saintly Doctor in 2. d. 7. loc. cit. Yet it can be a venial fault if they are believed out of levity, or not firmly.

De his habes Numer. 12. Iob 33. Genes. 40. et 41. Danielis 2. 4. et 7. Iudicum 7. 3. Regum 3. Esther 10. et tt. 2. Machab. 15. et alibi monitiones, et exempla. Si tamen non sit probabilitas, somnia illa esse a Deo, non licebit eis fidem praestare, non enim aliunde potest haberi futurorum contingentium notitia. Ideo prohibentur Deuter. 13. ubi eos morte puniendos decernit. Ecclesiastici 34. ubi dicitur: Somnia extollunt imprudentes: Nisi ab Altissimo fuerit visitatio, ne dederis in illis cor tuum: Multos enim errare fecerunt somnia, et exciderunt sperantes in illis. *Ita probatur a S. Doctore in 2. d. 7. loc. cit. Potest tamen esse culpa venialis, si ex levitate credantur, vel non firmiter.*

4 It is MORTAL also to place any vain things under the bed of the sick, e.g. horns, letters, that they may catch sleep: For these have effects from an implicit at least pact with the devil.

MORTALE est etiam aliqua inania aegrotorum lectulis supponere, v. g. cornua, litteras, ut somnum captent: Haec enim ex implicito saltem pacto cum diabolo effectus habent.

5 It is discerned, moreover, whether dreams are from God or from the devil by those signs by which also revelations are, as Delrius notes, lib. 4. disq. mag. cap. 3. quaest. 6. Pererius lib. 1. in Danielem, quaest. 3., and lib. 2. de magia quaest. 3. Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 13. Fagundez lib. 1. in primum praeceptum, cap. 39.

> *INTERNOSCUNTUR autem, an somnia a Deo sint, vel a diabolo illis signis, quibus et revelationes, ut notat Delrius lib. 4. disq. mag. cap. 3. quaest. 6. Pererius lib. 1. in Danielem, quaest. 3. et lib. 2. de magia quaest. 3. Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 13. Fagundez lib. 1. in primum praeceptum, cap. 39.*

6 But two signs are chief. The first is from the effect toward which they move: for if they excite to a good work, they are good. Second, from the affections which they cause, namely if they cause alacrity, or the devotion of fasting, it is a sign that they are good. Yet in these one must walk cautiously and humbly, with the judgment also of a prudent confessor.

> *Duo autem praecipua sunt signa. Primum est ab effectu, ad quem movent: Si enim ad bonum opus excitant, bona sunt. Secundo ex affectibus, quos causant, nempe si alacritatem, devotionem vetam, signum est bona esse. In his tamen caute, et humiliter incedendum, cum sui etiam prudentis confessarii iudicio.*

7 IF dreams are from some impression and influx of secondary causes, for instance heat, or a very humid, turbid air, they avail nothing; for they are accustomed to stir the humors violently, whence dreams mostly arise indicating the humors predominant in us. For thus the bilious seem to gaze upon conflagrations, the sanguine upon wounds, the melancholic upon dark things, for instance smoking globes, or dense fog, funerals, and the dead. But the phlegmatic see white things, for instance snows: if one thinks himself flying through the air, it is a sign of a tempered symmetry; if he thinks he finds treasures, it is a sign of possessing a deficit. Finally the Saintly Doctor concludes that these are signs of infirmity from some humor predominating. But it belongs to physicians to observe these, as Ciruelo teaches, de superstit. 2. p. cap. 6. Perer. supra de magia, quaest. 7. Azor. tom. 1. lib. 9. cap. 17. Less. lib. 2. cap. 43. d. 8. Suarez tom. 1. de Relig. lib. 2. de superstit. cap. 13. Fagundez num. 20. Tanner. d. 5. quaest. 7. d. 1.

> *SI somnia sint ex impressione aliqua, et influxu causarum secundarum, puta aestu, aut aëre humidissimo, turbido, nil praetendere valent, solent enim humores vehementer commovere, unde plerumque somnia oriuntur indicantia humores praedominantes in nobis. Sic enim biliosi incendia videntur intueri, sanguinei vulnera, melancholici atra, puta fumantes globos, aut caliginem densam, funera, et mortuos. Pituitosi vero albicantia, puta nives: si se per aërem volantem putat, signum est temperatae simetriae, si thesauros invenire putet, signum est deficiti habendi. Tandem S. Doctor concludit, haec esse signa infirmitatis ex humore aliquo praedominante. Haec autem observare ad medicos spectat, ut docent Ciruelo de superstit. 2. p. cap. 6. Perer. supra de magia, quaest. 7. Azor. tom. 1. lib. 9. cap. 17. Less. lib. 2. cap. 43. d. 8. Suarez tom. 1. de Relig. lib. 2. de superstit. cap. 13. Fagundez num. 20. Tanner. d. 5. quaest. 7. d. 1.*

8 TO these dreams from the abundance of the dominating humor belongs that dream in which one sees and feels at night a specter rushing upon him and oppressing him, which physicians call the *Incubus*, and it is called *Ephialtes*, as the Saintly Doctor says, loc. cit. Centil. For it arises from a thick and foul humor rushing into the brain and intercepting the passages of the animal spirits, as the Saintly Doctor teaches with Galen, lib. 3. de locis male affectis, cap. 4.; and this is a sign of thick and melancholic blood, and there is danger of epilepsy if one suffers it frequently; and this is also called *phantasma*, from Cicero *Visum*: Marobius treats of these at length, lib. 1. in somnium Scipionis.

AD haec somnia ex abundantia humoris dominantis spectat illud somnium, quo aliquis spectrum in se irruere, et se opprimere de nocte videt, ac sentit, quem Incubum *vocant Medici, et* Ephialtes *dicitur, ut ait S. Doctor loc. cit. Centil. provenit enim a crasso, tettoque humore, in cerebrum irruente, et vias spirituum animalium intercipiente, ut docet S. Doctor cum Galeno lib. 3. de locis male affectis, cap. 4. et hoc est signum crassi, et melancholici sanguinis, et est periculum Epylepsiae, si quis crebro illud patiatur, et hoc dicitur etiam* phantasma*, a Cicerone* Visum*: Agit de his late Marobius lib. 1. in somnium Scipionis.*

9 Dreams are also accustomed to break in from cares and anxieties, which indicate only past causes, and propose nothing of the future to be divined.

SOLENT et somnia e curis, et sollicitudinibus ingruere, quae sola causas praeteritas indicant, et nihil futurum divinandum ptoponunt.

Question V: On sorcery by lots

1 SORTILEGE is divination by lots, which the ancients used, and indeed some Saints, as the Apostles, Acts 1, when they gave the lot for the election of the successor of Judas in the Apostolate, before they received the fullness of the Holy Spirit, as the Saintly Doctor observes, p. p. Centiloquii, sect. 29. And because some lots are just, others condemned as superstitious, therefore the diversity of these must be explained, that we may unmask superstitious sortileges, which the Saintly Doctor reviews in the speculum animae, cap. 1.

De Sortilegiis.

SORTILEGIUM est divinatio per sortes, qua usi sunt antiquitus, et quidem aliqui Sancti, ut Apostoli, Actorum 1. cum dederunt sortem ad electionem successoris Iudae in Apostolatu, antequam plenitudinem Spiritus Sancti reciperent, ut observat S. Doctore p. p. Centiloquii, sect. 29. et quia sortes aliquae sunt iustae; aliquae condemnatae, quippe superstitiosae, ideo diversitas harum est explicanda, ut sortilegia superstitiosa resellamus, quae recenset S. Doctor in speculo animae, cap. 1.

2 There are THREE genera of lots: Divisoria, Consultoria, and Divinatoria. Lots are divisory when by a cast of lots what is to be divided among each party is expected, for instance of two brothers, to whom this estate may fall, etc. They are consultorial, when by a cast of lots in doubtful matters the divine counsel is inquired into, what is to be done. They are divinatory, when from lots things to come are inquired into; and indeed these can be expected either from God, or from the Demon, or from chance.

TRIA sunt genera Sortium: Divisoria, Consultoria, et Divinatoria. Divisoriae sortes sunt, quando per iactum fortium expectatur quod cuique partiendum, puta ex duobus fratribus, cui contingat hoc praedium, et c. Consultoriae sunt, quando iactu fortium inquiritur in rebus dubiis divinum consilium, quid agendum. Divinatoriae sunt, quando e sortibus inquiruntur futura; et quidem possunt haec expectari vel a Deo, vel a Daemone, vel a casu.

3 DIVISORY lots are in some cases lawful, and are conceded in l. si duob. C. si communia de legatis, when equal power of choosing is given to two heirs or legatees, and they contend among themselves; the faculty is given of deciding the whole matter by lots.

DIVISORIAE in aliquibus licitae sunt, et conceduntur l. si duob. C. si communia de legatis, quando duobus haeredibus, vel legatariis datur aequa potestas eligendi, et inter se contendunt; datur facultas totam rem decidendi sortibus.

4 They are LAWFUL indeed in secular matters which cannot otherwise conveniently be divided, for instance in the division of an inheritance between two brothers, or other co-heirs, for settling disputes. So teaches the Abbas in c. Ecclesiae extra de sortilegiis. Fagund. lib. 1. t. 40, Less. tom. 1. de Iustitia, lib. 2. c. 43. d. 9. Suarez Tom. 1. de Relig. lib. 2. de superstit. c. 12. Tanner. d. 5. quaest. 7. dub. 1. They are lawful also in honors or dangers, as if between two nations there is a dispute which town should first be attacked. So D. August. Ep. 180, and Lessius. They are also employed in another danger, when there are many Clerics in time of pestilence, and it is disputed who ought to remain to minister the Sacraments. So Fagund. Sanchez tom. 1. Decal. lib. 2. cap. 38. n. 59. Suarez n. 17., with D. Thom. 2. 2. quaest. 95 art. 8. Yet guard against injustices, losses, and profanations. See Bass. V. Divinatio.

> *LICENT sane in rebus saecularibus, quae aliter commode dividi nequeunt, puta in divisione haereditatis inter duos fratres, vel alios cohaeredes, ad dirimendas lites. Ita docet Abbas in c. Ecclesiae extra de sortilegiis. Fagund. lib. 1. t. 40 Less. tom. 1. de Iustitia, lib. 2. c. 43. d. 9. Suarez Tom. 1. de Relig. lib. 2. de superstit. c. 12. Tanner. d. 5. quaest. 7. dub. 1. Licent etiam in honoribus, vel periculis, ut si inter duas nationes lis sit, utra oppidum prius aggrediatur. Sic D. August. Ep. 180. et Lessius. Alio etiam periculo adhibentur, cum multi sunt Clerici tempore pestis, et controvertitur, qui remanere debeant pro Sacramentis ministrandis. Ita Fagund. Sanchez tom. 1. Decal. lib. 2. cap. 38. n. 59. Suarez n. 17. cum D. Thom. 2. 2. quaest. 95 art. 8. Caveas tamen iniustitias, damna, et prophanationes. Vide Bass. V. Divinatio.*

5 Divisory lots are PERMITTED also in punishments, as if many are condemned to death for the same crime, and the Prince, to show clemency, wants to grant some pardon, but, to keep discipline, to punish some; by the lot of dice those to be saved and those to be condemned are chosen. So, with the authorities alleged, Delrius lib. 4. disq. cap. 4. quaest. 1. Finally, when in a storm some are to be cast into the sea, as Less. loc. cit., Fagundez num. 4., Delrius num. 60., Sanchez num. 62. note.

> *PERMITTUNTUR Sortes divisoriae etiam in poenis, ut si multi morte ob idem crimen damnati, et Princeps ad clementiam ostendendam concedere vult aliquam veniam, sed ad disciplinam servandam aliquos punite; taxillorum sorte eliguntur salvandi, et damnandi. Ita cum allegatis Delrius lib. 4. disq. cap. 4. quaest. 1. Denique quando in tempestate aliqui sunt proiiciendi in mare, ut notant Less. loc. cit. Fagundez num. 4. Delrius num. 60. Sanchez num. 62.*

6 There is a QUESTION, however: whether lots are lawful for settling ecclesiastical disputes. First indeed, as regards election to ecclesiastical benefices, they are prohibited in cap. *Ecclesia, extra, de sortilegiis.* As to the rest: The first opinion asserts that it is lawful; another denies. A third concedes that it is lawful, provided it be done by public ecclesiastical authority. So Suarez, *cap. 12. num. 12.* Sanchez *num. 79.* Fagundez *num. 7.* The reason is, because it is nowhere prohibited in the law; which however is not proved privately, because there is a danger of invading a benefice under an unjust title. It is confirmed by the general rule in the matter of benefices, where it is decreed that a private pact over a benefice that is being litigated is not lawful, and that such a pact is Simony. That it can be done by the authority of a judge, the Gloss holds, in *cap. licet causam, de probat.* Hostiensis there *num. 20.* Abbas *num. 37.*

> *QUAESTIO est tamen: An liceant sortes ad dirimendas lites Ecclesiasticas. Primo quidem quoad electionem ad beneficia Ecclesiastica prohibentur cap.* Ecclesia, extra, de sortilegiis. *De caeteris; Prima opinio asserit licere; alia negat. Tertia concedit licere, modo fiat authoritate publica Ecclesiastica. Ita Suarez,* cap. 12. num. 12. *Sanchez* num. 79. *Fagundez* num. 7. *Ratio est, quia nullibi prohibetur in iure: Quod tamen non privatim probatur, quia est periculum invadendi beneficium iniusto titulo. Confirmatur ex generali regula in materia de beneficiis, ubi decernitur, non licere*

pactum privatum super beneficium, de quo litigatur, et tale pactum esse Simoniam. Posse vero authoritate iudicis id fieri tenent Glossa in cap. licet causam, de probat. *Hostiensis ibi* num. 20. *Abbas* num. 37.

7 CONCERNING election indeed to benefices, all agree that it is not lawful, as is shown in *cap. Ecclesia,* and it is extended to the universal ecclesiastical election, in which jurisdiction, or the right of electing or renouncing, or an ecclesiastical dignity, benefice, or administration is given. So Suarez *num. 5.* Fagundez *n. 10.* And such an election will also be invalid, because it is against the form of elections given in *cap. Quia propter, de elect.*, as Panormitanus notes, in *cap. Ecclesia;* see Bassaeus *num. 3.*

QUOAD electionem vero ad beneficia; consonant omnes, non licere, ut ostenditur cap. Ecclesia, *et extenditur ad universalem electionem Ecclesiasticam, in qua iurisdictio, vel ius eligendi, vel renunciandi, aut Ecclesiastica dignitas, beneficium, vel administratio datur. Ita Suarez* num. 5. *Fagundez* n. 10. *Et talis electio erit etiam irrita, quia est contra formam electionum datam* cap. Quia propter, de elect. *ut notat Panormit. in* cap. Ecclesia, *vide Bassaeum* num. 3.

8 *You will say:* Matthias was elected to the episcopate by lot, *Acts 1.*

Dices: *electus est Matthias ad Episcopatum vi fortium,* Actorum primo.

9 *Fagundez answers* that there lots are called suffragia. So in the Greek text we have: they gave them suffragia. But afterwards, thus he was elected to remove the scandal of the people, because Joseph seemed rather to be the one to be elected, since noble, and celebrated for justice and holiness, they asked of God a confirmation, which took place with a light sent down from God, which they call the lot. So also Lorinus on that passage, alleging Chrysostom. And D. Dionysius, *de Ecclesiast. Hierar. part. 3. cap. 5.*, says that this lot was a Gift showing to that most noble assembly that Matthias had been elected. The same the Saintly Doctor teaches in the sermons on that Saint.

Respondet *Fagundez, fortes ibi vocari suffragia. Sic in textu Graeco habetur dederunt eis suffragia. Postquam vero, sic electus est ad tollendum populi scandalum, quia videbatur magis eligendus Ioseph, quia nobilis, et iustitia, et sanctitate celebris, postularunt a Deo confirmationem, quae facta est luce divinitus elabente, quam vocant sortem. Ita etiam Lorinus ad eum locum, allegans Chrysostomum. Et D. Dionysius* de Ecclesiast. Hierar. part. 3. cap. 5. *dicit, hanc sortem fuisse Donum ostendens illi coetui nobilissimo electum esse Matthiam. Hoc idem docet S. Doctor in sermonibus de hoc Sancto.*

10 ¶ Yet for civil offices election by lot is not evil; it can, however, be against distributive justice, if the less worthy is set in the lot with the more worthy. So Suarez *cap. 12. num. 15.* Less. *cap. 43. d. 9. num. 58.* Sanchez *cap. 38. num. 58.* D. Thom. *quaest. 95. art. 8.* Azor. *tom. 1. lib. 9. cap. 21. quaesito un.* Tolet. *lib. 4. sum. cap. 15.* Sylvest. *superstitio, quaestio 9.* Sayrus *lib. 4. cap. 5. num. 20.* Deltius *lib. 40. cap. 4. quaest. 1.*, and all commonly, cited by Fagundez *num. 15.* See also Sigisin. *dub. 26.*, with Basszo ut supra.

¶ *Ad officia tamen civilia electio per sortem non est mala, potest tamen esse contra iustitiam distributivam, si minus dignus ponatur in forte cum digniori. Ita Suarez* cap. 12. num. 15. *Less.* cap. 43. d. 9. num. 58. *Sanchez* cap. 38. num. 58. *D. Thom.* quaest. 95. art. 8. *Azor.* tom. 1. lib. 9. cap. 21. quaesito un. *Tolet.* lib. 4. sum. cap. 15. *Sylvest.* superstitio, quaestio 9. *Sayrus* lib. 4. cap. 5. num. 20. *Deltius* lib. 40. cap. 4. quaest. 1. *et omnes communiter apud Fagundez* num. 15. *Vide et Sigisin.* dub. 26. *cum Basszo ut supra.*

11 But the Canon law does not regulate except in the properly ecclesiastical matter.

Ivs autem Canonicum non disponit, nisi in propria materia Ecclesiastica.

12 C O N S U L T O R I AE lots are regularly illicit; they can, however, be lawful under these conditions. The first is necessity: Second, if they are done with God inspiring: Third, due reverence: Fourth, that they be not done about an undue matter, of which I treated just above. So Sanchez *num. 83.* Less. *num. 60.* Suarez *num. 18.* Fagundez *n. 16.* Bass. *num. 3.* Portel. *de dub. reg. V. Venef. num. 21.*

> *C O N S U L T O R I AE sortes regulariter sunt illicitae; possunt tamen esse licitae his conditionibus. Prima est necessitas: Secunda, si fiant Deo inspirante: Tertia est debita reverentia: Quarta, ut non fiant circa materiam indebitam, de qua mox egi. Ita Sanchez* num. 83. *Less.* num. 60. *Suarez* num. 18. *Fagundez* n. 16. *Bass.* num. 3. *Portel.* de dub. reg. V. Venef. num. 21.

13 But without necessity, etc., to want God to show His will is to tempt Him who has not promised this, and the way is opened to the Demon, to insinuate himself by frauds.

> *Caetervm sine necessitate, etc. velle, Deum ostendere suam voluntatem, est eum, qui non promisit de hoc, tentare, et aperitur via Daemoni, ut fraudibus se insinuet.*

14 That they can nevertheless be done prudently, the usage of the Holy Fathers shows, *Iosue 7. Primo Reg. 10. Act. 1.* So *Prov. 16.: Lots are cast into the lap, but they are tempered by the Lord.* So also S. P. Francis consulted God by thrice opening the Book of the Gospels, and again by turning over a companion, and also in other ways, as S. Bonaventure relates in his life.

> *Qvod tamen valeant prudenter fieri, ostendit usus Sanctorum Patrum* Iosue 7. Primo Reg. 10. Act. 1. *Sic* Prov. 16. Sortes mittuntur in signum, sed a Domino temperantur. *Sic et S. P. Franciscus, aperiendo ter Librum Evangeliorum, et iterum circumvoluendo socium, et aliis etiam modis Deum consuluit, ut refert S. Bonavent. in eius vita.*

15 I assert therefore, that divinatory lots are illicit and prohibited, *cap. 1. de sortil. et 26. quaest. 1. cap. sortes. cap. Pervenit. cap. Si quis clericus. cap. Contra. cap. Episc. eadem 26. quaest. 1.*, and the Saintly Doctor relates it in the *confessionali, cap. 3. particula 37. et 38.* They are prohibited also by Sixtus V in his motu proprio.

> *Assero igitur, sortes divinatorias esse illicitas, et prohibitas* cap. 1. de sortil. et 26. quaest. 1. cap. sortes. cap. Pervenit. cap. Si quis clericus. cap. Contra. cap. Episc. eadem 26. quaest. 1. *et refert S. Doctor in* confessionali, cap. 3. particula 37. et 38. *Prohibentur etiam a Sixto V. in motu proprio.*

16 *It is proved,* because knowledge of things to come is to be expected from God alone; but he himself never promised to announce the future by lots. So Fagundez *n. 19.* Suarez *num. 27.* Sanchez *num. 88.* Less. *num. 61.*, and others.

> Probatur*, quia cognitio futurorum a solo Deo expectanda est; ipse autem nunquam promisit sortibus nunciare futura. Ita Fagundez* n. 19. *Suarez* num. 27. *Sanchez* num. 88. *Less.* num. 61. *et alii.*

Question VI: On superstitious observances for works

1 S U P E R S T I T I O N of vain observance differs from divinations, because divination is ordered to obtaining an undue knowledge of hidden things; but superstitious observance to obtaining certain advantages, or to harming others. It is done by an explicit or implicit invocation of the Demon.

> ***De superstitiosis observationibus ad opera.***

S V P E R S T I T I O vanae observationis a divinationibus differt, quia divinatio ordinatur ad cognitionem occultorum indebitam obtinendam; observatio autem superstitiosa ad obtinendas aliquas commoditates, vel ad nocendum aliis. Fit autem explicita, vel implicita Daemonis invocatione.

2 And indeed, if the pretended effect surpasses natural power, it is superstition, because honor due to God alone is shown to the devil; but if it does not surpass it, it seems a sin against charity toward oneself, as Valencia says *quaest. 13. tertio puncto.*

Et quidem, si effectus praetensus naturalem virtutem superet, est superstitio, quia diabolo honor, Deo soli debitus, exhibetur; si vero non superet, videtur peccatum contra charitatem, erga seipsum, ut ait Valentia quaest. 13. puncto tertio.

3 Moreover the means are known to be superstitious because they are inept, such as Astronomical images, Amulets, characters on tablets, inept words mixed with sacred things, which little women frequently mutter ought to be drunk down. Such are the cures of Ensalmators by certain words. So Fagundez *in primum praeceptum Decal. lib. 1. cap. 36. et in secundo Ecclesiae, lib. 8. cap. 4. num. 16.* for although by a gift freely given some may have the power of healing from some infirmity, nevertheless the force does not reside in the words, but in the persons. So the Kings of France by divinely favored contact of the right hand cure swollen swellings in the Throat, as Less. notes *lib. 2. cap. 43. d. 10.* Tanner. *d. 5. quaest. 7. d. 2. n. 40.*

Media autem ideo cognoscuntur superstitiosa, quia inepta, ut imagines Astronomicae, Amuleti, characteres in laminis, verba inepta, mixta sacris, quae frequenter mulierculae mussitant ebibi debere. Tales sunt curationes Ensalmorum per verba quaedam. Ita Fagundez in primum praeceptum Decal. lib. 1. cap. 36. et in secundo Ecclesiae, lib. 8. cap. 4. num. 16. *etsi enim dono gratis dato aliqui habeant virtutem curandi ab infirmitate aliqua, tamen illis vis non inest verbis, sed personis. Ita Reges Franciae divinitus contactu factatae dexterae curant turgidas inflationes in Gula, ut notant Less.* lib. 2. cap. 43. d. 10. *Tanner.* d. 5. quaest. 7. d. 2. n. 40.

4 Ensalmators indeed would be tolerable if they added permitted prayers to natural remedies, for prayers add nothing evil. So Suarez *Tom. 1. de Relig. lib. 2. de superstit. cap. 15.* Sanchez. *lib. 1. Decal. lib. 2. cap. 50. num. 39.* Fagundez *in primum Decal. lib. 1. cap 36.* and others cited by them.

Ensalmatores quidem tolerandi essent, si remediis naturalibus orationes admissas adderent, nil enim pravi orationes addunt. Ita Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 15. *Sanchez.* lib. 1. Decal. lib. 2. cap. 50. num. 39. *Fagundez* in primum Decal. lib. 1. cap 36. *et alii apud eos.*

5 Tannerus adds *d. 5. quaest. 7. dub. 2. num. 37.* that these Salvators, or Ensalmators, seem to some to have a grace freely given; this however is uncertain, since otherwise these men are reprobate.

Addit Tannerus d. 5. quaest. 7. dub. 2. num. 37. *hos Saluatotes, seu Ensalmatores aliquos videri habere gratiam gratis datam; hoc tamen incertum est, cum alias hi viri perditi sint.*

6 But concerning the Psylli of Africa, and the Marsi of Italy, who drew out poisons by drinking them, Delrius ascribes it to diabolical magic *lib. 1. disquis. mag. cap. 3. quaest. 4.*

De Psyllis vero Africae, et Italiae Marsis, qui haustu venena extrahebant, diabolicae magiae adscribit Delrius lib. 1. disquis. mag. cap. 3. quaest. 4.

7 Tannerus however warns that not all ceremonies are to be condemned outright, for instance leading beasts of burden around near the temple of some Saint, e.g. St. Pancras; or applying to the sick bread

or fat pressed to the Crucifix on Good Friday, on which Greiferus *de cruce, lib. 2. cap. 62.* See other things in Tannerus and Fagundez.

> *Monet vero Tannetus, non omnes ceremonias illico damnandas, puta circumducere iumenta prope templum alicuius Sancti v. g. S. Pancratii; panem, adipemve in Parasceve Crucifixo admota, aegris applicare, de quibus Greiferus* de cruce, lib. 2. cap. 62. *Vide alia in Tannero, et Fagundez.*

8 Indications are commonly brought forward here when things are superstitious; but I have reported these above.

> *Afferri solent hic indicia, quando sunt res superstitiosae; sed haec supra retuli.*

9 One thing however is wont to be noted as especially important, that one not easily believe apparitions: for the Demon is wont to transform himself into an Angel of light, and to feign himself to be the soul of someone believed saved, so that he may defame it; or another soul, thought to be damned, that he may expose it to veneration, as D. Thom. notes *p. p. quaest. 113. art. 4.* and others:

> *Unum autem solet adverti praecipuum, ne apparitionibus facile credatur: Solet enim Daemon in Angelum lucis transformari, atque animam, quae salva creditur alicuius, se fingere, ut eam infamet; vel aliam, quae perdita putatur, venerationi exponat, ut notat D. Thom.* p. p. quaest. 113. art. 4. *et alii:*

10 Note also that Demons cannot at will bring it about that souls come forth either from Purgatory or from Hell: for they are in the prison of God. Whence that Rich Man in *Luke 16.* could not come forth from the nether world, as D. Bonavent. notes there, and with him Fagundez *n. 9.* But that they sometimes go forth from their receptacles with God willing, I shall show in the *Third part, Tom. 1. d. 39.* with D. Bonavent. *in 4. d. 45.*

> *Adverte etiam, non posse Daemones ad libitum efficere, ut animae vel e Purgatorio, vel Inferno prodeant: Sunt enim in Dei carcere. Unde ille Dives* Lucae 16. *non potuit ex orco evenire, ut notat D. Bonavent. ibi, et cum eo Fagundez* n. 9. *Exire autem eos aliquando Deo volente e suis receptaculis, ostendam* Tertia parte, Tom. 1. d. 39. *cum D. Bonavent.* in 4. d. 45.

11 One must nevertheless beware of fallacies. There will be two principal signs for knowing them. First, if they fear the sign of the Cross, or the name of Jesus, of the Virgin Mary, and of the Saints, or flee, or shrink from the relics of Saints, or blessed wax, or holy water. Second, if importunately they seek once and again, mixing in inept things. So *Thyraeus lib. de spirituum apparitionibus, cap. 16. Delrius lib. 2. disquis. quaest. 26. sect. 3. Fagundez num. 12.*

> *Cavendum tamen a fallaciis. Erit autem duplex signum praecipuum ad eas noscendas. Primum, si ad Crucis signum, vel nomen Iesu, Mariae Virginis, et Sanctorum timeant, aufugiant, vel reliquias Sanctorum, aut ceram benedictam, aquamve lustralem horreant. Secundum, si importune exquirant semel et iterum immiscendo inepta. Ita* Thyraeus lib. de spirituum apparitionibus, cap. 16. Delrius lib. 2. disquis. quaest. 26. sect. 3. Fagundez num. 12.

12 Against this, that souls appear by the aid of the Demon, they object that Samuel appeared to Saul at the command of the Witch *1. Reg. 28.* as I shall say with *D. August. 3. part. loc. cit.* and many Fathers teach: *Iustinus in Dialogo cum Tryph. ad calcem, Lyra, and Caietanus ad primum Reg. 28. Tostatus quaest. 18. D. Thom. 2. 2. quaest. 174. art. 5. et p. p. quaest. 89. art. 6. and many expositors cited by Fagundez num. 18. Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 16. Pererius in cap. 7. Exodi, 18. Cornelius a lapide in Eccles. p. 3. cap. 46.* who favor this opinion. Nor was it done at the command of the Pythoness, but before her incantations, at the command of God.

Quod tamen ope Daemonis animae appareant, opponunt, Samuelem iussu Magae apparuisse Sauli 1. Reg. 28. *ut dicam cum* D. August. 3. part. loc. cit. *et docent multi Patres :* Iustinus in Dialogo cum Tryph. ad calcem, Lyra, et Caietanus ad primum Reg. 28. Tostatus quaest. 18. D. Thom. 2. 2. quaest. 174. art. 5. et p. p. quaest. 89. art. 6. et multi expositores apud Fagundez num. 18. Suarez Tom. 1. de Relig. lib. 2. de superstit. cap. 16. Pererius in cap. 7. Exodi, 18. Cornelius a lapide in Eccles. p. 3. cap. 46. *qui huic sententiae arridet. Neque id factum est iussu Pythonissae, sed ante eius incantationes, iussu Dei.*

13 *Fagundez cap. 37.* further warns that there are other superstitions in sacred things, as in the Masses of St. Amator; and the Masses of the Counts, where superstitious things are mixed in. From money first offered to the Crucifix on Good Friday they make a ring for health, which however is not entirely condemned: They gather herbs on the day of St. John the Baptist; which is no hindrance, if they attend to a natural cause. Images of some saint are tied and submerged in a river, until it rains. See him.

Admonet insuper Fagundez cap. 37. *alias esse superstitiones in rebus sacris, ut in Missis S. Amatoris; et Missis Comitis, ubi superstitiosa miscentur. E pecunia primo oblata Crucifixo in Parasceve, annulum ad sanitatem efficiunt, quod tamen non omnino damnatur: Colligunt herbas die S. Ioannis Baptistae; quod nil obest, si naturalem causam attendant. Imagines alicuius sancti ligantur submerse in flumine, donec pluat. Vide ipsum.*

Question VII: On the spells of witches

1 The name of magic, belonging to natural science, has been transferred to the wicked art of Witches, whose inventor was Zoroaster, King of the Persians, as they commonly report with D. Bonaventure.

Magiae nomen, scientiae naturalis, translatum est ad iniquam Sagarum artem, cuius inventor fuit Zoroaster, Rex Persarum, ut referunt communiter cum D. Bonaventura.

2 But a far greater number of women than men, from innate levity, follow it, and they are called Lamiae from their cruelty: for the Lamia is a monstrous animal with a human face, carrying the cruelty of a wild beast in its trunk, especially in slaughtering children, that it may pour out and suck their blood, as D. Bonavent. teaches *in 3. Threnorum*, and with him Fagundez in primum praeceptum, *lib. 1. cap. 41.* to whom alludes that text of the Threni, *sed et Lamiae nudaverunt mammas.*

Multo autem maior numerus foeminarum, quam virorum, ex levitate innata, eam sequuntur, quae dicuntur Lamiae a crudelitate: Est enim Lamia monstrosum animal facie humana, trunco ferino crudelitatem, maxime in pueris enecandis, eorum ut sanguinem exsugat, effundens, ut docet D. Bonavent. in 3. Threnorum*, et cum eo Fagundez in primum praeceptum,* lib. 1. cap. 41. *cui alludit ad id Threnorum,* sed et Lamiae nudaverunt mammas.

3 They are called Sagae from sagacity: Maleficae from maleficia: Veneficae from veneficia.

Dicuntur autem Sagae a sagacitate: Maleficae a maleficiis: Veneficae a veneficiis.

4 They are called Striges from certain night birds that emit a screech in flight.

Dicuntur Striges a quibusdam nocturnis, stridorem volatu emittentibus.

5 It is customary here to dispute: Whether striges are truly brought to the places of dances: but I have treated these in my *Tract. de Angelis, d. 11.* where I also reported the unspeakable copulations with the demon.

Solent hic disputare: An striges afferantur vere ad loca chorearum: sed de his egi Tract. de Angelis, d. 11. *ubi etiam infandas cum daemone copulas retuli.*

6 These however are apostates from the faith, for they deny Baptism, the most holy Cross, the Trinity, as some of this refuse have expressed to me. Whence they rightly say, with *Prosper Farinac. Tract. de haeresi, parte 8. operum crim. quaest. 181. §. 1. num. 46. Delrius lib. 5. disq. sect. 5.* that Lamiae are heretics. There is added the cult of demons; for they adore the devil, either under the figure of a He-goat, or seated on a throne; they adore however with the shoulder bent sideways, as they have told me,

Hae vero apostatae sunt a fide, abnegant enim Baptismum, Crucem sanctissimam, Trinitatem, ut mihi expresserunt aliqui huius farinae. Unde recte Prosper Farinac. Tract. de haeresi, parte 8. operum crim. quaest. 181. §. 1. num. 46. Delrius lib. 5. disq. sect. 5. *dicunt, Lamias esse haereticas. Accedit cultus daemonum; adorant enim diabolum, vel sub Hirci figura, vel e throno sedentem; adorant autem flexo humero transverse, ut mihi dixere,*

7 Blasphemies are belched forth against God, against Christ, and against the B. Virgin, as I reported *d. 11. de Angelis.*

Eructantur blasphemiae in Deum, in Christum, et in B. Virginem, ut retuli d. 11. de Angelis.

8 There are added sacrileges of every kind in the abuse of the Sacraments, the Relics of Saints, and of the Most Holy Eucharist itself.

Accedunt omnis generis sacrilegia in abusu Sacramentorum, Reliquiarum Sanctorum, et ipsius Sanctissimae Eucharistiae.

9 There follow the unspeakable copulations with the Demon, both according to nature and against it.

Sequuntur infandae cum Daemone copulae, tam secundum naturam, quam contra ipsam.

10 There are added the gravest damages in the goods of orchard, of floods, and of fires, and even to life itself. And so a witch, whom I accompanied to execution, confessed that she had killed ten men. These things they report: *Binsfeld, commentar. ad l. Nemo, C. de maleficiis and Delrius disq. lib. 5. sect. 16. Serlogus Anselis. in cant.*

Accedunt damna gravissima in bonis viridarium, inundationum, et incendiorum, imo et in ipsam vitam. Itaque saga ea, quam ego ad supplicium comitatus sum, decem homines se fassa est necasse. Haec referunt Binsfeld, commentar. ad l. Nemo, C. de maleficiis et Delrius disq. lib. 5. sect. 16. Serlogus Anselis. in cant.

11 Add that this crime is contagious, so that it creeps like a cancer. For these men and women have from the Demon a precept of drawing others to the same apostasy, which is first celebrated by the trampling of the Cross, and the denial of the faith, and the adoration of the goat, and the serpent, as is established for me all too truly by the experiment of those whom I examined; for so pestilential a virus did some Youths spread, that they would hand over to me some of their parents to be converted, otherwise, they protested, they wished to kill them, because they were also corrupting other brothers, even little boys. And I saw some of these even as infants, who would perform these diabolical ceremonies, and with turbulent mouth and horrible face they terrified.

Adde, crimen hoc contagiosum esse, ita, ut veluti cancer serpat. Habent enim a Daemone praeceptum isti, istaeque, alios inducendi ad eandem apostasiam, quae primo conculcatione Crucis celebratur, et abnegatione fidei, et adoratione capri, et anguis, ut mihi experimento eorum, quos examinavi, heu nimium constat; adeo enim hoc virus pessimum diffundebant nonnulli Adolescentes, ut eorum parentes aliquos mihi traderent convertendos, sin, eos velle necare protestabantur, quia

et alios fratres corrumpebant etiam puerulos. Et horum aliquos etiam parvulos vidi, qui has diabolicas caeremonias peragerent, et ore turbido, facie horribili terrebant.

12 These things they learn in solitudes, while they guard flocks and herds, or in the night time, where they are not recognized. They have confessed also that they bring masters to the sacrilegious places, and except for these, others are not recognized, because all appear masked. But what they do there is so detestable that even inks and pages would blush to describe it: Moreover they bring innumerable calamities, they cast Demons into bodies, as I have learned from the possessed, they stir up tempests so savage that once in the Valley of Rhaetia I saw all the crops cut down by hailstones, the fields laid waste by waters flooding from the ridges, buildings buried, and within one hour damage of forty thousand gold pieces inflicted by two young striges.

Haec in solitudinibus, dum greges, et armenta custodiunt, ediscunt, vel nocturno tempore, ubi non agnoscantur. Fassi sunt etiam, magistros adducere alios ad loca sacrilega, et his exceptis, alios non internosci, quia omnes personati comparent. Quae autem ibi operentur, adeo detestanda sunt, ut et atramenta, et paginae erubescant ea describere: Porro calamitates inducunt innumeras, Daemones coniiciunt in corpora, ut ego accepi ab obsessis, tempestates adeo saevas excitant, ut semel in Valle Rheta viderim grandinibus segetes omnes detruncatas, inundantibus e iugis aquis, campos exterminatos, aedificia sepulta, et una hora ad quadraginta aureorum millia damnum inferri a duobus adolescentibus strigibus.

13 Truly for the restitution of these things the striges are held, and those who cooperate with them; but especially those who induce them, as *Suarez Tom. 1. lib. 1. de superstit. cap. 14. Toletus lib. 4. summae, cap. 16. Less. Tom. 1. lib. 2. cap. 8. d. 2. Navar. cap. 15. num. 19. Fagundez loc. cit. cap. 41. n. 19.* note.

Ad horum sane restitutionem tenentur striges, et qui cooperantur; maxime vero, qui eas inducunt, ut notant Suarez Tom. 1. lib. 1. de superstit. cap. 14. Toletus lib. 4. summae, cap. 16. Less. Tom. 1. lib. 2. cap. 8. d. 2. Navar. cap. 15. num. 19. Fagundez loc. cit. cap. 41. n. 19.

14 Wherefore, as the Doctors commonly teach, this obligation of restitution is not extinguished by their killing; for through those punishments they satisfy legal justice, not the injured party. Therefore the heirs are held to restitution according to *cap. in litteris, de raptoribus, and cap. ult. de sepult.* But if the goods have come to the fisc, it is held first to restore the damages inflicted according to *leg. Non possunt, and leg. In summa, ff. de iure fisci,* where the best account of this matter is given, because things liable to a debt owed are not computed among the goods of the deceased. Which is common to all other debts. So teach *Suarez num. 12. Navar. num. 25. Binsfeld. tract. de confess. malefic. praelud. 13. Fagundez num. 20. and others.*

Quare ut communiter docent Doctores, non extinguitur haec restitutionis obligatio earum enecatione; nam per illas poenas satisfaciunt iustitiae legali, non parti laesae. Ideo haeredes tenentur ad restitutionem iuxta cap. in litteris, de raptoribus, et cap. ult. de sepult. *Si vero ad fiscum pervenere, tenetur is prius damna illata restituere iuxta* leg. Non possunt, et leg. In summa, ff. de iure fisci, *ubi optima huius rei ratio redditur, quia quae aeri alieno obnoxia sunt, in bonis defuncti non computantur. Quod commune est omnibus aliis debitis. Ita docent,* Suarez num. 12. Navar. num. 25. Binsfeld. tract. de confess. malefic. praelud. 13. Fagundez num. 20. et alii.

15 I confess that those whom I knew were for the most part destitute, and each of them had a single daughter educated, to whom they might leave the inheritance of so great iniquity; but the other offspring the cruelest Lamiae killed. About the aforesaid the confessor ought to question them, as *Bass. num. 7.* notes.

Fateor, eas, quas cognovi, fuisse maiori ex parte inopes, eaeque singulae unicam filiam habebant edoctam, cui tantae iniquitatis haereditatem relinquerent; caeteros vero partus necarunt Lamiae crudelissimae. De supradictis debet confessarius interrogare eos, ut notat Bass. num. 7.

16 I know that sometimes fantasy alone carries some to the execrable places, as I said *disp. 11. de Angelis cit.* In which category there occurred a charming spectacle; for one of the striges under inquisition, who, since she was very old, had not been fastened to the rack, but with fire applied to her feet was called forth to confession and questioning, and had always denied; when she had been condemned to exile and was to go into the lands of Brescia, I approached her, and besought her to inflict no more evils: But she blasphemed that she was innocent as an Angel, and as the most holy Virgin; (for this is their ordinary justification) The young daughter was also present; But having exhorted both with gentle words, I recognized from their own confession that both were striges. Therefore I commended to God my Brescian fatherland, to which one of them was to come. After some days, departing from her sickbed (with her feet burnt — for indeed the fire had been extinguished by the force of a great sum of money) she lay dying for many hours. Her husband, weary of the disgrace, called the Priests, and had her buried as dead; she was let down into a deep dug grave, and covered with much earth; but on the following night a pack of huge Cats of black color led dances around her sepulcher. Thus perished the wretch.

Scio, aliquando solum phantasia aliquos ferri ad loca execranda, ut dixi disp. 11. de Angelis cit. *Quo in genere accidit lepidum spectaculum; una enim e strigibus inquisitis, quae, cum esset nimium senex, fune non fuerat appensa, sed igne ad pedes applicito ad confessionem, et quaestionem evocata, et semper negarat; cum esset in exilio damnata, et in Brixienses terras ventura, eam adii, atque obsecravi, ne mala amplius inferret: Ea vero se innocentem, ut Angelum, et ut sanctissimam Virginem blasphemavit; (est enim earum ordinaria iustificatio haec) Aderat et adolescentula filia; Ambas vero suavibus verbis hortatus, propria ipsarum confessione ambas esse striges agnovi. Deo igitur commendavi Brixiensem meam patriam, ad quam una ex illis erat ventura. Post dies aliquos a decubitu ob pedes ustos (sane et igne mortificato, vi grandis pecuniae) in excessum abiens plurimas horas fuit. Eius maritus tedio ignominiae vocavit Presbyteros, eamque ut mortuam sepeliendam curavit, quae in profunda fossa excavata fuit demissa, et multo aggere cooperta; nocte vero sequenti grex AElurorum ingentium atri coloris choreas circumducebant ad eius sepulchrum. Sic periit misera.*

17 *Moreover* their philters and love potions are not naturally efficacious for kindling lascivious loves toward a particular individual, although they can excite the humors, as *Azor. cap. 26. quaestio 1. Medina lib. de recta in Deum fide, cap. 7.* teach.

Porro *earum philtros, et pocula amatoria non esse naturaliter efficacia ad accendendos lascivos amores erga alterum individuum, etsi valeant humores excitare, docent* Azor. cap. 26. quaestio 1. Medina lib. de recta in Deum fide, cap. 7.

18 *It is also* wont to be asked: Whether men can compel Demons with regard to rings, mirrors, etc. *It is answered* with Azorius *quaestio 2.* Fagundez *num. 23.* negatively; since they are of lower nature and power, but they are compelled by a superior Demon, whom the magus consults.

Solet *etiam quaeri: An homines valeant cogere Daemones ad annulos, specula, etc.* Respondetur *cum Azorio* quaestio 2. *Fagundez* num. 23. *negative; cum sint inferioris naturae, atque virtutis, sed coguntur a Daemone superiore, quem consulit magus.*

19 *You will object*. The liver of the fish drove away Demons, *Tobiae 6. et 8. The* holy Doctor answers, *de sex alis Seraphim, cap. 8. et part. 3. de Eccl. Hier. cap. 2. et part. 2. cap. 2.* that this was done by the power of the Angel Raphael, who took the liver of the roasted fish to signify salvation by the power of the passion of Christ. So also Fagundez *num. 25. and* Azorius *in the place cited.*

> Obiicies. *Iecur piscis fugabat Daemones,* Tobiae 6. et 8. Respondet *S. Doctor,* de sex alis Seraphim, cap. 8. et part. 3. de Eccl. Hier. cap. 2. et part. 2. cap. 2. *id factum esse virtute Angeli Raphaëlis, qui assumpsit iecur piscis assi ad significandam salutem virtute passionis Christi. Ita et Fagundez* num. 25. et *Azorius* loco citato.

Question VIII: Whether it is lawful to consult witches so that they may at least remove spells

1 *I suppose* here with D. Bonavent. *in the places cited in the preceding questions*, that it is not permitted to approach Witches to place a maleficium. So all the Doctors, and it is proved by the holy Doctor *from Levit. 19. and 20. Deuter. 13. and 18.* This however proves that it is not permitted to approach even patarini and Arioli.

> An liceat Sagas consulere, ut maleficia saltem tollant.
>
> Suppono *hic cum D. Bonavent.* locis allegatis superioribus quaestionibus, *non licere Sagas adire ad maleficium ponendum. Ita Doctores omnes, et probatur a S. Doctore* ex Levit. 19. et 20. Deuter. 13. et 18. *Hoc autem probat, non licere adire etiam pataros Ariolos.*

2 *A greater* question is: Whether it be lawful to approach a prepared strix, that she remove a maleficium by maleficium. *The common,* and true, opinion is that it is not permitted. So Sanchez *lib. 7. matr. d. 95.* Albertt. *in 4. d. 34. art. 9.* Sotus *quaest. unica, art. 3.* Palat. *ibi, d. 1.* Caietanus *in summa, verb. maleficium, et in opusc. tract. 12. de maleficiis, quaest. un.* Abul. *cap. 19. Matth. quaest. 90. ad 3.* Castro *lib. de iusta haeret. punit. cap. 15.* Ledesma *2. part. 4. quaest. 60. art. 2.* Ciruelo *de superstit. part. 3. cap. 15.* Margarita *confess. in primum praeceptum, fol. 60.* Viguet. *l. Inst. cap. 16. §. 7. ver. 9. imp. 11.* Angles *in flor. p. p. ubi de matrim. quaest. 8. art. 2. d. 2.* Tolet. *lib. 4. summae, cap. 16.* Bannes *2. 2. quaest. 68. art. 4. d. 2. ad 4.* Peretius, Ledesma *de matrim. quaest. 58. art. 2. d. 2.* Henriquez *lib. 5. de poenit. cap. 6. et lib. 12. de matrim. cap. 8.* Philiarc. *tom. 1. part. 2. lib. 3. cap. 11.* Delrius *lib. 6. disg. cap. 2. sect. 1. quaest. 2.* Barthol. a Ledesma *de matrim. quaest. 49.* Navarr. *summa, cap. 11. num. 29.* Couarr. *in cap. Quamvis pactum, p. p. §. 1.* Ludov. Lopez *2. part. Instruct. ubi de matrim. cap. 52.* Rodriguez *tom. 1. summa, cap. 7. concl. 11.* Flamma *3. part. method. cap. 8. §. 11.* Graff. *p. p. decis. lib. 2. cap. 6. num. 10.* Vega *tom. 1. summae, cap. 34. casu 110.* Rosella *verb. imped. 15. num. 19.* ibi. Tabien. *imped. 11. quaest. 9.* Sylvest. *verb. malef. quaest. 8.* ibi Armilia *num. 2.* Binsfeld. *lib. 1. cap. de mathem. quaest. 5.* Suarez *tom. 1. de relig. lib. 2. de superstit. cap. 18. num. 4.* Fagundez *lib. 1. in primum praecept. Decal. cap. 42.* Tannerus *Tom. 1. d. 5. quaest. 6. dub. 7. et Tom. 4. de impedimentis matrimonii.* Bassaeus *V. Malefic. §.*

> Maior *quaestio est: An liceat paratam strigem adire, ut maleficium tollat maleficio.* Communis, *et vera sententia est, non licere. Ita Sanchez* lib. 7. matr. d. 95. *Albertt.* in 4. d. 34. art. 9. *Sotus* quaest. unica, art. 3. *Palat.* ibi, d. 1. *Caietanus* in summa, verb. maleficium, et in opusc. tract. 12. de maleficiis, quaest. un. *Abul.* cap. 19. Matth. quaest. 90. ad 3. *Castro* lib. de iusta haeret. punit. cap. 15. *Ledesma* 2. part. 4. quaest. 60. art. 2. *Ciruelo* de superstit. part. 3. cap. 15. *Margarita* confess. in primum praeceptum, fol. 60. *Viguet.* l. Inst. cap. 16. §. 7. ver. 9. imp. 11. *Angles* in flor. p. p. ubi de matrim. quaest. 8. art. 2. d. 2. *Tolet.* lib. 4. summae, cap. 16. *Bannes* 2. 2. quaest. 68. art. 4. d. 2. ad 4. *Peretius, Ledesma* de matrim. quaest. 58. art. 2. d. 2. *Henriquez* lib. 5. de poenit. cap. 6. et lib. 12. de matrim. cap. 8. *Philiarc.* tom. 1. part. 2. lib. 3. cap. 11.

Delrius lib. 6. disg. cap. 2. sect. 1. quaest. 2. *Barthol. a Ledesma* de matrim. quaest. 49. *Navarr.* summa, cap. 11. num. 29. *Couarr.* in cap. Quamvis pactum, p. p. §. 1. *Ludov. Lopez* 2. part. Instruct. ubi de matrim. cap. 52. *Rodriguez* tom. 1. summa, cap. 7. concl. 11. *Flamma* 3. part. method. cap. 8. §. 11. *Graff.* p. p. decis. lib. 2. cap. 6. num. 10. *Vega* tom. 1. summae, cap. 34. casu 110. *Rosella* verb. imped. 15. num. 19. *ibi. Tabien.* imped. 11. quaest. 9. *Sylvest.* verb. malef. quaest. 8. *ibi Armilia* num. 2. *Binsfeld.* lib. 1. cap. de mathem. quaest. 5. *Suarez* tom. 1. de relig. lib. 2. de superstit. cap. 18. num. 4. *Fagundez* lib. 1. in primum praecept. Decal. cap. 42. *Tannerus* Tom. 1. d. 5. quaest. 6. dub. 7. et Tom. 4. de impedimentis matrimonii. *Bassaeus* V. Malefic. §.

3 *This* is the express opinion of D. Bonavent. *in confessionali, cap. 1. particula 38.* where he proves it *from cap. 2. de sortil.* where Alexander III condemned a Presbyter who for a good end had tried a superstitious damnation. It is also clear *from cap. Qui sine salvatore 26. quaest. 2.* drawn from D. Augustine. Thus it is proved also by others.

Haec *est sententia expressa D. Bonavent.* in confessionali, cap. 1. particula 38. *ubi id probat* ex cap. 2. de sortil. *ubi Alexander III. Presbyterum damnavit, qui bono fine superstitiosam damnationem expertus est. Patet etiam* ex cap. Qui sine salvatore 26. quaest. 2. *deducto ex D. Augustino. Sic probatur etiam ab aliis.*

4 *The reason* is, because to make a maleficium in order to remove a maleficium includes a new invocation of the Demon, plainly wicked, but evils are not to be done that goods may come, as is said in *Rom. 3.*

Ratio *est, quia maleficium facere ad maleficium tollendum, includit novam Daemonis invocationem, sane pravam, at non sunt facienda mala, ut eveniant bona, ut dicitur* Rom. 3.

5 *Hence* you have that it is false which is decided in *leg. eorum, 46. de malef. and leg. Regia, 3. tit. 23. part. 7.* and Azorius relates *summa, tit. de malef.* that malefics exercising maleficia for a good end, lest the fruits of the earth perish, are excused. For these are false, since these cannot be removed without an invocation of the Demon, which is not permitted even for a good end, as the holy Doctor notes *loc. cit. and* with him Fagundez *num. 26. Bartol. in d. leg. eorum. Salicetus, and others.*

Hinc *habes, falsum esse quod deciditur* leg. eorum, 46. de malef. et leg. Regia, 3. tit. 23. part. 7. *et tradit Azorius* summa, tit. de malef. *maleficos bono fine maleficia exercentes, ne fructus terrae pereant, excusari. Haec enim falsa sunt, cum nequeant haec tolli sine Daemonis invocatione, quod etiam ad bonum finem non licet, ut notat S. Doctor* loc. cit. et *cum eo Fagundez* num. 26. Bartol. in d. leg. eorum. Salicetus, et alii.

6 *You have* also that it is unlawful to compel Witches by threats or punishments to remove a maleficium by maleficium, as Sanchez notes *lib. 7. de matrim. d. 95.* Suarez *Tom. 1. de Religione, lib. 2. de superstit. cap. 18.* Delrius *lib. 6. disg. cap. 2. sect. 1. quaest. 2.* The reason is, because this is intrinsically evil.

Habes *etiam, illicitum esse, cogere minis, vel poenis Sagas ad maleficium tollendum maleficio, ut notat Sanchez* lib. 7. de matrim. d. 95. *Suarez* Tom. 1. de Religione, lib. 2. de superstit. cap. 18. *Delrius* lib. 6. disg. cap. 2. sect. 1. quaest. 2. *Ratio est, quia hoc est intrinsece malum.*

7 *To me* however it seems permitted, at least if the maleficium can be removed by a means unculpable, or licit, because I ask what can rightly be done, compelled by necessity; just as therefore on that account I can ask money from a usurer, because he can damn without usury, so in the present case. So Sanchez *dub. cit.* Suarez *loc. cit. and* others cited by Fagundez *cap. 42.* But that in necessity it be

permitted to ask money from a usurer, I showed in the *Tract. de charitate, d. 18. quae de scandalo, and Disput. de Usura, quaest. ult.*

> Mihi *tamen videtur licere, saltem si maleficium medio inculpato, seu licito tolli queat, quia peto quod recte fieri potest, necessitate compulsus; sicut igitur ideo possum petere ab usurario pecunias, eo quod potest sine usura damnare, ita in casu praesenti. Ita Sanchez* dub. cit. *Suarez* loc. cit. et *alii apud Fagundez* cap. 42. *Quod vero in necessitate liceat pecunias ab usurario petere, ostendi* Tract. de charitate, d. 18. quae de scandalo, et Disput. de Usura, quaest. ult.

8 I add however, with Fagundez *num. 12.* that the strix is to be exhorted to employ only a licit means, which if she refuse to do, the fault is imputed to her.

> *Addo tamen cum Fagundez* num. 12. *hortandam strigem, ut medium tantum licitum adhibeat, quod si facere renuit, ipsi vitio vertitur.*

9 *Observe* also that the remedies for removing maleficia are the Relics of Saints, Blessings, etc. which however, if they have something inept joined to the ceremony as necessary, would be superstitious, as Navar. warns *summa Lat. cap. 11. num. 25. and* others. It is also permitted to take away and burn the signs of maleficia, for instance knotted hairs, little statues, etc. as the Doctors commonly say; for they are works of the devil, which it is licit to destroy. Wherefore Scotus *4. d. 34. quaest. un.* says it is ridiculous to doubt about this. It is permitted also to place other sacred things, that the bond may be destroyed. So Suar. *cap. 17. num. 9.* Less. *lib. 2. cap. 44. d. 6.* Fagundez *num. 6. cap. 43.*

> Observa *etiam, remedia ad tollenda maleficia esse reliquias Sanctorum, Benedictiones, etc. quae tamen, si aliquid ineptum caeremoniae adiunctum habeant tanquam necessarium, erant superstitiosa, ut admonent Navar.* summa Lat. cap. 11. num. 25. et *alii. Licet etiam signa maleficiorum auferre, et comburere, puta crines retortos, statuolas, etc. ut communiter Doctores ainnt; sunt enim opera diaboli, quae destruere licet. Quare Scotus* 4. d. 34. quaest. un. *ait, ridiculum esse de hoc dubitare. Licet etiam alia sacra ponere, ut destruatur ligamentum. Ita Suar.* cap. 17. num. 9. *Less.* lib. 2. cap. 44. d. 6. *Fagundez* num. 6. cap. 43.

Question IX: On the penalties of witches, etc.

1 Venefici, Sagae, Malefici, Sortilegi, Divini, and Magi, a plague of the world, a virus of the Church, and a contagion of Kingdoms, the laws scourge with the same punishments. Formerly by the old law they were condemned to death *Exodi 22. Levit. 20. Deuter. 13. et 18.* as we have often seen with the holy Doctor. The same now stands in *tota causa 26. and* throughout the *Codex in the title de maleficis.*

> De poenis Sagarum, etc.
>
> *Veneficos, Sagas, Maleficos, Sortilegos, Divinos, et Magos, mundi luem, Ecclesiae virus, et Regnorum contagium iisdem poenis iura flagellant. lant. Olim lege veteri morte damnabantur* Exodi 22. Levit. 20. Deuter. 13. et 18. *ut saepe vidimus cum S. Doctore. Idem nunc constat* tota causa 26. et *toto* Codice titulo de maleficis.

2 *In Canonical law* venefici and malefici, and those consulting them, are excommunicated *cap. si quis ariolos, 26. q. 5.* yet the excommunication does not seem ipso facto, but to be inflicted, as the Doctors note. But if they are heretics, they incur ipso facto the excommunication in the Cena Domini.

> IURE Canonico *excommunicantur venefici, malefici, eosque consulentes* cap. si quis ariolos, 26. q. 5. *non videtur tamen excommunicatio ipso facto, sed ferenda ut notant Doctores. Si vero sint haeretici, incurrent ipso facto excommunicationem in caena Domini.*

[3] *IN canonical law* they are punished with other penalties; for, if they are laymen, a penance of forty days is imposed on them, as is clear *cap. 1. de sortil.* and the holy Doctor relates in *confessionali, cap. 3. particula 37.* which is understood in the forum of Confession; just as also in the Council of Ancyra they are punished with a five-year penance *26. quaest. 5.* for according to the laws they are burned, and their goods are proscribed, as D. Bonavent. notes in *confessionali, cap. 3. particula 48.*

> IN iure *canonico aliis poenis puniuntur; nam, si fuerint laici, poenitentia quadraginta dierum eis imponitur, ut patet* cap. 1. de sortil. *et refert S. Doctor in* confessionali, cap. 3. particula 37. *quae intelligitur in foro Confessionis; sicuti et in Concilio Ancyrae quinquenaria poenitentia puniantur* 26. quaest. 5. *nam secundum leges concremantur, et bona eorum proscribuntur, ut notat D. Bonavent. in* confessionali, cap. 3. particula 48.

[4] *IN cap. Episcopi 26. quaest. 5.* it is prescribed that such men, after being scourged, be cast out.

> IN cap. Episcopi 26. quaest. 5. *praecipitur, ut tales flagellati eiiciantur.*

[5] *But DE consulentibus* it is said in *cap. Quisquis 2. quaest. 8.* that they are infamous, and *26. quaest. 5.* from the Fourth Council of Toledo *cap 30.* if he is a Bishop or presbyter, he is deposed from office, and assigned to a monastery in perpetuity, as the holy Doctor relates in *confessionali, cap. 3. part. 49.*

> DE consulentibus *vero dicitur in* cap. Quisquis 2. quaest. 8. *esse infames, et* 26. quaest. 5. *ex Concilio Toletano IV.* cap 30. *si sit Episcopus, aut presbyter, deponitur ab officio, et monasterio perpetuo addicitur, ut refert S. Doctor in* confessionali, cap. 3. part. 49.

[6] One must however stand by the custom of that place in each diocese.

> *Standum tamen est in unaquaque dioecesi consuetudini illius loci.*

[7] *But IURE* civil they are punished with death *cap. de maleficiis, et Mathem.*

> IURE vero *civili morte puniuntur* cap. de maleficiis, et Mathem.

[8] *IF the offense* has mixed in heresy, or suspicion of it, the cognition of these belongs to the Inquisitors of the faith *cap. causam, §. de haeret. in 6.* and Suarez notes *cap. 18.* but if suspicion of heresy is not present, its cognition does not belong to the Inquisitors, according to *cap. causam*, but it is judged of mixed forum, unless by reason of the person it belongs to the Ecclesiastical.

> SI delictum *admixtam habet haeresim, vel suspicionem, ad Inquisitores fidei cognitio horum pertinet* cap. causam, §. de haeret. in 6. *et notat Suarez* cap. 18. *si vero non adsit suspicio haeresis, non pertinet eius cognitio ad Inquisitores, iuxta* cap. causam*, sed censetur mixti fori, nisi ratione personae ad Ecclesiasticum pertineat.*

[9] *KNOW first*, that the Bull of Sixtus V against Iudiciarii extends the power of the Inquisitors against venefici, etc., and not only against sortilegi, as Sanchez thinks *Tom. 1. lib. 2. cap. 38.* So Diana warns *part. 4. tract. 8. de offic. et potestate Inquisit. resol. 107.* But by force of this Bull they can take cognizance of all superstitions, at least those wise [ones] that savor of heresy, even if not manifest, as Diana notes.

> SCIAS primo*, Bullam Sixti V. contra Iudiciarios extendere potestatem Inquisitorum contra veneficos, etc. neque solum contra sortilegos, ut putat Sanchez* Tom. 1. lib. 2. cap. 38. *Ita monet Diana* part. 4. tract. 8. de offic. et potestate Inquisit. resol. 107. *Possunt autem vi huius Bullae animadvertere in omnes superstitiones, saltem sapientes haeresim, etiam non manifestam, ut notat Diana.*

10 *IN doubt* also: whether sortilegia savor of heresy, the Inquisitors can manifestly take cognizance by the new law of Sixtus V: I add also by the old law *cap. accusatus*, as Simanca teaches, *de Cathol. Instit. tit. 30.* and others in him, and most recently Acugna *tract. de confessar. sollicitantibus, quaest. 5. num. 15.* and Diana *in the place cit. resol. 112. and Tract. 7. resol. 10.*

> IN dubio *etiam: an sortilegia sapiant haeresim, manifeste possunt Inquisitores iure novo Sixti V. cognoscere: Addo et iure antiquo* cap. accusatus*, ut docent Simanca,* de Cathol. Instit. tit. 30. *et alii penes ipsum, ac novissime Acugna* tract. de confessar. sollicitantibus, quaest. 5. num. 15. *et Diana* loco cit. resol. 112. et Tract. 7. resol. 10.

11 *FINALLY, although* by the old law the DD. Inquisitors could not take cognizance except of sortilegia, divinations, etc. that savored of heresy; nevertheless now, by force of the Bull of Sixtus V, they take cognizance of all, as Scortia notes in *Bull. Pontif. epist. 58. Theor. 158.* and others, whom Diana follows *part. 4. Tract. 7. de poenis delictorum, resol. 10.*

> TANDEM licet *iure antiquo DD. Inquisitores non possent cognoscere, nisi de sortilegiis, divinationibus, etc. quae saperent haeresim; tamen nunc, vi Bullae Sixti V. de omnibus cognoscunt, ut notant Scortia in* Bull. Pontif. epist. 58. Theor. 158. *et alii, quos sequitur Diana* part. 4. Tract. 7. de poenis delictorum, resol. 10.

12 *But DE modo*, the order, and rigor of proceeding against these nefarious men, Tannerus treats *2. 2. disp. 4. quaest. 5.* and Martinus Delrius *lib. 5. disq. mag.*

> DE modo vero*, ordine, et rigore procedendi contra hos nefarios, agunt Tannerus* 2. 2. disp. 4. quaest. 5. *et Martinus Delrius* lib. 5. disq. mag.

13 *Tannerus however warns* that one proceed most cautiously, and piously, lest the innocent be involved in these infamies; but if many are guilty, and an innocent one must be mixed with these, let them rather abstain.

> MONENT tamen *Tannerus, caute admodum ut procedatur, et pie, ne innocentes involvantur his infamiis; quod si multi nocentes sint, et cum his miscendus innocens, potius abstineant.*

14 *I add ONE little doubt:* Whether Striges, who have killed infants, are to be handed over by the DD. Inquisitors to the secular Judge for homicides, even if they are truly converted. Simanc denies it *de Cathol. Instit. tit. 37. num. 17.* Albertinus *de agnosc. proposit. caib. quaest. 25. num. 66. cited by Fagundez lib. 1. cap. 44. num. 21.* The same is taught by Sousa *Inquisitorum Aphorismis, lib. 10. cap. 58.* Farinac. *quaest. 20. num. 105. cited in Dianam, resol. 10.*

> UNICUM dubiolum *appono: An Striges, quae infantes occiderunt, tradendae sint a DD. Inquisitoribus Iudici saeculari ob homicidia, etiamsi vere convertantur. Negant Simanc* de Cathol. Instit. tit. 37. num. 17. *Albertinus* de agnosc. proposit. caib. quaest. 25. num. 66. apud Fagundez lib. 1. cap. 44. num. 21. *Idem docent Sousa* Inquisitorum Aphorismis, lib. 10. cap. 58. *Farinac.* quaest. 20. num. 105. apud Dianam, resol. 10. adducta.

15 *BUT Diana notes* that most recently Gregory XV declared the opposite, and therefore that such a one is to be handed over to the secular Court; but if by infirmity, or incapacity for matrimony, or if she has gravely harmed someone by [spoiling] fruits, etc., she is to be shut within a wall, or be made to serve in building prisons in the S. off. Inquisit. where it existed.

> SED notat *Diana, novissime Gregorium XV. oppositum declarasse, et ideo hunc tradendum Curiae saeculari; si vero infirmitas, vel impotentia ad matrimonium, sive nocuerit aliquibus fructibus, etc. graviter; in muro claudatur, sive carceribus in S. off. Inquisit. ubi illud extitit, fabricandis mancipari debeat.*

Disputation X: On the Temptation of God

1 SINCE God has bestowed prudence, and the other virtues together with their due instruments, on man for this end, that he not commit himself to divine providence drowsily, but that he himself also diligently cooperate, he will be accused of tempting God if he presumes that he shall attain his end without those means: Hence the Archontici were held as Heretics, because they believed that grace was to be infused into themselves without the sacraments, and other means; as Baronius has, anno 175.

> *CUM Deus prudentiam, aliasque virtutes cum debitis organis, eo fine homini contulerit, ut non oscitanter ita divinae se committat providentiae, quin et ipse sedulus cooperetur, Deum tentare arguetur, si absque illis mediis, se suum finem assequuturum praesumat: Hinc pro Haereticis habiti sunt Archontici, eo quod sine sacramentis, aliisque mediis sibi gratiam infundendam crederent; ut habet Baronius, anno 175.*

Question I: What temptation is, and of how many kinds

1 I shall now treat of the vices failing from Religion on the other extreme. Among these however the first is, to Tempt God. It is an Irreligiosity, whereby, from doubt of some divine perfection, something is done, or an experiment is made, whether God has that perfection. It is defined thus from D. Thom. *art. 1.* and common sense, as Valencia notes *disp. 6. quaest. 14. puncto 1.* Fagundez *in primum praeceptum, Decal. cap. 31. n. 30.* Sanchez *tract. 1. Decal. lib. 2. cap. 34.* Tanner. *disp. 5. quaest. 8. dub. 1.* after D. Bonavent. *ad 4. Lucae,* in those words: *Non tentabis Dominum Deum tuum,* which is found in *Deuter. 6.* and *Eccl. 18.* where it is said: *Noli esse quasi homo, qui tentat Deum.* Whence God exclaims, *Numer. 14. Tentaverunt me iam decem vices*; by which testimonies the holy Doctor proves that this is a grave sin, as the Doctors commonly assert, in those cited.

> ***Quid sit TENTATIO, et quotuplex.***
>
> *Iam de vitiis, in altero extremo a Religione deficientibus, agam. Inter haec vero primum est, Tentare Deum. Est autem Irreligiositas, qua ex dubitatione alicuius divinae perfectionis agitur aliquid, vel experimentum capitur, An Deus habeat illam perfectionem. Ita ex D. Thom.* art. 1. *et communi sensu definitur, ut notat Valentia* disp. 6. quaest. 14. puncto 1. *Fagundez* in primum praeceptum, Decal. cap. 31. n. 30. *Sanchez* tract. 1. Decal. lib. 2. cap. 34. *Tanner.* disp. 5. quaest. 8. dub. 1. *post D. Bonavent.* ad 4. Lucae*, in ea verba:* Non tentabis Dominum Deum tuum*, quod habetur* Deuter. 6. *et* Eccl. 18. *ubi dicitur:* Noli esse quasi homo, qui tentat Deum. *Unde exclamat Deus,* Numer. 14. Tentaverunt me iam decem vices*, quibus testimoniis probat S. Doctor, hoc esse peccatum grave, ut communiter asserunt Doctores apud relatos.*

2 *It will be however* venial, either from inadvertence, or from ignorance, or undeliberation, or if it be done from levity of mind, without the intention of tempting God, as those cited note.

> ERIT tamen *veniale, vel ex inadvertentia, vel ex ignorantia, aut indeliberatione, vel si fiat ex levitate animi, non intentione Deum tentandi, ut notant relati.*

3 *Much less*, if the cause is reasonable to await the help of God in necessity, will it be a wicked temptation, just as if someone, with enemies pursuing and mounted on a horse, should apply the spurs, he does not tempt the horse; but if without necessity he wished to test whether he make ten miles in one hour, he will tempt the horse. Therefore one must look to the cause, and the end, that

we may see whether it is a wicked temptation. See Suarez *Tom. 1. de relig. lib. 1. de irreligiosi-* irreligiositate, cap. 2 Sanchez *Tom. 1. Decal. lib. 2. cap. 34.* Fagundez *numero citato*. It is said also to be against hope, because from it one hopes for a miracle from Him in an undue manner, as Azor teaches *Tom. 1. lib. 9. cap. 2. quaest. 7.* Sanchez *in the place cited. num 4.* Fagundez *num. 41.*

> MULTO minus, *si causa est rationabilis expectare in necessitate auxilium Dei, non erit prava tentatio, sicuti si quis insectantibus hostibus, et equo insidens calcaria addat, non tentat equum; at si absque necessitate experiri vellet, an una hora decem milliaria conficiat, tentabit equum. Igitur oportet ad causam, et finem respicere, ut videamus, an sit mala tentatio. Vide Suarez* Tom. 1. de relig. lib. 1. de irreligiosi- *irreligiositate, cap. 2 Sanchez* Tom. 1. Decal. lib. 2. cap. 34. *Fagundez* numero citato. *Dicitur etiam esse contra spem, quia indebito modo sperar ab ipso miraculum, ut docet Azor* Tom. 1. lib. 9. cap. 2. quaest. 7. *Sanchez* loco cit. num 4. *Fagundez* num. 41.

4 But if it arise from mere curiosity of seeing a miracle, or from doubt of some divine attribute; some say it is venial, unless the matter be most grave. So Sayrus *lib. 4. cap. 7.* and Valencia *puncto 2.*

> *Si vero ex mera curiositate videndi miraculum oriatur, seu ex dubio alicuius attributi diuini; dicunt aliqui, esse veniale, nisi materia sit grauissima. Ita Sayrus* lib. 4. cap. 7. *et Valentia* puncto 2.

5 Others think that from its nature it is grave, because it is a notable irreligion to make sport of God; Suatez *num. 16.* Sanchez *num. 5.*

> *Alii existimant, ex natura sua esse graue, quia notabilis irreligio est ludere cum Deo; Suatez* num. 16. *Sanchez* num. 5.

6 Yet the matter can be so small that it becomes venial, as Lessius notes *lib. 2. cap 45. dubio 1.*

> *Potest tamen parua esse adeo materia, ut fiat veniale, ut notat Lessius* lib. 2. cap 45. dubio 1.

7 Besides the formal temptation of God there is given an interpretative one, which in some doubt explores the power, or the love of God, as if someone abstain from food for forty days. So D. Thom. *art. 1.* Fagundez *n. 36.* Toletanus *lib. 4. summae, cap. 19.* Sanchez *num. 12.* Suarez *cap. 3.* Nauar. *sum. lat. cap. 11. num. 40.* says that he commits a similar mortal sin who preaches voluntarily without previous meditation. Which is not true, if there does not also intervene the disposition of tempting God, nor scandal impend. So Sanchez *num. 14.* Caietanus *quaest. 97. art. 1.* Fagundez *num. 37.* Similarly it will be to tempt God to wish to prove one's innocence by a miracle, for instance with heated iron, or by some other similar means, unless one feel himself divinely excited to apply such a means.

> *Praeter formalem Dei tentationem darur interpretatiua, quae in aliqua dubitatione potentiam, vel amorem Dei explorat, ut si quis dies quadraginta abstineat a cibo. Ita D. Thom.* art. 1. *Fagundez* n. 36. *Toletanus* lib. 4. summae, cap. 19. *Sanchez* num. 12. *Suarez* cap. 3. *Nauar.* sum. lat. cap. 11. num. 40. *ait, simile peccatum mortale committere eum, qui voluntarie absque praeuia meditatione concionator. Quod non est verum, si non accederet animo tentandi Deum, nec scandalum immineret. Ita Sanchez* num. 14. *Caietanus* quaest. 97. art. 1. *Fagundez* num. 37. *Similiter erit tentare Deum velle miraculo suam probare innocentiam, puta ferro ignito, vel alio simili medio, nisi quis se senserit diuinitus excitari ad tale medium applicandum.*

8 *You will say:* in *Numer. 5.* the temptation of the innocence of the wife was made by water, etc.

> Dices Numer. 5. *fiebat tentatio innocentiae uxoris per aquam, etc.*

9 *It is answered* that it was commanded by God, and therefore was not a tempting of God. And it was rightly ordered to removing uxoricides in that stiff-necked people.

> Respondetvr *id esse praeceptum a Deo, ideo non fuisse tentare Deum. Id autem recte fuit ordinatum ad uxoricidia in populo illo ceruicoso auferenda.*

10 Temptation however seems to be specifically distinguished into tacit and express, as Suarez says *num. 6.* Fagundez *num. 42.* because the one has a motive from doubt of a divine attribute, the other not, which are two different malices.

> *Videntvr autem tacita, et expressa tentatio specie distingui, ut ait Suarez* num. 6. *Fagundez* num. 42. *quia altera habet motiuum ex dubitatione Diuini attributi, altera non, quae sunt duae malitiae diuersae.*

11 Hence Fagundez deduces *num. 44.* that he tempts God who wishes miracles without a special motion of God for proving the faith; for the testimony of the Church suffices. So Toletanus *lib. 4. cap. 19.* Suarez *num. 13.* Sanchez *num. 10.*

> *Hinc deducit Fagundez* num. 44. *tentare Deum, illum, qui sine speciali Dei motione vult miracula ad probandam fidem; sufficit enim Ecclesiae testimonium. Ita Toletanus* lib. 4. cap. 19. *Suarez* num. 13. *Sanchez* num. 10.

12 Likewise, if anyone offer himself to Martyrdom without cause. So D. Thom. *art. 3. ad 1.* Sanchez *num. 15.* Fagundez *num. 45.*

> *Itidem, si quis Martyrio absque causa se offerat. Ita D. Thom.* art. 3. ad 1. *Sanchez* num. 15. *Fagundez* num. 45.

13 Whence St. Thomas warns that occasion of acting unjustly is not to be offered to infidels, but only to be borne patiently, and that it is not necessary to go to the infidels rashly, from curiosity, from boldness, but moved by holy inspiration, as St. Francis teaches *in the last chapter of the Rule*, and St. Bonaventure explains.

> *Unde monet S. Thom. non esse infidelibus praebendam occasionem iniuste agendi, sed tantum patienter sustinendum, et non esse opus eundi ad infideles temere ex curiositate, ex audacia, sed mouente sancta inspiratione, ut docet S. P. Franciscus* cap. ultimo Regulae*, et explicat S. Bonauentura.*

Disputation XI: On Sacrilege

1 If by the Justinian law the gates of cities, and other places, enjoy that immunity, that it is a wicked thing to offer any violence to them, how much rather will it be execrated to bring into common use those things which are consecrated to God; whence from every age SACRILEGE has been counted among the most nefarious sins, being plainly opposed to the very dictamen of nature: of how many kinds it is, or what its nature is, I shall indicate here in few words.

> *Si iure Iustiniano portae ciuitatum, aliaque loca, ea gaudeant immunitate, ut illis vim ullam inferre nefas sit, quanto potius execrabitur, quae Deo sacrantur, in communem usum adducere; unde ab omni tempore SACRILEGIUM inter nefandissima peccata, quippe ipsius naturae dictamini euidenter oppositum, computatum est: quotuplex autem, aut cuius sit naturae, hic paucis indicabo.*

Sole Question: What sacrilege is, and of how many kinds

1 Sacrilege is defined by D. Bonaventure *in 3. dist. 37. dub. 7. and p. p. Centil. sect. 24. and 30. and in the Mirror of the Soul, cap. 2. It is the violation of a sacred thing, insofar as it is sacred*, for it is called as it were the injury of a sacred thing.

> ***Quid sit Sacrilegivm, et quotuplex.***
>
> *Sacrilegivm definitur a D. Bonauent.* in 3. dist. 37. dub. 7. et p. p. Centil. sect. 24. et 30. et in speculo animae, cap. 2. Est violatio rei sacrae, ut sacra est*, dicitur enim quasi sacri laedium.*

2 Now a thing is sacred by the very fact that it is destined by some law to the worship of God. So D. Thomas *art. 1. and 3.* Cajetan *here d. 5.* Valencia *quaest. 14. p. 1.* Tannerus *d. 5. quaest. 8. dub. 1.*

> *Est autem res sacra, eo ipso quod aliqua lege destinatur cultui Dei. Ita D Thom* art. 1. et 3. *Caietanus* hic d. 5. *Valentia* quaest. 14. p. 1. *Tannerus* d. 5. quaest. 8. dub. 1.

3 Further, according to the diversity of things that are consecrated to God, the Doctors, with D. Bonaventure *sect. 30. p. p. Centil.* and D. Thomas *art. 3.*, establish three kinds of sacrilege.

> *Porro pro diuersitate rerum, quae Deo sacrantur, tria genera sacrilegii constituunt Doctores cum D. Bonauent.* sect. 30. p. p. Centil. *et D. Thom.* art. 3.

4 *The first* is if a sacred Person is violated. This happens first, when a sacred person, for instance a Cleric, is unjustly dragged to a secular tribunal, or struck, of which I shall treat when I deal with Censures.

> Primvm *est, si Persona sacra violetur. Quod fit primo, dum persona sacra, puta Clericus, ad tribunal saeculare trahitur iniuriose, aut percutitur, de quo agam, cum de Censuris.*

5 *Secondly*, when a sacred person bound by a vow of chastity is defiled with lust, or sins in any way whatever against the vow of chastity.

> Secvndo *cum persona sacra, voto castitatis astricta, polluitur libidine, aut quomodocumque contra votum castitatis peccat.*

6 *Thirdly*, when tributes and tolls are exacted from Clerics against the Ecclesiastical immunity, or if things owed to them, for instance tithes, are withheld.

> Tertio, *dum a Clericis exiguntur tributa, et gabellae contra immunitatem Ecclesiasticam, vel si eis res debitas, puta decimas, subtrahat.*

7 *Fourthly*, when someone violates a vow or an oath. But when a Cleric is given to thefts and trading, he does not sin by sacrilege, because by the force of their consecration to the holiness of their person they are not prohibited, but by the canons, lest he be impeded from Ecclesiastical revenues. Which Valencia noted *quaest. 15. part. 1.* Azorius *lib. 9. cap. 17. quaesito 2.* Tannerus *d. 1. cited, num. 8.*

> Qvarto, *dum quis votum, vel iuramentum violat. Dum autem Clericus, furtis, negotiationibus deditus est, non peccat sacrilegio, quia ex vi consecutionis ad sanctitatem personae non prohibentur, sed per canones, ne impediatur a muneribus Ecclesiasticis. Quae notarunt Valentia* quaest. 15. part. 1. *Azorius* lib. 9. cap. 17. quaesito 2. *Tannerus* d. 1. citato, num. 8.

8 *The second* species of sacrilege is the violation of a sacred thing, as distinguished from a person, and from a place. To this belongs first the abuse of the Sacraments. Secondly the profanation of sacred Vessels and Ornaments. Thirdly the violation, or contumelious destruction of sacred Images; as heretics do, and those who do such things are sent to the holy Office of the Inquisition, to which this pertains, as Diana teaches *part. 4. Tract. 7. resol 9.* for it smacks of Lutheranism; whatever Torreblanca may say. Fourthly the theft of sacred things. Fifthly the abuse of sacred things. To this they also refer Simony, of which we shall treat below.

> Secvnda *species sacrilegii est violatio rei sacrae, prout distinguitur a persona, et loco. Quo pertinet primo abusus Sacramentorum. Secundo prophanatio Vasorum, et Ornamentorum sacrorum. Tertio violatio, seu contumeliosa destructio Imaginum sacrarum; prout haeretici faciunt, et talia facientes, mittuntur ad sanctum Officium Inquisitionis, ad quod hoc pertinet, ut docet Diana* part. 4. Tract. 7. resol 9. *sonat enim Lutheranismum; quidquid dixerit Torreblanca. Quarto furtum rerum Sacrarum. Quinto abusus sacrarum rerum. Huc referunt etiam Simoniam, de qua mox infra agetur.*

9 *The third* species of sacrilege is the violation of a sacred place. To this pertain certain actions, such as profane songs, and fairs. Secondly certain particular actions, such as unjust homicide, the burial of an excommunicate, or an infidel, culpable effusion of blood, or of seed, in a temple, or consecrated place, yet not in a Monastery. Thirdly the theft of a sacred thing, or of things consigned to the Church. So D. Bonaventure *in the places cited*, and D. Thomas *quaest. 99. art. 3.* Cajet. *there* Sylvest. *V. sacrileg.* Azor. *lib. 9. cap. 27. num. 7.* Sà *under the word immunitas*, Valencia *quaest. 15. puncto 1.* Tanner. *d. 5. quaest. 8. dub. 1.*

> Tertia *sacrilegii species est violatio loci sacri. Quo spectant actiones quaedam, ut cantiones prophanae, et nundinae. Secundo actiones quaedam peculiares, ut homicidium iniuriosum, sepultura excommunicati, vel infidelis, culpabilis effusio sanguinis, vel seminis in templo, vel loco sacrato, non tamen in Monasterio. Tertio furtum rei sacrae, vel Ecclesiae consignatae. Ita D. Bonauent.* locis adductis, *et D. Thom.* quaest. 99. art. 3. *Caiet.* ibi *Syluest.* V. sacrileg. *Azor.* lib. 9. cap. 27. num. 7. *Sà* verbo immunitas, *Valentia* quaest. 15. puncto 1. *Tanner.* d. 5. quaest. 8. dub. 1.

10 *D. Bonaventure adds* that even to steal from a Church a thing not sacred, nor entrusted to the Church, is Sacrilege, to which Valencia and Sà subscribe, and Tanner. num. 12. and others hold it probable, who think the opposite. Fourthly a sacred place is violated by dragging away a person who has fled to it for refuge. Now such a place is any chapel whatsoever, where the Sacred rite is celebrated by the authority of the Bishop, and the cemetery, the monastery of Religious, the door, and portico of a Church, or annexed to a cemetery, the house of a Bishop, or of Cardinals, the house of a

Church for the dwelling of clerics within thirty, or forty paces. Likewise a Hospital built by the authority of the Bishop, indeed by law a space of forty paces in circuit around a greater Church, or thirty around a lesser. Yet this is no longer observed, as Navarrus says in the Manual, cap. 25. num. 17. except as regards the bounds of cemeteries, enclosures, cloisters, steps and the like.

> Addit *D. Bonauent. etiam rem non sacram, neque Ecclesiae commendatam, ex Ecclesia furari esse Sacrilegium, cui subscribunt Valentia, et Sà, et probabile credunt Tanner. num. 12. et alii, qui oppositum sentiunt. Quarto violatur locus sacer abstrahendo personam, quae eo confugit. Talis autem locus est quaevis etiam capella, ubi authoritate Episcopi Sacrum dicitur, et caemeterium, monasterium Religiosorum, ianua, et porticus Ecclesiae, aut caemeterio adnexa, domus Episcopalis, aut Cardinalium, domus Ecclesiae pro habitatione clericorum intra triginta, vel quadraginta passus. Item Hospitale, Episcopi authoritate constructum, imo de iure spatium quadraginta passuum in circuitu Ecclesiae maioris, aut triginta in minoris. Hoc tamen iam non servatur, ut ait Navar. manuali, cap. 25. num. 17. nisi quoad fines caemeterii, saeptium, claustrorum, graduum et similium.*

11 ALL enjoy this immunity, and only Christians free, except in some cases to be referred to below, sometimes even servants, even excommunicates, interdicted, suspended, indeed even the striker of a cleric, and every sacrilegious person, who however has not offended in a sacred place. Likewise one banned, a blasphemer, etc.

> *GAUDENT hac immunitate omnes, et soli Christiani liberi, exceptis nonnullis casibus, infra referendis, aliquando etiam servi, etiam excommunicati, interdicti, suspensi, imo et percussor clerici, et omnis sacrilegus, qui tamen in loco sacro non deliquit. Item bannitus, blasphemus, etc.*

12 But heretics do not enjoy it, nor other infidels, unless they flee to the Church with the mind of becoming faithful; nor the waylaying robber, nor the nocturnal ravager of fruits, nor one who kills, maims, or commits any other grave thing in a sacred place, nor one who kills treacherously, or strikes so as to kill, according to many; nor those who by violence dragged out one who had taken refuge in a Church; nor those whom the Pontiff orders to be led out; nor Ecclesiastical persons with respect to their proper judge, as Navarrus pursues n. 19. and seqq. according to the cap. *Definitio.* cap. *si quis contumax*, cap. *Deum*, cap. *Quisquis*, cap. *constituimus*, cap. *sicut antiquitus*, *7. quaest. 4.* in the Decretals under the title *de immunitate Ecclesiae.*

> *NON gaudent autem ea haeretici, aliique infideles, nisi eo animo confugiant ad Ecclesiam, ut fideles fiant, neque viarum grassator, neque nocturnus fructuum vastator, neque qui occidit, mutilat, aut aliud grave in loco sacro committit, neque qui insidiose occidit, aut ut occidat sic percutit, iuxta multos; neque, qui eum, qui confugerat ad Ecclesiam, vi extraxit; neque quos Pontifex educi iubet; neque personae Ecclesiasticae respectu iudicis proprii, ut prosequitur Navar. n. 19. et seqq. iuxta cap.* Definitio. *cap.* si quis contumax*, cap.* Deum*, cap.* Quisquis*, cap.* constituimus*, cap.* sicut antiquitus*,* 7. quaest. 4. *in Decretal. titulo* de immunitate Ecclesiae.

13 Yet Sà notes, from the Bull of Gregory XIV., that ravagers of fields, or those who kill treacherously, or assassins, or waylayers of roads, or heretics, or those guilty of lèse-majesty against a Prince, are to be handed over to the secular court with the leave of the Bishop.

> *ADNOTANT tamen Sà ex Bulla Gregorii XIV. agrorum depopulatores, vel proditorie occidentes, vel assassinos, vel grassatores viarum, vel haereticos, vel teos laesae maiestatis in Principem, tradendos curiae saeculari de licentia Episcopi.*

14 You will ask first: whether a Judge who condemns an accused who has been sacrilegiously dragged away is bound to restitution to the heirs, or to the accused himself.

QUAERES primo: an Iudex reum, sacrilege abstractum, damnans, teneatur restitutioni haeredibus, vel ipsi reo.

15 It is answered affirmatively, as is commonly held according to Valencia *quaest. 15. puncto 1.* Tanner. *loc. cit. num. 18.* although D. Thomas indicates the opposite *quaest. 99. art. 2. ad 3.* The reason is, because the accused has the right to be restored to the Church, as the cap. *sicut antiquitus, 17. quaest. 4.* provides.

RESPONDETUR assertive, ut communiter sentitur apud Valentiam quaest. 15. puncto 1. *Tanner.* loco cit. num. 18. *etsi oppositum significet D. Thom.* quaest. 99. art. 2. ad 3. *Ratio est, quia reus habet ius, ut Ecclesiae restituatur, ut habet cap.* sicut antiquitus, 17. quaest. 4.

16 You will ask secondly: whether all sacrilegious persons are excommunicated ipso facto.

QUAERES secundo: an omnes sacrilegi sint ipso facto excommunicati.

17 It is answered, that strikers of clerics are excommunicated, cap. *si quis suadente, 17. quaest. 4.* Those who unjustly impose tolls on clerics, or Churches. Likewise those who violate the immunity of Ecclesiastical things, or persons, by the Bull of the Coena: Likewise invaders of the goods of the Church, by the Council of Trent *sess. 22. cap. 11. de reform.* Breakers into temples, and plunderers of Churches, by the common opinion of all. To these Azorius *lib. 11.* adds incendiaries of Churches, by the common opinion of the Canonists and Summists, with D. Bonaventure *in Confessionali, cap. 3. particula 43.* where it is added: *From now on, after they have been published, they cannot be absolved except by the Apostolic See, extra, de sententia excommunicationis.*

RESPONDETUR, esse excommunicatos clericorum percussores cap. si quis suadente, 17. quaest. 4. *Gabellas iniuste imperantes clericis, vel Ecclesiis. Item violantes immunitatem rerum, vel personarum Ecclesiasticarum ex Bulla Coenae: Item invasores bonorum Ecclesiae ex Concilio Trident.* sess. 22. cap. 11. de reform. *Effractores templorum, et spoliatores Ecclesiarum ex communi sententia omnium. Quibus Azorius* lib. 11. *addit incendiarios Ecclesiarum ex communi Canonistarum, et Summistarum sententia, cum D. Bonavent.* in Confessionali, cap. 3. particula 43. *ubi additur:* Iam nunc, postquam publicati sunt, non posse absolvi citra sedem Apostolicam, extra de sententia excommunicationis.

18 Yet others deny that these are excommunicated. So Cajetan, Navarrus, and Sylvester, according to Tannerus.

Alii tamen negant, hos esse excommunicatos. Ita Caietanus, Navarrus, et Sylvester, apud Tannerum.

19 But the OTHER sacrilegious persons are not excommunicated ipso facto, but after a prior canonical fraternal admonition, unless they make satisfaction, they are to be excommunicated according to the cap. *Quisquis 17. quaest. 4. de poena mortis, et pecuniaria*, see D. Thomas *quaest. 99. art. 4.*

CAETERI vero sacrilegi non sunt ipso facto excommunicati, sed praevia fraterna monitione canonica, nisi satisfecerint, sunt excommunicandi iuxta cap. Quisquis 17. quaest. 4. de poena mortis, et pecuniaria*, vide D. Thom.* quaest. 99. art. 4.

20 Now every sacrilege is a mortal sin; yet inadvertence, or the slightness of the matter, excuses. See Valencia *puncto 2.*

Est autem omne sacrilegium, peccatum mortale; excusat tamen indeliberatio, vel materiae parvitas. Vide Valentiam puncto 2.

21 I treat of the species of sacrilege in their proper places.

De speciebus sacrilegii ago propriis locis.

Disputation XII: On Simony

1 SINCE the gifts and benefits of God are conferred on us freely, it is justly held an abomination to seek base gain from them; for the Divine goodness wills that what we have received freely, we should likewise give freely, nor does it suffer that, while we are enriched by its beneficent bounty, we should exact anything from others who know how to use the talents given them. Hence D. Peter first repelled, with the sharpest rebuke, Simon Magus attempting this crime with horrible daring: *act. 8. thy money be with thee unto perdition, because thou hast thought the gift of God to be possessed for money*; doubtless because that which surpasses all price is unworthy to be claimed for a price.

> *CUM Dei dona, et beneficia gratis nobis conferantur, merito piaculum habetur, ex his turpiter lucrum aucupari, vult enim Divina bonitas, ut quae gratis accepimus, gratis pariter demus, nec patitur, ut dum benefica profusione ipsi ditamur, ab aliis, qui datis talentis uti noverint, quidpiam exigamus. Hinc horribili ausu scelus hoc attentantem primo, Simonem magum acerrima increpatione abegit D. Petrus* act. 8. pecunia tua tecum sit in perditionem, quoniam donum Dei existimasti pecunia possideri*, nimirum quod omne pretium superat, indignum est pretio vindicari.*

Question I: What simony is, and of how many kinds

1 SIMONY is a studied will to buy, or sell a spiritual thing, or one annexed to the spiritual. So D. Thomas here, and D. Bonaventure *p. p. centil. sect. 30. and in the opusc. Declaratio terminorum Theol. and in speculo animae, cap. 2.*

> ***Quid sit SIMONIA, et quotuplex.***
>
> *SIMONIA est studiosa voluntas emendi, aut vendendi rem spiritualem, vel spirituali adnexam. Ita D. Thom. hic, et D. Bonavent.* p. p. centil. sect. 30. et in opusc. Declaratio terminorum Theol. et in speculo animae, cap. 2.

2 The Saintly Doctor teaches, in *4. dist. 25. dub. 2.*, why those who sell spiritual things are called Simoniacs rather than Gezites; for Giezi sold the grace of miracles; but Simon wished to buy it.

> *DOCET autem S. Doctor in* 4. dist. 25. dub. 2. *cur vendentes res spirituales Simoniaci potius, quam Gezitae vocentur; nam Giezi vendidit gratiam miraculorum; Simon autem eam emere voluit.*

3 He answers, that it is done because Simon here wished to traffic in the grace of the new testament, at the time of grace revealed, and wished to buy a greater grace, and to strike a pact.

> *RESPONDET, id fieri, quia hic mercari voluit gratiam novi testamenti, tempore gratiae revelatae, et maiorem gratiam voluit emere, et pactum inire.*

4 Therefore the Saintly Doctor observes *in the places cited*, and with him D. Thomas and the rest, that the spiritual is here distinguished threefold. First spiritual in essence, as are grace, and the gifts of the Holy Spirit, and the supernatural virtues. Secondly spiritual causally, as are the Sacraments, instituted for causing grace. Similarly Ecclesiastical offices. Thirdly spiritual in effect, as are the acts of thanksgivings, of orders, and of the offices of the Church.

> *IDEO observat S. Doctor* locis adductis*, et com eo D. Thom. ac caeteri, spirituale triplex hic distingui. Primum per essentiam, ut sunt gratia, et dona S. Spiritus, ac virtutes supernae. Secundum spirituale causaliter, ut sunt Sacramenta, ad causandam gratiam instituta. Similiter officia Ecclesiastica. Tertium spirituale effectu, ut sunt actus gratiarum, ordinum, et officiorum Ecclesiae.*

5 That which is ANNEXED to the spiritual is also twofold... it is annexed in three ways. First antecedently, as are sacred ornaments, vessels, temples, and any sacramentals whatsoever. Likewise the Right of patronage, presentations, elections, renunciations, collations, all of which are referred antecedently to Ecclesiastical benefices. Secondly accompanying, as is the labor itself to be undergone in the administration of sacred things, or of Ecclesiastical offices. Thirdly annexed consequently, as is the right of receiving the fruits, and revenues of the Church, on account of the spiritual ministry, and office.

> *ADNEXUM etiam spirituale est tripliciter. Primum antecedenter, ut ornamenta sacra, vasa, templa, et sacramentalia quaelibet. Item Ius patronatus, praesentationes, electiones, renunciationes, collationes, quae omnia antecedenter ad beneficia Ecclesiastica referuntur. Secundum comitantes, ut est labor ipse in administratione sacrorum, aut officiorum Ecclesiasticorum subeundus. Tertium adnexum consequenter, ut est ius percipiendi fructus, et redditus Ecclesiae, propter spirituale ministerium, et officium.*

6 By purchase, and sale the Theologians understand any contract whatsoever, not gratuitous, by which a spiritual thing is compensated with a price; whether that be a gift which is called of the hand, as money, which is received by hand; or a gift from service, as service, help, etc.; or a gift from the tongue, as human praise, or intercession for acquiring human favor, according to the can. *Salvator, 1. quaest. 3.* and D. Thomas *art. 5.* and D. Bonaventure *in speculo, loco cit.* Tanner. *disp. 5. quaest. 8. dubio 2.*

> *Per emptionem, et venditionem intelligitur a Theologis quivis contractus, non gratuitus, quo res spiritualis pretio compensatur; sive illud sit munus, quod a manu dicitur, ut pecunia, quae manu accipitur; sive sit munus ab obsequio, ut servitium, auxilium, etc. sive sit munus a lingua, ut humana laudatio, vel deprecatio ad acquirendum humanum favorem, iuxta can.* Salvator, 1. quaest. 3. *et D. Thom.* art. 5. *et D. Bonavent.* in speculo, loco cit. *Tanner.* disp. 5. quaest. 8. dubio 2.

7 This sin is opposed to Religion, and mortal in kind.

> *Peccatum hoc est Religioni oppositum, et ex genere mortale.*

8 *It is proved* by the Saintly Doctor first. Because to sell things of which we do not have dominion is injustice; but the Simoniac sells spiritual things, of which he has not dominion, but only administration, as it is said in 1 Cor. 4.: *So let a man esteem us as the ministers of Christ, and the dispensers of the Mysteries of God.* Therefore Matth. 10. commands: *Freely have you received, freely give.*

> Probatur *a S. Doctore primo. Quia vendere ea, quorum non habemus dominium, est iniustitia; sed Simoniacus vendit spiritualia, quorum non habet dominium, sed tantum administrationem, ut prima Cor. 4. dicitur:* Sic nos existimet homo, ut ministros Christi, et dispensatores Mysteriorum Dei. *Ideo Matth. 10. praecipit:* Gratis accepistis, gratis date.

9 Next it is proved by the Saintly Doctor *in 4. dub. cit. from 4. Reg. 5. and the Acts 8.* where Simon and Giezi are condemned; and in the Council of Chalcedon *cap. 2. and extra de Simonia, 1. quaest. 1.* as S. Bonaventure notes *in 4. dist. 25. quaest. 4.*

> *Deinde probatur a S. Doctore* in 4. dub. cit. ex 4. Reg. 5. et Actorum 8. *ubi damnatur in Simone, et Giezi; et in Concilio Chalcedonensi* cap. 2. et extra de Simonia, 1. quaest. 1. *ut notat S. Bonavent.* in 4. dist. 25. quaest. 4.

10 *It is proved* thirdly by D. Bonaventure *ibidem:* Everyone who esteems the inestimable gift of God as to be possessed for money, sins gravely: but the Simoniac so esteems it: Therefore. It is the Argument

of D. Peter *Act. 8.* and he adds, that this man often errs in faith, because he believes grace not to be grace.

> Probatur *tertio a D. Bonavent.* ibidem: *Omnis aestimans, inaestimabile donum Dei pecunia possideri, peccat graviter: Simoniacus autem sic aestimat: Ergo. Est Argumentum D. Petri* Act. 8. *et addit, hunc saepe errare in fide, quia gratiam credit non esse gratiam.*

11 Hence he argues. No greater perversion exists than to treat one contrary as if the other contrary, but the Simoniac treats the spiritual things of God as his own vendibles, and corporeal things: Therefore.

> *Hinc arguit. Nulla maior est perversio, quam contrarium tractare, quasi alterum contrarium, sed Simoniacus tractat spiritualia Dei, ut sua vendibilia, et corporalia: Ergo.*

12 *It is proved* fourthly by the Saintly Doctor: As wisdom is attributed to the Son; So goodness to the Holy Spirit; but he who attributed folly to the Son would err gravely: Therefore also he who ascribes avarice to the Holy Spirit; but thus esteems the Simoniac, treating the Holy Spirit, who is the gift liberal of love from the origin, as if through avarice He should sell his gifts, as Blessed Peter said *Act. 8.* Therefore.

> Probatur *quarto a S. Doctore: Sicuti filio attribuitur sapientia; Ita Spiritui Sancto bonitas; sed qui filio attribueret insipientiam, graviter erraret: Ergo et qui tribuit Spiritui Sancto avaritiam; sed taliter aestimat Simoniacus tractans Spiritum Sanctum, qui est donum ab origine liberale amoris, quasi avaritia vendat dona sua, ut dixit B. Petrus* Act. 8. *Ergo.*

13 *It is proved* fifthly by the Saintly Doctor *in the body, from Micheas 3.* where the Lord gravely reproves this vice, saying: *Her princes judged for gifts, and her priests taught for hire, and her Prophets divined for money. For this cause, for thy sake, Sion shall be plowed as a field.*

> Probatur *quinto a S. Doctore* in corpore, ex Micheae 3. *ubi graviter Dominus reprehendit hoc vitium, dicens:* Principes eius in muneribus iudicabant, et sacerdotes eius in mercede docebant, et Prophetae eius in pecunia diuinabant. Propter hoc, causa vestri, Sion quasi ager arabitur.

14 It is placed in the genus of Sacrilege by Azorius *lib. 9. c. 17. quaesito 8.* and Tanner. *dub. 2.* although others distinguish it also from Sacrilege, Cajetanus *q. 99. art. 1.* Valencia *quaest. 16. puncto 4.* with D. Bonaventure *loc. cit. of the Centiloquium.*

> *Ponitur autem in genere Sacrilegii ab Azorio* lib. 9. c. 17. quaesito 8. *et Tanner.* dub. 2. *etsi alii etiam a Sacrilegio utrumque distinguant, Caietanus* q. 99. art. 1. *Valentia* quaest. 16. puncto 4. *cum D. Bonavent.* loco cit. Centiloquii.

15 It is, however, a single sin, as the Saintly Doctor says *in the body*, although infidelity can be joined with it, believing the gifts of God vendible, and that a temporal price suits the spiritual thing, which exceeds every price, and the price of the grace of God.

> *Est autem unicum peccatum, ut ait S. Doctor* in corpore*, etsi cum eo coniungi possit infidelitas credens, dona Dei vendibilia, et rei spirituali, quae omne pretium excedit, et gratiae Dei pretium convenire temporale.*

16 It is called by D. Bonaventure *loc. cit. of the Mirror*, an injustice against God, insofar as that which is above every temporal price is sold against the Divine will. In which he does not seem to place Simony as a proper Injustice; for these things always remain under the free dominion of God, and just as to

squander the grace of God is not a special injustice, so also to sell it, as Tanner. noted *num. 25.* although *Sotus lib. 9. de Iust. quaest. 5. art. 1.* and Valencia *loco cit.* esteem it a special injustice.

> *Vocatur autem a D. Bonavent.* loco cit. speculi*, iniustitia contra Deum, quatenus id, quod est supra omne pretium temporale, contra Divinam voluntatem venditur. In quo non videtur ponere Simoniam Iniustitiam propriam; manent enim haec semper sub Dei libero dominio, et sicuti gratiam Dei prodigere, non est specialis iniustitia, ita et vendere, ut notavit Tanner.* num. 25. *etsi iniustitiam specialem aestiment eam* Sotus lib. 9. de Iust. quaest. 5. art. 1. *et Valentia* loco cit.

17 He objects to himself first, for Saul, and Jeroboam wished to offer a price to the prophets for the gift of prophecy.

> *Aliqua sibi obiicit primo, nam Saul, et Hieroboam pretium exhibere voluerunt prophetis ob prophetiae donum.*

18 *The Saintly Doctor answers*, that he never read that those prophets received anything; but they offered ignorantly, as they were wont to offer even to soothsayers.

> Respondet *S. Doctor, non legi unquam prophetas illos aliquid recepisse; sed illi ignoranter exhibebant, ut solebant exhibere etiam ariolis.*

19 *He objects* secondly: The Apostle argues, 1 Corinth. 9.: *If we have sown unto you spiritual things, is it a great matter if we reap your carnal things?*

> Obiicit *secundo: Apostolus prima Corinth. 9. arguit:* Si nos vobis spiritualia seminavimus, magnum est, si carnalia vestra metamus.

20 *The Saintly Doctor answers*, that to give spiritual things, for the end of receiving temporal things, is Simony: Yet to give spiritual things, and to receive sustenance for labors in spiritual things, is not Simony; and as a Physician, or Advocate can receive a fee for his labor; So also the one celebrating Mass.

> Respondet *S. Doctor, dare spiritualia, ob finem recipiendi temporalia, esse Simoniam: Attamen dare spiritualia, et recipere sustentationem ad labores in spiritualibus, non esse Simoniam; sicuti autem Medicus, aut Advocatus ob laborem potest recipere mercedem; Ita etiam et celebrans Missam.*

21 *He objects* thirdly. The kingdom of heaven, which is most spiritual, is bought.

> Obiicit *tertio. Regnum caelorum, quod est spiritualissimum, emitur.*

22 *It is answered* that it is bought by acts of the virtues, but not by money.

> Respondetur *illud emi actibus virtutum, non autem pecunia.*

23 *He objects* fourthly: He who gives temporal things, that he may receive spiritual things, esteems them more: this therefore is not disordered.

> Obiicit *quarto: Qui dat temporalia, ut recipiat spiritualia, plus ea aestimat: hoc ergo non deordinatur.*

24 *The Saintly Doctor answers*, that it is disordered, while the inestimable is esteemed for money.

> Respondet *S. Doctor, inordinari, dum inaestimabile pecunia aestimatur.*

25 First. Simony is divided into three genera, Mental, Conventional, and Real: the Mental is that which is expressed by no outward sign, but is conceived by the mind alone, lest the deed follow; but

if the exchange of a spiritual thing is made with a perverse mind, it is no longer purely mental.

> *Primo. Simonia in tria genera dividitur, Mentalem, Conventionalem, et Realem: Mentalis est, quae nullo signo extra exprimitur, sed mente sola concipitur, ne sequatur opus; quod si mente perversa fiat commutatio rei spiritualis, iam non est amplius pure mentalis.*

26 The Conventional is that which is already expressed by words, or signs, but is not yet in fact commanded to execution, whether on neither side, or on one; either because one gives only a temporal thing, while the other only promises the spiritual; or conversely, because one gives the spiritual, the other promises the temporal, as Navarr. teaches *cap. 23. num. 103.* Valencia *num. 5.* Tanner. *n. 28.* Zuadius, Sotus *de Iustitia lib. 9. quaest. 8. art. 1.* and Cajetanus *quaest. 100. art. 6.* say, that in the latter sense it is a real Simony.

> *Conventionalis est, quae verbis iam, vel signis exprimitur, sed nec re ipsa est adhuc executioni mandata, sive ex neutra parte, sive ex altera; vel quia alter dat tantum temporale; alter vero spirituale solum promittit; vel e contra, quia alter dat spirituale, alter temporale promittit, ut docent Navar.* cap. 23. num. 103. *Valentia* num. 5. *Tanner.* n. 28. *Zuadius, Sotus* de Iustitia lib. 9. quaest. 8. art. 1. *et Caietanus* quaest. 100. art. 6. *dicant, in posteriori sensu esse Simoniam realem.*

27 Real Simony is when that perverse will is expressed, and commanded to execution in fact.

> *Realis Simonia est, quando perversa illa voluntas exprimitur, et executioni re ipsa mandatur.*

28 Next it is divided by D. Bonaventure *in 4. dist. 25. dub. 6. litt. and in other places cited, and other* TT. into that which is prohibited by natural, and Divine law; and into that prohibited by merely positive human law, whether as the things are temporal, which are sometimes exchangeable, or as both sides are spiritual, as happens when benefices are illicitly exchanged, which nevertheless is not properly Simony.

> *Deinde dividitur a D. Bonavent.* in 4. dist. 25. dub. 6. litt. et aliis locis citatis, et aliis *TT. in eam, quae iure naturali, et Divino prohibita est; et in prohibitam solo iure positivo humano, sive qua res sint temporales, quae aliquando sunt permutabiles, sive qua utrinque sint spirituales, ut accidit, dum beneficia illicite permutantur, quae tamen non est proprie Simonia.*

29 Thirdly it is divided into the True, and the Presumptive in the external forum.

> *Tertio dividitur in Veram, et Praesumptam in foro exteriori.*

Question II: How simony is known on the part of the object

1 A contention can arise from a twofold head: whether it is Simony; first on the part of the object, while it is doubted whether it is a spiritual thing, and of this is the present question. Secondly on the part of the act, and of this there will be q. 3.

> *Duplici ex capite oriri potest contentio: an sit Simonia; primo ex parte obiecti, dum dubitatur: an sit res spiritualis, et de hoc est quaestio nunc. Secundo ex parte actus, et de hoc erit quaest. 3.*

2 The first doubt: whether to sell the office or the labor of teaching Theology is Simony.

> *Dubitatur primo: an vendere officium seu operam docendi Theologiam, sit Simonia.*

[3] *It is answered,* with D. Bonaventure *in 4 dist. 25 q. 4* ad 4, that to sell neither the office of teaching nor the labor of teaching Theology is Simoniacal. It is indicated by D. Thomas a. 3 ad 3; there follow Durandus in 4 dist. 25 q. 3, Richardus there, Cajetan q. 100 a. 3, Navarrus manu. cap. 23 n. 100, Soto lib. 9 de Iustitia q. 8 a. 1, Victoria relectio de simonia, Valencia q. 16 puncto 2, Suarez Tom. 1 de Religione lib. 3 c. 8 q. 8 dub. 2 n. 36, Fagundez de contractibus lib. 5 cap. 18. 23; although Altisiodorensis lib. 3 summa tract. 21 tit. de Simonia cap. 3, Alensis 2 part. q. 187 memb. 4 a. 3, and others in Sylvester V. Doctor q. 11 simply deny that it is lawful to teach all that science for a price.

> Respondetvr *cum D. Bonav.* in 4. dist. 25. quaest. 4. *ad 4. nec officium docendi, nec laborem docendi Theologiam vendere, esse Simoniacum. Indicatur a D. Thom. art. 3. ad 3. sequuntur Durandus in 4. dist. 25. quaest. 3. Richardus ibi, Caietanus q. 100. art. 3. Nauar. manu. cap. 23. num. 100. Sotus lib. 9. de Iustitia, quaest. 8. art. 1. Victoria relect. de sim. Valentia quaest. 16. puncto 2. Suarez Tom. 1. de Relig. lib. 3. c. 8. quaest. 8. dub. 2. num. 36. Fagundez de contract. lib. 5. cap. 18. 23. etsi Altisiodor lib. 3. sum. tract. 21. tit. de Simonia, cap. 3. Alens. 2. part. quaest. 187. memb. 4. art. 3. et alii apud Sylvestrum V. Doctor, quaest. 11. simpliciter negent, licitum esse omnem illam scientiam pretio docere.*

[4] Which they assert at least of Theology, as do Paludanus 4 dist. 25 q. 5 and Innocent in the cap. Quia nonnulli de magistris.

> *Quod saltem de Theologia asserunt Paludanus 4. dist. 25. quaest. 5. Innocentius in cap. Quia nonnulli de magistris.*

[5] *You will say.* Theological doctrine is a gift of God, Eph. 4: *he gave some Doctors.*

> Dices. *Doctrina Theologica est donum Dei, Ephes. 4.* Quosdam dedit Doctores.

[6] *It is answered,* that the science which is ordinarily acquired can be taught; for this is what is properly taught. But something else must be said of the doctrine of faith, of which it is said Matth. 10: *Freely you have received, freely give.* Similarly in the cap. Prohibeas it is forbidden to Bishops to receive anything for the license given to masters to teach even Grammar, as others say; but rather I maintain the opposite with Fagundez *n. 16* and others, since the matter is of the same reason as teaching: Indeed even to teach for a price, says Suarez *n. 11,* provided only a worthy amount is received.

> Respondetur, *doceri scientiam, quae est ordinarie acquisita; haec enim est, quae proprie docetur. Aliud tamen dicendum de doctrina fidei, de qua dicitur Matth. 10.* Gratis accepistis, gratis date. *Similiter cap.* Prohibeas, *vetitum est Episcopis aliquid recipere pro licentia data magistris docendi etiam Grammaticam, ut dicunt alii; sed oppositum magis astruo cum Fagundez* num. *16. et aliis, cum sit eiusdem rationis materia cum docere: Imo docere etiam pretio, ait Suarez* num. *11. si tamen condignum tantum accipitur.*

[7] *It is doubted* secondly: whether something of those things which are annexed antecedently to spiritual things can be sold without Simony.

> Dubitatur *secundo: an possit aliquid ex his, quae spiritualibus antecedenter adnexa sunt, vendi absque Simonia.*

[8] *It is answered,* that those things which are estimable by price, abstracting from the consecration or order which they have toward a spiritual thing, can be sold, such as images, ornaments, sacred vessels, which are only patens and chalices, as Fagundez *n. 21* says, which if sold to profane persons ought to be broken up; otherwise if to ecclesiastics for sacred uses. Thus from the common opinion: Durandus 4 dist. 25 q. 3, Sylvester V. *Simonia q. 12,* Soto *lib. 9 de Iustitia q. 7 a. 2 ad 2,* Navarrus *manu. cap. 23 n. 108,* Valencia *q. 16 puncto 2,* Sà, Tannerus *disp. 5 q. 8 dub. 2 n. 44.* Yet Fagundez *de contractibus*

lib. 5 cap. 19 n. 19 says that to sell sacred vessels, even as material, to another church without necessity is sacrilege, yet not simony, because they are not sold as sacred.

> Respondetur, *posse ea, quae pretio sunt aestimabilia, abstrahendo a consecratione, seu ordine, quem habent ad rem spiritualem posse vendi, ut imagines, ornamenta, vasa sacra, quae sunt patenae, et Calices tantum, ut ait Fagundez* num. *21. quae si prophanis vendantur, debent confringi; secus si Ecclesiasticis ad usus sacros. Ita ex communi, Durandus 4. dist. 25. quaest. 3. Sylvester V.* Simonia, quaest. *12. Sotus* lib. 9. de Iustitia, quaest. 7. art. 2. ad 2. *Nauar.* manu. cap. 23. num. 108. *Valentia* quaest. 16. puncto 2. *Sà, Tannerus* disp. 5. quaest. 8. dub. 2. num. *44. ait tamen Fagundez* de contract. lib. 5. cap. 19. num. *19. vendere vasa sacra, etiam ut materiam, alteri Ecclesiae absque necessitate, esse sacrilegium, non tamen simoniam, quia non venduntur ut sacra.*

9 From what has been related some things are excepted, such as the sale of the office of any administrator of a church, such as the steward, advocate, or sacristan, *cap. Saluator 1 q. 3*, as Valencia *puncto 2 and 5* and Tannerus 46 note.

> *Ex relatis excipiuntur aliqua, ut venditio officii cuiuslibet administratoris Ecclesiae, ut Oeconomi, Aduocati, aut Sacristani,* cap. Saluator, 1. quaest. 3. *ut notant Valentia* puncto 2. et 5. *Tannerus 46.*

10 The rest of this kind, however, are not sellable, such as the Ius patronatus, as D. Bonaventure *dub. 5 dist. 25* says, such as the right of presenting, etc.; Agnus Dei, relics; yet a price can be taken for the transport.

> *Caetera autem huius generis non sunt vendibilia, ut Iuspatronatus, ut ait D. Bonauent.* dub. 5. dist. 25. *ut ius praesentandi, etc. Agni Dei, reliquiae; potest tamen pro advectione pretium sumi.*

11 As to Agnus Dei, it is forbidden, even by reason of the material alone, by Gregory XIII under excommunication incurred ipso facto, to paint and sell them, and to keep them painted. But Filliucius *tract. 14 cap. 6* says that outside the City this is not accepted: Indeed even white Agnus Dei by reason of the labor, etc., are lawful, say many in Diana *part. 3 tract. 6 resol. 12*. Caramuel subscribes *lib. 2 n. 867*, nor does Bassaeus refuse it, 3 *n. 4*.

> *Quoad Agnos Dei, vetitum est, etiam ratione materiae solius, e Gregor. XIII. sub excom. ipso facto, eos pingere, et vendere, pictosque tenere. At Filliucius* tract. 14. cap. 6. *ait, extra Urbem id non recipi: Imo et Agnos albos ratione laboris, etc. licere, aiunt multi apud Dianam* part. 3. tract. 6. resol. 12. *Subscribit Caramuel* lib. 2. num. 867. *nec abnuit Bassaeus 3*. num. *4.*

12 *You will ask* thirdly: whether a price may be received for the labor and burden accompanying spiritual things.

> Quaeres *tertio: an pro labore, et onere comitante res spirituales, liceat pretium accipere.*

13 *It is answered* first with D. Bonaventure 4 *dist. 25 q. 4* and *in dubiis litt. posse*; for instance, if one must travel farther to the Mass and spend more. Thus all concede, as in Bassaeus.

> Respondetur *primo cum D. Bonauent. 4.* dist. 25. quaest. 4. *et* in dubiis *litt.* posse; *puta si ad missam longius sit meandum, et plus expendendum. Ita omnes concedunt apud Bassaeum.*

14 Similarly for the obligation of ministering spiritual things of this kind. Thus Innocent *cap. Quoniam*, Navarrus *n. 103*, Valencia *punct. 2*, Tanner *n. 49*; for it is something distinct from spiritual things; yet so, unless they are prohibited by positive law, for then it will be presumed Simony.

Similiter pro obligatione ministrandi iusmodi spiritualia. Ita Innocentius cap. Quoniam, *Nauar.* num. *103. Valentia* punct. 2. *Tanner.* num. *49. est enim aliquid distinctum a spiritualibus; Ita tamen, nisi positiuo iure vitentur, erit enim Simonia praesumpta.*

15 Hence Valencia thinks that neither for Ordination, nor for dimissorial letters, nor for wax or parchment can anything be received, on account of the Council of Trent *sess. 21 cap. 1 de Reformatione*.

Hinc putat Valentia, nec pro Ordinatione, nec pro Dimissoriis, nec pro cera, aut membrana posse aliquid accipi, propter Concilium Trident. sess. 21. cap. 1. de Reformat.

16 But for the labor and burden intrinsically pertaining to the ministry, some deny it, as Durandus *dist. 25 q. 3,* Gabriel *q. 2,* Victoria *relectio de Simonia part. 2 n. 20,* Soto *lib. 9 de Iustitia q. 6 a. 1,* Cajetan *q. 100 a. 2,* Navarrus *cap. 23 n. 101,* Valencia *puncto 2,* Tanner *n. 50,* Malderus *tract. 9 cap. 3 dub. 6,* Filliucius *cap. 3 q. 11,* Reginaldus *lib. 23 dub. 228,* Lessius *lib. 1 de Iustitia lib. 2 c. 13 dub. 8,* Suarez *Tom. 1 de Religione lib. 4 de simonia cap. 21,* Fagundez *de contractibus lib. 5 cap. 21.*

Pro labore autem, et onere intrinsece spectante ad ministerium, aliqui negant, ut Durandus dist. 25. quaest. 3. *Gabriel* quaest. 2. *Victoria* relect. de Simonia, part. 2. num. 20. *Sotus* lib. 9. de Iustitia, quaest. 6. art. 1. *Caietanus* quaest. 100. art. 2. *Nauar.* cap. 23. num. 101. *Valentia* puncto 2. *Tanner.* num. 50. *Malder* tract. 9. cap. 3. dub. 6. *Filliucius* cap. 3. quaest. 11. *Reginaldus* lib. 23. dub. 228. *Lessius* lib. 1. de Iustitia, lib. 2. c. 13. dub. 8. *Suarez* Tom. 1. de Relig. lib. 4. de sim. cap. 21. *Fagundez* de contract. lib. 5. cap. 21.

17 On the contrary they assert it, D. Bonaventure *at the place cited,* Altisiodorensis *lib. 3 tract. 21 cap. 2,* Adrianus *quodlibet 9,* Maior *in 4 dist. 25 q. 6,* Marsilius *q. 25,* and most Canonists with the Gloss on *cap. significatum de praebendis,* nor does Suarez entirely disapprove it, *3 part. Tom. 3 disp. 86 sect. 7,* Tanner *disp. 50,* Bassaeus 3. See Sylvius *q. 100 a. 2,* Laymann *lib. 4 tract. 10 morab. 41,* Lessius *lib. 2 cap. 35 dub. 8.*

Asserunt e regione D. Bonauent. loco cit. *Altisiodor.* lib. 3. tract. 21. cap. 2. *Adrianus* quodl. 9. *Maior* in 4. dist. 25. quaest. 6. *Marsil.* quaest. 25. *et plerique Canonistae cum Glossa in* cap. significatum, de praebendis, *nec omnino improbat Suarez* 3. part. Tom. 3. disp. 86. sect. 7. *Tanner.* disp. 50. *Bassaeus 3. Vide Syluium* quaest. 100. art. 2. *Layman* lib. 4. tract. 10. morab. 41. *Lessium* lib. 2. cap. 35. dub. 8.

18 In truth the Saintly Doctor *ad 4* brings a reason and resolves the opposing argument; for he says that for the labor of the sacred ministry a price can be taken in the ordinary way, in order to a decent sustenance, that we may devote ourselves to spiritual things; but not by putting the end in this price, as if it were given simply for the labor annexed to the spiritual thing. Wherefore even for intrinsic labor a price can be received, as for the ordinary labor of celebrating Mass, as the Saintly Doctor says; otherwise very many would receive a price from the labor of the Mass in a Simoniacal way, since they spend only the ordinary effort with no other inconvenience, which is false; and to this point pertains 1 Corinth. 9: *If we have sown spiritual things among you, is it a great matter if we reap your temporal things?* The same he asserts absolutely in the *Speculum animae cap. 1.*

Enim vero S. Doctor ad 4. *rationem affert, et argumentum oppositum resoluit; ait enim, posse pro labore ministerii sacri ordinario sumi pretium in ordine ad sustentationem decentem, ut spiritualibus incumbere possimus; non autem ponendo finem in hoc pretio, ut detur ob laborem simpliciter, spirituali rei adnexum. Quare etiam pro labore intrinseco poterit accipi pretium, veluti pro labore ordinario celebrandi missam, ut ait S. Doctor; alioqui simoniace plurimi acciperent pretium e missae labore, cum non nisi ordinarium expendant nullo alio incomodo, quod est falsum, et huc refert id prima*

> *Corinth. 9.* Si nos spiritualia vobis seminauimus, non magnum est, si temporalia metamus? *Idem absolute asserit in* speculo animae, cap. 1.

19 Whence it comes that an increase of intrinsic labor can also increase the price, as if a priest be so corpulent that he undertakes the journey with difficulty. So many judge it probable, as in Malderus above, to whom Bonacina adheres *q. 6 part. 3*, and Fagundez judges it probable *cap. 21 n. 2*.

> *Quo fit, ut augmentum laboris intrinseci augere etiam valeat pretium, veluti si sacerdos sit ita corpulentus, ut difficile iter suscipiat. Ita probabile censent multi apud Malderum supra, quibus adhaeret Bonacina* quaest. 6. part. 3. *et probabile censet Fagundez* cap. 21. num. 2.

20 From what has been said the adverse argument also collapses, namely, that that labor, as intrinsic, imbibes the nature of the spiritual thing.

> *Ex dictis ruit etiam argumentum aduersum, nempe laborem illum, utpote intrinsecum, imbibere naturam rei spiritualis.*

21 For it is answered that it is separated by reason of the end intended in taking the price, as it is our labor ordained to ministering to God. Woe to innumerable priests if that opinion were true! For the price is received for the thing, not as it is a spiritual labor, but as it is burdensome, as even Tannerus saw *n. 50*.

> *Respondetur enim separari ratione finis intenti assumendi pretium, pro ut est labor noster ordinatus ad Deo ministrandum. Vae innumeris sacerdotibus, si illa opinio esset vera! accipitur enim pretium rei, non ut est labor spiritualis, sed ut onerosus, ut vidit etiam Tannerus* num. 50.

22 The fourth doubt is: whether Ecclesiastical benefices can by natural law, without Simony, be sold. I suppose three things to be in a benefice. The first is the Title, or spiritual office. The second is the faculty of receiving the fruits. The third the fruits themselves.

> *Dubium quartum est: an beneficia Ecclesiastica iure naturae, absque Simonia vendi queant. Suppono, tria esse in beneficio. Primum est Titulus, seu officium spirituale. Secundum vis percipiendi fructus. Tertium fructus ipsi.*

23 As to the first, to sell that spiritual office is a horrendous Simony. Thus the Doctors commonly, as in Molina *Tom. 2 dub. 340*, Fagundez *de contractibus lib. 5 cap. 19 n. 23*, Tannerus *n. 51*, Bassaeus 4 *n. 3*. For a spiritual thing is sold for a temporal one against all law, and it is indispensable even by the Pope.

> *Quoad primum, officium illud spirituale vendere, est Simonia horrenda. Ita communiter DD. apud Molinam* Tom. 2. dub. 340. *Fagundez* de contract. lib. 5. cap. 19. num. 23. *Tannerum* num. 51. *Bassaeum 4.* num. *3. Venditur enim res spiritualis pro temporali contra omne ius, indispensabileque est etiam a Papa.*

24 As to the right of receiving the fruits,

> *QUOAD ius percipiendi fructus,*

25 I say first, that that right can be leased. For the right still remains founded in the title in first act; yet it is forbidden to make a lease beyond three years; but this is not in use. Hence Valencia *puncto 2 says* it can be leased during the life of the lessor.

> *Dico primo, posse illud ius locari. Manet enim ius adhuc in titulo fundatum in actu primo; vetatur tamen fieri locatio ultra triennium; sed hoc non est in usu. Ideo Valentia* puncto 2. ait, *posse locari durante vita locantis.*

26 Yet in no way can that right, connected with that title, be sold. Thus the Theologians commonly with D. Bonaventure *in 4 dist. 25 dubiis litt.*, D. Thomas q. 100 a. 4, Valencia *at the place cited*, Tannerus *n. 53*, who says it is against natural law. Against them Navarrus *n. 108*, Butrio *cap. ex parte 1 de officio delegati*, Turrecremata *in cap. 1 de Simonia*, where Panormitanus as to simple benefices. See what you have discussed on the collation of benefices *tom. 4 disp. 17 de conscientia q. 10 ad prop. 22, condemned by Alexander VII*.

> *NULLO tamen modo potest ius illud cum eo titulo connexum vendi. Ita communiter Theologi cum D. Bonavent.* in 4. dist. 25. dubiis litt. D. Thom. quaest. 100. art. 4. *Valentia* loco cit. *Tannerus* num. 53. *qui ait, esse contra ius naturale. Contra Nauar.* num. 108. *Butrium* cap. ex parte 1. de offic. deleg. *Turrecrem.* in cap. 1. de Simonia, *ubi Panormit. quoad beneficia simplicia. Vide, quae de collatione beneficiorum discussa habes* tom. 4. disp. 17. de conscient. quaest. 10. ad prop. 22. ab Alex. VII. damnatam.

27 Whether indeed the Pontiff can dispense in this.

> *AN vero possit Pontifex in hoc dispensare.*

28 The first opinion is that it can be done by the Pope, because the whole prohibition, that benefices not be sold in order to temporal profit, is ecclesiastical. So Suarez *Tom. 1 de Religione lib. 4 de simonia cap. 24*, Julius Clarus *lib. 5 receptarum §. Simonia*, Navarrus *n. 108*, Ugolinus *Tab. 1 cap. 3 §. 5*, Carbo *de restitutione q. 60*, Parisius *de resignatione beneficiorum lib. 14 q. 3*, Garzia *de beneficis part. 1 cap. 2*. And it is common among the Canonists, and Tanner follows it *n. 54*, saying that this right, taken materially, can be sold by reason of a cause by the supreme Pontiff, and he adduces Lessius *lib. 2 cap. 35 dub. 2* and others; Fagundez *n. 26 cap. 10* says it can be done by the Pontiff if he separates the right of the fruits from the spiritual title, which is the same as to sell it materially. This seems to me to be the mind of D. Bonaventure *in the places adduced*, who everywhere constantly says that, the spiritual being separated, the temporal can be sold.

> *Prima opinio est, posse fieri a Papa, quia tota prohibitio, ne beneficia vendantur in ordine ad commodum temporale, est Ecclesiastica. Ita Suarez* Tom. 1. de Relig. lib. 4. de sim. cap. 24. *Iulius Clarus* lib. 5. receptarum, §. Simonia, *Nauar.* num. 108. *Ugolinus* Tab. 1. cap. 3. §. 5. *Carbo* de restit. quaest. 60. *Parisius* de resignat. benefic. lib. 14. quaest. 3. *Garzia* de benefic. part. 1. cap. 2. *Et est communis Canonistarum, eamque sequitur Tanner.* num. 54. *dicens, posse hoc ius materialiter acceptum vendi ex causa a Pontifice summo, et adducit Lessium* lib. 2. cap. 35. dub. 2. *et alios; Fagundez* num. 26. cap. 10. *dicit, id fieri posse a Pontifice, si separet ius fructuum a titulo spirituali, quod idem est, ac materialiter vendere. Haec mihi videtur D. Bonavent.* locis adductis, *qui ubique constanter ait, separato spirituali, posse temporale vendi.*

29 The second opinion denies that it can be done. So Victoria *relectio de simonia n. 44*, Valencia *q. 16 puncto 2*, Soto *lib. 9 de Iustitia q. 5 a. 2*, Sylvester *V. simonia q. 12*, Covarruvias *regulae peculiares 2 part. lib. 8*, and very many others in Garzia. But Suarez and Fagundez *n. 17* hold it in the case where the Pontiff does not separate from the spiritual benefice the right of the emolument, which Bassaeus *n. 5* says cannot be separated, because the right to the fruits is sold.

> *SECUNDA sententia negat, id fieri posse. Ita Victoria* relect. de sim. num. 44. *Valentia* quaest. 16. puncto 2. *Soto* lib. 9. de Iust. quaest. 5. art. 2. *Syluester* V. sim. quaest. 12. *Couar.* reg. pec. 2. part. lib. 8. *et plurimi alii apud Garciam. At Suarez, atque Fagundez* num. 17. *eam tenent casu, quo Pontifex non separet a spirituali beneficio ius emolumenti, quae non posse separari ait Bassaeus* num. 5. *quia venditur ius ad fructus.*

30 But as to the fruits the Pontiff can dispose of them, impose a pension, etc., not without the right of receiving them, nor by giving at the same time the spiritual title. Thus commonly, as in Victorius *n. 50*, Valencia and others, and it is evident from the canons and from practice. See the Council of Trent *sess. 24 cap. 13 de Reformatione*.

> *AT quoad fructus potest Pontifex de eis disponere, imponere pensionem, etc. non sine iure eos percipiendi, nec dando simul spiritualem titulum. Ita communiter apud Victorium* num. 50. *Valentiam, et alios, et constat ex canonibus, et praxi. Vide Concil. Trident*. sess. 24. cap. 13. de Reform.

31 What I said of benefices, say the same of pensions which are given on account of a spiritual title, not of those that are exchanged for a temporal one. So Valencia and Tanner after Soto and Victorius. Now they are temporal, such as those of sacristans, ringers of bells, etc.; spiritual, those given to Clerics as Clerics, and which impose the obligation of the clerical habit and tonsure by the Constitution of Sixtus V.

> *QUOD dixi de beneficiis, idem dic de pensionibus, quae dantur propter titulum spiritualem, non de iis, quae mutantur temporali. Ita Valentia, et Tanner. post Sotum, et Victoriam: Sunt autem temporales, ut Sacristae, pulsatores campanarum, etc. Spirituales, quae dantur Clericis, ut Clerici sunt, et imponunt obligationem habitus clericalis, et tonsurae ex Constitutione Sixti V.*

32 To benefices are reduced also the Praestimonia, which are certain portions abstracted from the revenues of benefices and designated to be conferred, by way of sustenance and help, on young men for undertaking studies, that in that way they may be educated and serve the Church, as Suarez *lib. 4 de horis canonicis cap. 12* says, and Fagundez *n. 19*. The more probable party judges these are to be reckoned with benefices, as in Suarez *Tom. 1 de Religione cap. 25 n. 4*, where he says it was so declared by Pius V in a certain motu proprio. See Malderus *de Simonia disp. 12 and 13*, Reginaldus *lib. 23 cap. ult.*, Fagundez *cap. 20*.

> *AD beneficia reducuntur etiam Praestimonia, quae sunt portiones quaedam abstractae a redditibus beneficiorum, et designatae, ut per modum sustentationis, et adiutorii conferantur iuvenibus ad studia paragenda, ut eo modo possint erudiri, et Ecclesiae inservire, ut ait Suarez* lib. 4. de horis canonicis, cap. 12. *Fagundez* num. 19. *Haec cum beneficiis computanda, probabilior pars censet apud Suarez* Tom. 1. de Relig. cap. 25. num. 4. *ubi ait, ita declaratum a Pio V. in quodam motu proprio. Vide Malderum* de Simonia, disp. 12. et 13. *Reginaldum* lib. 23. cap. ult. *Fagundez* cap. 20.

33 You will ask fifthly: whether it is Simony to exchange a spiritual thing for a spiritual one.

> *QUAERES quinto: an sit Simonia rem spiritualem cum spirituali commutare.*

34 It is answered that it is not Simony if no temporal thing is connected. So Valencia *puncto 3*, Fagundez *n. 58*, and others. Thus concerning prayers a pious usage has grown up. So also Bassaeus *4 n. 4*.

> *RESPONDETUR, non esse Simoniam, si non adsit aliquod temporale connexum. Ita Valentia* puncto 3. *Fagundez* num. 58. *et alii. Sic de precibus usus pius inolevit. Sic et Bassaeus* 4. num. 4.

35 The exchange of benefices, however, where temporal things are annexed to spiritual, is forbidden by positive law, if it is done without legitimate authority, *cap. Quaesitum; cap. Cum olim de rerum permutatione*; and in this sense D. Bonaventure speaks in the *Speculum animae cap. 2*, saying that by exchanging spiritual benefices without the authority of a superior, Simony is contracted according to

the laws: for it is repugnant to the Canon law related above, indeed even to natural law, because a prior person cannot confer a benefice on another. See the Doctors in Bassaeus *5 n. 8*.

> *PERMUTATIO autem beneficiorum, ubi temporalia spiritualibus adnexa sunt, positivo iure vetita est, si absque legitima authoritate fiat* cap. Quaesitum: cap. Cum olim de rerum permutatione*, et hoc sensu loquitur D. Bonavent.* in speculo animae, cap. 2. *dicens, permutando spiritualia beneficia absque superioris authoritate, contrahitur Simonia secundum iura: repugnat enim iuri Canonico relato, imo et iuri naturae, quia priora persona non potest alteri conferre beneficium. Vide Doctores in Bassaeo* 5. num. 8.

36 But if an exchange, or transaction, or pact is made, giving the spiritual for the temporal, or conversely, as the price of a resignation or exchange, it will be simony, forbidden by natural law, as Tanner *n. 60* says after D. Bonaventure *at the place cited*.

> *QUOD si fiat mutatio, vel transactio, seu pactum, dando spirituale pro temporali, vel e contra, tanquam pretium resignationis, vel permutationis, erit simonia, iure naturae vetita, ut ait Tanner.* n. 60. *post D Bonavent.* loco citato.

37 Yet one can resign a benefice, reserving to oneself a moderate pension, by the authority of a superior. So Lessius *dub. 15*. See Tannerus *n. 62* and Bassaeus *n. 9*.

> *POTEST tamen resignare beneficium, reservata sibi pensione moderata, authoritate superioris. Ita Lessius* dub. 15. *Vide Tannerum* num. 62. *et Bassaeum* num. 9.

38 You will ask sixthly: whether the Ius patronatus, annexed to a church, can be sold.

> *QUAERES sexto: an possit vendi Iuspatronatus, adnexus Ecclesiae.*

39 It is answered that to sell the Ius patronatus precisely and simply is Simony; but per accidens it can be, as when the town to which it is annexed is sold. So S. Bonaventure *in 4 dist. 25 dub. 5 litt. and q. 3*, whom Molina follows commonly, *Tom. 2 de Iustitia dub. 340*, Navarrus *tract. 2 consiliis tit. de Simonia consilium 87*, Gregorius Lopez *lib. 5 tit. 5 partita 5*, Covarruvias lib. 1 variarum cap. 5, Menochius *de praesumptionibus lib. 3 praesumptio 90 n. 25*, Garcia *de beneficis part. 5 cap. 9*, Suarez *Tom. 1 de religione lib. 4 cap. 28*, Rodriguez *Tom. 2 quaestionum regularum q. 122*, Paulus Citadinus *de Iure patronatus part. 9*, who nevertheless adds that if in the sale of the castle the Ius patronatus is expressed, the sale is null, and he cites Geminianus, who however says the opposite with Baldus *leg. fin. Cod. de edicto D. Adriani*. See Fagundez *cap. 19 n. 16*.

> *RESPONDETUR, simpliciter esse Simonia eum vendere praecise Iuspatronatus, per accidens vero posse, ut cum venditur oppidum, cui adnexum est. Ita S. Bonavent.* in 4. dist. 25. dub. 5. litt. et quaest. 3. *quem communiter sequuntur Molina* Tom. 2. de Iustitia, dub. 340. *Nauar.* tract. 2. consil. tit. de Simonia, consil. 87. *Gregorius Lopez* lib. 5. tit. 5. partita 5. Couar. lib. 1. variar. cap. 5. *Menoch* de praesumpt. lib. 3. praesumpt. 90. num. 25. *Garcia* de benefic. part. 5. cap. 9. *Suarez* Tom. 1. de relig. lib. 4. cap. 28. *Rodriquez* Tom. 2. qq. regul. quaest. 122. *Paulus Citadinus* de Iure patr. part. 9. *qui tamen addit, quod si in venditione Castri exprimatur Iuspatronatus, venditio est nulla, et citat Geminianum, qui tamen oppositum dicit cum Baldo* leg. fin. Cod. de edict. D. Adriani. *Vide Fagundez* cap. 19. num. 16.

40 It is to be noted in advance, as the Saintly Doctor *q. 3* says, that "spiritual" is said in a threefold way. In one way that which is purely spiritual, such as grace, virtues, and gifts; and these can be sold neither in fact nor in law; indeed if anyone having them wished to sell them, not only would he acquire no more, but he would even lose what he had. For whoever acquires in a Simoniacal way is bound to restitution. Therefore he who receives a price not only for the sacraments, the gifts of the

Holy Spirit, the Priesthood, and the benefit of the Church, but wishes to be repaid also for exercising them duly, say for duly administering the Sacraments, is bound to restitution, because by the justice of Religion he is bound to accomplish and minister them duly, as Fagundez *lib. 5 cap. 18 n. 9* notes; and say the same of the works of virtues, to which we are bound by justice, as Molina *Tom. 1 de Iustitia tract. 2 dub. 89* and others note; nor for those to which we are bound by vow, as Molina *disp. 93* says, nor for those to which we are bound by precept, as the same Molina says *in the same place*, and others. Finally sacred and religious things cannot be validly sold.

> *PRAENOTANDUM ait S. Doctor* quaest. 3. *quod spirituale dicitur tripliciter. Uno modo quod est spirituale pure, ut gratia, virtutes, et dona; et haec nec de facto, nec de iure vendi possunt, imo si quis ea habens, vellet vendere, non solum non acquireret amplius, sed etiam quod haberet, amitteret. Qui enim acquirit Simoniace, restitutioni tenetur. Itaque qui non modo ex sacramentis, donis Sancti Spiritus, Sacerdotio, et Ecclesiae beneficio pretium accipit, sed et ut rite ea operetur, vult recompensari, puta pro Sacramentis rite administrandis, tenetur restitutioni, quia ex Iustitia Religionis tenetur ea rite conficere, atque ministrare, ut notat Fagundez* lib. 5. cap. 18. num. 9. *et idem dic de operibus virtutum, quibus tenemur ex iustitia, ut notat Molina* Tomo primo de Iustitia, tract. 2. dub. 89. *et alii, neque ob ea, ad quae tenemur ex voto, ut ait Molina* disp. 93. *neque ob ea, ad quae tenemur ex praecepto, ut ait idem Molina* ibidem, *et alii. Tandem res sacrae, et religiosae valide nequeunt vendi.*

41 Wherefore one selling in bad faith is bound to the price of the thing and to interest before every sentence, as Molina *disp. 340* says. The reason is because fraud ought to patronize no one, *cap. sedes Apostolica de rescriptis; cap. ex litteris de dolo.*

> *QUARE vendens mala fide, tenetur ad pretium rei, et ad interesse ante omnem sententiam, ut ait Molina* disp. 340. *Ratio est, quia fraus non debet cuique patrocinari,* cap. sedes Apostolica, de rescriptis: cap. ex litteris, de dolo.

42 There are other spiritual things (the Saintly Doctor says) which, though they are corporeal in themselves, are joined to spiritual ones, such as the Sacraments of the Church; and these cannot be sold by law; yet the corporeal thing joined can be sold; consequently the spiritual thing also is sold. Thus a Simoniacal Bishop, a price having been paid, confers the ministerial power dispensed through some Sacrament, or outward sign, to which the spiritual power is inseparably joined; for by the very fact that he validly confers a Sacrament, he also confers the spiritual power inseparably annexed, even against the law; for the Character is conferred, and consequently the power of Order. Hence the sale of Orders is prohibited as Simoniacal in 1 q. 1, by Calixtus, Gregory, and Leo, Pontiffs, who declare that the grace of the Holy Spirit, not necessarily connected with the Character, is not conferred on one receiving in a Simoniacal way, even though the power be conferred.

> *ALIA sunt spiritualia (ait S. Doctor) quia licet corporalia sint in se, adiunguntur tamen spiritualibus, ut Sacramenta Ecclesiae; et haec vendi de iure; sed tamen potest vendi res corporalis adiuncta; qua venditur consequenter etiam res spiritualis. Sic Episcopus Simoniacus, pretio comparato, confert potestatem ministerialem per aliquod Sacramentum, seu signum exterius dispensatam, cui inseparabiliter est adiuncta, nam eo ipso quod confert valide Sacramentum, confert etiam potestatem spiritualem inseparabiliter adiunctam, esto contra ius; confertur enim Character, et consequenter Ordinis potestas. Ideo prohibetur venditio Ordinis Simoniaca 1. quaest. 1. a Calixto, Gregorio, et Leone Pontificibus, qui, quoad gratiam Sancti Spiritus, non necessario connexam cum Charactere, declarant eam non conferri recipienti Simoniace, tametsi conferatur potestas.*

43 There are other spiritual things annexed to corporeal things, which however are temporal, such as a consecrated chalice, or the Ius patronatus, because there the consecration is enjoined to the augment, and the Ius patronatus to the fund; and this being done it can be sold, because it is sold

validly, yet not by law, because it is sold illicitly; yet with the thing to which it is annexed it passes into the dominion of the buyer; even though the consecration of the chalice is not sold, but the chalice. So also the fund can be sold, to which the Ius patronatus is annexed; but not the Ius patronatus itself by law, without Simony being committed. Therefore, he who sells sacred vessels (and they are only those that are consecrated, namely chalices and patens, as the *Archbishop of Braga p. p. deu. disp. 23 in cap. liceat*, Sanchez summa lib. 2 cap. 43, and others in Fagundez lib. 5 de contractibus cap. 19 n. 20 teach) is a Simoniac; likewise he who sells the Ius patronatus, because they are spiritual things. Yet if the annexed thing is sold, as a castle or a field, there will be no Simony, as I said above.

> *ALIA sunt spiritualia adiuncta rebus corporalibus, quae tamen sunt temporales, ut Calix consecratus, vel Iuspatronatus, quia ibi consecratio iniuncta est augmento, et Iuspatronatus fundo, et hoc facto potest vendi, quia venditur valide, non tamen de iure, quia illicite venditur, sed tamen cum eo, cui adiunctum est, transit in dominium ementis; etsi non vendatur consecratio calicis, sed calix. Sic et fundus vendi potest, cui adnexum est Iuspatronatus; sed non ipsum Iuspatronatus de iure, quin committatur Simonia. Itaque, qui vasa vendit sacra (et sunt ea sola, quae consecrantur, nempe calices, et patenae, ut docent* Archiepiscopus Bracar. p. p. deu. disp. 23. in cap. liceat, Sanchez summa, lib. 2. cap. 43. et alii apud Fagundez lib. 5. de contract. cap. 19. num. 20.*), est Simoniacus; similiter qui vendit Iuspatronatus, quia sunt res spirituales. Si tamen vendatur res adnexa, ut castrum, vel ager, non erit Simonia, ut dixi supra.*

44 A huge question is: whether Commendaes can be sold and bought — not indeed clerical ones, which are given as it were in title of a benefice; for these are spiritual, as *Suarez lib. 4 de simonia cap. 27* and Fagundez cap. 20 n. 7 prove — but military commendams, which are given to soldiers of certain orders.

> *QUAESTIO ingens est: Utrum vendi, et emi queant Commendae, non quidem clericales, quae dantur veluti in titulum beneficii; hae enim spirituales sunt, ut probat* Suarez lib. 4. de simon. cap. 27. Fagundez cap. 20. num. 7. *sed commendae militares, quae dantur militibus aliquorum ordinum.*

45 It is certain that the militias which are Religions are spiritual, such as the Religion of the knights of S. John of Malta, and these enjoy the benefit of the forum.

> *CERTUM est, militias, quae sunt Religiones, esse spirituales, ut est Religio equitum S. Ioannis Melitensium, et hi gaudent beneficio fori.*

46 The others, however, of Alcantara, of Calatrava, are not religions, nor do they enjoy a forum. Therefore to give money in order to be admitted to those orders will not be Simony. So *Diana Tract. 2 de dubiis Regularium resol. 64*, Fagundez *at the place cited n. 9*, and others among them; but to receive money for the habit of the Maltese will be fraudulent Simony, and much more for the religions of regulars. So the Doctors in Bassaeus 3 n. 9.

> *CAETERI vero de Alcantara, de Calatrava, non sunt religiones, neque gaudent foro. Itaque dare pecuniam, ut admittatur ad eos ordines, non erit Simonia. Ita* Diana Tract. 2. de dub. Regul. resol. 64. Fagundez loco cit. num. 9. et alii apud eos; *at pro habitu Melitensium pecuniam recipere, erit frauida Simonia, et multo magis pro religionibus regularium. Ita DD. apud Bassaeum 3. num. 9.*

47 Hence it also follows that the commendams of those Orders which are not religions can be sold without Simony. So commonly, as in *Fagundez n. 10 cit.* But the commendams of the Religion of Malta are spiritual, nor can jurisdiction be sold for them.

HINC etiam sequitur, Commendas eorum Ordinum, qui non sunt religiones, absque Simonia vendi posse. Ita communiter apud Fagundez num. 10. cit. *At Commendae religionis Melitensium spirituales sunt, neque potest vendi ad eas iurisdictio.*

48 Much more Simoniacal will it be to sell jurisdictions for hearing confessions, for obtaining absolution, for Indulgences. Similarly for licenses to labor on a feast day, or not to fast. Likewise Ecclesiastical jurisdiction in the external forum. Finally every act of Ecclesiastical jurisdiction is matter of Simony, as Bassaeus notes with others, *3 n. 12*. So the Doctors in Fagundez cap. 22, with *D. Bonaventure in the Confessionale cap. 5 particula 49.*

MULTO magis Simoniacum erit vendere iurisdictiones ad audiendas confessiones, ad absolutionem accipiendam, ad Indulgentias. Similiter ad licentias laborandi in die festo, non ieiunandi. Pariter iurisdictionem Ecclesiasticam in foro externo. Tandem omnis actus iurisdictionis Ecclesiasticae est materia Simoniae, ut notat cum aliis Bassaeus 3. num. 12. *Ita Doctores apud* Fagundez cap. 22. *cum* D. Bonaventura in confessionali, cap. 5. particula 49.

49 Yet the Pontiff can receive something for dispensations. See *Suarez Tom. 2 de Religione lib. 6 de voto cap. 27*, Lessius Tom. 1 lib. 2 cap. 40 dub. 10, Sanchez lib. 4 Decalogo cap. 46, where they teach that it is sound counsel, in dispensations from vows, to enjoin some commutation, because commonly such dispensations are rarely sufficient. Fagundez adds *n. 11* that if the causes are open and sufficient, no commutation is to be made.

POTEST tamen Pontifex pro dispensationibus aliquid recipere. Vide Suarez Tom. 2. de Religione, lib. 6. de voto, cap. 27. Lessius Tom. 1. lib. 2. cap. 40. dub. 10. Sanchez lib. 4. Decal. cap. 46. *ubi docent sanum esse consilium in dispensationibus votorum aliquam iniungere commutationem, quia communiter raro tales dispensationes sunt sufficientes. Addit* Fagundez num. 11. *si causae sint apertae, et sufficientes, nullam esse faciendam commutationem.*

Question III: How simony is committed on the part of the act of exchange itself

1 The first question can be, whether to receive temporal goods in any way whatever for spiritual ones is Simony, or conversely.

Quo pacto committatur Simonia ex parte ipsius actus commutationis.

QUAESTIO prima esse potest, an quomodocumque accipere temporale pro spirituali, sit Simonia, vel e contra.

2 It is answered that it is not, unless the temporal good is received as the price of a spiritual thing, or conversely; but when it is exchanged as a motive only, or solely by way of gratuitous compensation, no Simony occurs, at least in the forum of conscience. Thus by the mind of *D. Thomas q. 100 a. 1, and D. Bonaventure in the places cited in the preceding questions, especially in 4 dist. 25 in dubiis, litt. and q. 4; the rest: Sylvester V. Simonia q. 3, Cajetan V. Simonia, Navarrus c. 23 n. 100, Valencia q. 16 puncto 3, Fagundez de contractibus lib. 5 cap. 18 and following, Tanner disp. 5 q. 8 dub. 3*. The reason appears from what was said at *q. 1*.

RESPONDETUR, non esse, nisi quando temporale accipitur, tanquam pretium rei Spiritualis, vel e contra; quando vero commutatur, ut propter motivum, vel solum ob compensationem gratuitam, non accidit Simonia, saltem in foro conscientiae. Ita ex mente D. Thom. quaest. 100. art. 1. et D. Bonaventurae locis allatis quaestionibus praecedentibus, praecipue in 4. dist. 25. in dubiis, litt. et q. 4. caeteri, Sylvest. V. Simonia, quaest. 3. Caietanus V. Simonia, Navar. c. 23. num. 100. Valentia quaest. 16. puncto 3. Fagundez de contract. lib. 5. cap. 18. et sequent. Tanner. disp. 5. q. 8. dub. 3. *Ratio constat ex dictis* quaest. 1.

3 There will be, however, Simony in cases expressly stated by law.

> *ERIT tamen Simonia in casibus, iure expressis.*

4 From what has been said you have that it is not Simony for priests to receive some stipend for Masses and other spiritual ministries; for they receive them only out of gratitude; by justice indeed they receive them insofar as such ministries are burdensome, as *Valencia* notes at the place cited, and *Tannerus n. 68*, who thereby falls into the sense of *D. Bonaventure q. 2* cited above, that it is lawful to receive a price for the sacred rites on account of intrinsic labor.

> *Ex dictis habes, non esse Simoniam Sacerdotum accipere aliquod stipendium pro Missis, aliisque ministeriis spiritualibus; accipiunt enim solum ex gratitudine; ex iustitia vero accipiunt, quatenus talia ministeria sunt onerosa, ut notat* Valentia loco cit. Tannerus num. 68. *qui ita incidunt in sensum* D. Bonavent. quaest. 2. *relati, licere pro labore intrinseco pretium sacrorum accipere.*

5 You also have that some donations can be bestowed on the Church under the obligation of celebrating Masses, because the spiritual thing is then only a motive, nor is it a purchase. See *Sylvester V. Simonia q. 17.*

> *HABES etiam posse impendi aliquas donationes Ecclesiae sub onere ministrandi Missas, quia spirituale tunc est tantum motivum, nec est emptio. Vide* Syluestrum V. Simonia, quaest. 17.

6 Nor will it be Simony to confer something spiritual on someone out of fear, for he receives nothing belonging to another, but only keeps his own, and being induced by it as by a mere motive, gives the spiritual thing, as *Victoria n. 24, Valencia* at the place cited, and *Tannerus n. 74* teach. Yet *Valencia* thinks it would be Simony if out of fear of losing a future good the spiritual thing were given; *Tannerus* however adds this is not true when he bestows it from a mere motive, unless perhaps it becomes Simony by presumption; hence *the Saintly Doctor dist. 25 dub. 6* places one cause of Simony in a fear that humiliates badly.

> *NEQUE erit Simonia ex metu conferre alicui aliquid spirituale, nihil enim alienum accipit, sed sua tantum servat, eoque tanquam mero motivo inductus, dat spirituale, ut docent* Victoria num. 24. Valentia loco cit. Tannerus num. 74. *Putat tamen* Valentia*, fore Simoniam, si ex metu amittendi futurum bonum, detur spirituale; addit tamen* Tannerus *non esse verum, quando ex mero motiuo id praestat, nisi forte secundum praesumptionem fit Simonia, ideo* S. Doctor dist. 25. dub. 6. *unam causam Simoniae ponit timorem male humiliantem.*

7 Whether indeed it is Simony to confer a benefice on account of kinship, *Tanner* and others deny, with *S. Thomas q. 100 a. 5, Navarrus n. 101, Soto q. 7 a. 5, Victoria n. 27, Valencia* at the place cited, unless there be an expectation of some other benefit as a price, though they say one can otherwise sin by acceptance of persons.

> *AN vero sit Simonia, conferre beneficium ob consanguinitatem, negant* Tanner. 2. 2. *cum* S. Thom. quaest. 100. art. 5. Navar. num. 101. Sotus quaest. 7. art. 5. Victoria num. 27. Valentia loco cit. *nisi adsit expectatio alterius commodi, tanquam pretii, quamvis dicant, aliter peccari posse in acceptione personarum.*

8 S. BONAVENTURE *at the place cited* asserts that it is Simony, as also to give for the sake of acquiring honors and popular fame, provided these are reckoned as price, whether they be given immediately to the conferer, say a benefice without collateral agreements, for all temporal goods are such as cannot be compensated by spiritual ones, and thus *the Saintly Doctor* does not depart from the others. A grave

doubt however arises here: whether it is ever lawful to make an agreement about restoring something temporal in return for a spiritual benefice.

> *S. BONAVENTURA* loco cit. *asserit, esse Simoniam, sicuti etiam dare ob honores acquirendos, et famam popularem, si tamen haec in pretium computentur, sive dentur immediate conferenti, puta beneficium sine collateralibus, sunt enim bona omnia temporalia, quae spiritualibus nequeunt compensari, et ita* S. Doctor *non recedit a caeteris; Grave autem dubium hic oritur: Utrum liceat aliquando pacisci de restituendo temporali pro beneficio spirituali.*

9 The first opinion is that in the external forum indeed Simony is presumed, yet per se in the forum of conscience it can be done, provided the temporal thing is not sought as the price of a spiritual thing, and provided such an agreement is not specially prohibited by positive law, as happens in the exchange of benefices; for then it would be Simony at least of positive law. So Tannerus disp. 5 de Resignatione 8 dub. 3 n. 76, Gabriel in 4 dist. 25 q. 2, Cajetan q. 10 a. 3 and in the Summa, v. *Simonia*, Soto lib. 9 de Iustitia q. 6 a. 1, Navarrus Manual cap. 23 n. 101, Valencia q. 16 puncto 3, whom Diana calls probable, p. p. Tract. 16 resol. 49, where he also reports, from Suarez Tom. 1 de Religione lib. 4 following Navarrus, that it is not Simony if something is given for the labor undertaken in going and returning to the conferer of the benefice, or in compensation for some loss suffered on that account; but he warns that care must be taken lest Simony be palliated here.

> *PRIMA opinio est in foro quidem externo praesumi Simoniam, per se tamen in foro conscientiae posse fieri, modo temporale non petatur, tanquam pretium rei spiritualis, nec eiusmodi pactum specialiter iure positivo prohibeatur, ut accidit in commutatione beneficiorum; tunc enim esset Simonia saltem iuris positivi. Ita Tannerus disp. 5. de Resignat. 8. dub. 3. num. 76. Suppl. Gabriel in 4. dist. 25. quaest. 2. Caietanus quaest. 10. art. 3. et in summa, v.* Simonia, *Sotus lib. 9. de Iustitia, quaest. 6. art. 1. Nauar. manuali, cap. 23. num. 101. Valentia quaest. 16. puncto 3. quem probabilem ait Diana p. p. Tract. 16. resol. 49. ubi refert etiam Suarez Tom. 1. de Relig. lib. 4. ex Nauar. non esse Simoniam, si aliquid detur pro labore suscepto, eundo, et redeundo ad beneficii collatorem, vel in compensationem alicuius damni, quod ea de causa patitur, sed cavendum monet, ne Simonia hic pallietur.*

10 The same Diana, part. 6 tract. 7 miscell. resol. 42, reports Coelestinus in the Compendium Theologiae moralis tract. 17 cap. 4 n. 3, where he teaches that it is not Simony to bring into an agreement, under the title of gratitude, a promise made on account of a benefice conferred; yet it is not lawful if a pact of gratitude is demanded by a debt of justice. Ghilinus subscribes, in the practice of resolving cases of conscience, s.v. beneficium, n. 7.

> *IDEM Diana part. 6. tract. 7. miscell. resol. 42. refert Coelestinum in Compend. Theol. moral. tract. 17. cap. 4. num. 3. ubi docet, non esse Simoniam deducere in pactum, titulo gratitudinis, promissum ratione beneficii collati; non tamen licere, si debito iustitiae exigatur pactum gratitudinis. Subscribit Ghilinus in pract. resol. casuum, consc. verbo beneficium, num. 7.*

11 Yet Diana in practice does not accept this opinion.

> *TAMEN Diana in praxi hanc sententiam non recipit.*

12 Therefore Sylvius teaches that such a pact is Simoniacal, in the various resolutions, v. Simonia 2 comb. 2; for a contract and pact is not from a mere cause of gratitude when it is brought into a pact. The same judges Bonacina Tom. 1 disp. 1 de Simonia q. 5 puncto 1 n. 7, Filliucius Tom. 3 tract. 45 cap. 10 n. 24. See Raphael de la Torre 2. 2 q. 100 a. 6 dub. 3.

> *IGITUR tale pactum esse Simoniacum, docet Syluius in resol. variis, v. Simonia 2. comb. 2. nam contractus, et pactum non est ex mera gratitudinis causa, dum in pactum deducitur. Idem censet Bonacina Tom. 1. disp. 1. de Simonia, quaest.*

5. puncto 1. num. 7. Filliucius Tom. 3. tract. 45. cap. 10. num. 24. Vide Raphaelem de la Torre 2. 2. quaest. 100. art. 6. dub. 3.

13 This opinion seems declared in the final chapter extra de pactis, where it is said: *In spiritual matters every pact and every agreement ought to cease*, and in the chapter quaesitum extra de rerum permutatione it is noted that pacts of this kind always contain the stain of Simony. See also the chapter Tua nos, and Simonia, and the chapter quem Pio I. q. 2.

HAEC sententia videtur declarata cap. finali extra de pactis, ubi dicitur: In spiritualibus omnis pactio, omnisque conventio cessare debet, *et cap. quaesitum extra de rerum permutatione, dnotatur huiusmodi pacta continere semper labem Simoniae. Vide et cap. Tua nos, et Simonia, et cap. quem Pio I. quaest. 2.*

14 D. BONAVENTURE *in the Speculum animae cap. 2* affirms that a transaction concerning a spiritual benefice is Simony, and says: *But a transaction is a pact concerning any spiritual thing that is not gratuitous.*

D. BONAVENTURA in speculo animae, cap. 2. Transactionem spiritualis beneficii esse Simoniam affirmat, et ait: Transactio autem est de quacunque re spirituali non gratuita pactio.

15 Here he most subtly has the reason, which Sylvius takes up, namely, that to transact and to make a pact are repugnant to what is gratuitous; and so he follows the first opinion, which is greatly approved by me; for I do not perceive by what reasoning such a pact could stand together with a sincere giving back from the mere offering of a grateful mind. Therefore all pacts are declared Simoniacal, 1 q. 1 cap. ordinationes; cap. sunt nonnulli; cap. statuimus decretum; cap. si quis a Simoniacis, as D. Bonaventure notes in the Confessionale cap. 5 particula 47, and after him others in Bassaeus 8 and following, where however he says one may pact, but under suspension awaiting the consent of the Prelate.

HIC subtilissime rationem habet, quam sumit Syluius, nempe, Transigere, et pacisci, repugnare gratuito; et ideo primam sententiam sequitur, quae mihi admodum probatur; non enim percipio qua ratione stent simul pactum huiusmodi, et sincera redditio ex mera grati animi exhibitione; Ideo omnes pactiones Simoniacae declarantur, 1. quaest. 1. cap. ordinationes: cap. sunt nonnulli: cap. statuimus decretum: cap. si quis a Simoniacis, ut notat D. Bonavent. in confessionali, cap. 5. particula 47. et post eum alii apud Bassaeum 8. et seqq. ubi tamen ait posse pacisci, sed suspense ad consensum Praelati.

Question IV: On the penalties of simoniacs

1 DEALING WITH EACH SPECIES OF SIMONY.

DE singulis speciebus Simoniae agendum est.

2 SIMONY merely mental incurs no penalty, except the eternal one before God; this is the common opinion of Valencia at point 6, who adds that this is true even if the mental simony proceeds to the exterior act of giving and receiving; it is clear from the chapter *Mandato*, which is the last outside the title on Simony, against Adrian, quodl. 9, Soto, book 9, *de Iustitia*, question 8, article 1, Aragon, question 100, article 6, who say that such a simoniac is bound to restitution: For neither the temporal thing acquired by it must be restored, nor the acquired benefice resigned, unless perhaps it is clear that that temporal thing was given only reluctantly, to buy off harassment, as Tannerus also notes, n. 44, Bassaeus, at the place cited.

SIMONIA quidem mentalis nullam poenam subit, nisi aeternam coram Deo; est communis sententia apud Valentiam puncto 6. qui addit, hoc verum esse, etiamsi mentalis ad actum exteriorem provenerit dandi, et recipiendi, patet ex cap. mandato, quod est ultimum extra de Simonia, contra Adrianum quodl. 9. Sotum lib 9. de Iustitia, quaest. 8. art. 1. Aragon. quaest. 100. art. 6. dicentes, talem Simoniacum teneri ad restitutionem: Nam neque temporale, quod per eam acquiritur, est restituendum, nec beneficium aequisitum resignandum, nisi forte constet, temporale illud non nisi ab invito datum esse ad redimendam vexationem, ut notat etiam Tannerus n. 44. Bassaeus loco cit.

3 CONVENTIONAL simony obliges first to restitution, whether temporal or spiritual, provided that it can be restored, as with a benefice; for a Sacrament cannot be restored, as D. Bonaventure notes, book 4, dist. 25, question 4.

CONVENTIONALIS Simonia primo obligat ad restitutionem, sive temporalis, sive spiritualis, modo id restitui possit, ut beneficium; nam Sacramentum restitui non potest, ut notat D. Bonavent. 4. dist. 25. quaest. 4.

4 *IT IS PROVED*. For every simoniacal contract, whether conventional or real, is null, at least by positive law: chapter *Presbyter*; chapter *Si quis Episcopus*, book 1, question 1; chapter *de hoc*; chapter *Adrianus*, on Simony, as the Saintly Doctor reports in the confessional, chapter 5; and the extravaganza *Detestabile*, under the same title.

PROBATUR. *Omnis enim contractus Simoniacus, seu conventionalis, seu realis, est nullus, saltem iure positivo cap. Presbyter: cap. si quis Episcopus 1. quaest. 1. cap. de hoc: cap. Adrianus, de Simonia, ut refert S. Doctor in confessionali, cap. 5. et extrav. Detestabile, eodem titulo.*

5 It is likewise PROBABLE, says Tanner, num. 86, that no conventional simony, except that called simony of confidence, induces by that very fact any penalties of positive law. The same is held by Navarre, n. 104, Covarruvias, on the Clementine *Si furiosus*, part 1, §. 1, Lessius, book 2, chapter 35, doubt 27, although Soto and Cajetan said the contrary.

PROBABILE tamen simul esse, ait Tanner. num. 86. nullam Simoniam conventionalem, excepta ea, quae confidentiz dicitur, inducere ipso facto ullas poenas iuris positivi. Idem censent Nauar. n. 104. Couar. in Clementina si furiosus, part. 1. §. 1. Lessius lib. 2. cap. 35. dub. 27. etsi contrarium dixerint Sotus, et Caietanus.

6 Now there is simony of confidence, when someone, upon whom an ecclesiastical benefice is conferred, or who resigns one, or whom one presents or elects for it, or who in any way promotes the matter so that one of the aforesaid may be done, at least tacitly bargains (for without a pact, at least tacit, simony does not occur, as after Navarre num. 107 Lessius says, doubt 16, num. 95, Tannerus 96) that the same benefice be resigned to himself or to another, or that a pension from it, or its fruits, or a part of them, be granted to the other.

EST autem Simonia confidentiae, qua quis cum aliquod, cui beneficium Ecclesiasticum confert, aut resignat, aut quem ad id praesentat, aut eligat, aut quoquomodo curando, ut aliquid praedictorum fiat, promovet, saltem tacite paciscitur (sine pacto enim saltem tacito Simonia non accidit, ut post Nauarrum num. 107. ait Lessius dub. 16. num. 95. Tannerus 96.) ut illud idem beneficium sibi, aut alteri resignet, aut pensionem ex eo, aut fructus, eorumve partem alteri praestet.

7 LIKWISE, if you admit some right of access, regress, or ingress. The Prelate procures access to a benefice who, wishing a benefice for another, say a nephew, gives him a right, but meanwhile confers it on a stranger until the nephew comes to a suitable age, at which, on arriving, he may approach the benefice by his own authority. He has regress if he resigns the benefice with the right of receiving it back, should that one predecease him, or become a Bishop, or should he not pay the pension. Ingress

is said to belong to one who, before taking possession of the benefice, resigns it to another, retaining the right of approaching it, should that one predecease him, or be made Bishop, or become a religious. These retrocessions the Council of Trent reproves, session 25, chapter 7.

> *ITIDEM, si admittas aliquod ius accessus, regressus, aut ingressus. Accessum ad beneficium procurat Praelatus, qui volens alteri beneficium, puta nepoti, ei dat ius, sed interim defert alieno donec nepos ad aetatem congruam veniat, ad quam perveniens, propria authoritate beneficium adeat. Regressum habet, si resignet beneficium, cum iure illud recipiendi, si ille praemoriatur, vel fiat Episcopus, aut si pensionem non solveret: Ingressum dicitur habere, qui priusquam possessionem beneficii adeat, alteri resignat servato iure illud adeundi, si ille praemoriatur, vel Episcopus erectus, aut fiat religiosus. Has retrocessiones reprobat Concil. Trident. sess. 25. cap. 7.*

[8] THIS simony entails for the contracting parties papal anathema; Second, deprivation of the benefice; Third, deprivation of other benefices previously obtained; Fourth, unfitness for all benefices; Fifth, the conferment of such a benefice, simoniacally conferred, is reserved to the Pope alone. So Pius V, extravaganza *Intolerabili*. See Navarre, num. 100.

> *HAEC Simonia infert contrahentibus anathema Papale; Secundo privationem beneficii; Tertio privationem aliorum beneficiorum ante obtentorum; Quarto inhabilitatem ad omnia beneficia; Quinto collatio talis beneficii, Simoniace collati, Papae soli reservatur. Ita Pius V. extr. intolerabili. Vide Nauar. num. 100.*

[9] TO undergo these penalties it is required that the benefice be accepted, as Lessius warns, *book 2, c. 35, dub. 26*, Filliucius, *tract. 45, chapter 13, question 5*, Suarez, *chapter 43, num. 13*, and others.

> *AD has poenas subeundas requiritur, ut tam sit acceptum beneficium, ut monent Lessius* lib. 2. c. 35. dub. 26. *Filliucius* tract. 45. cap. 13. quaest. 5. *Suarez* cap. 43. num. 13. *et alii ap.*

[10] NOTE that this simony, forbidden only by ecclesiastical law, alone induces by that very fact the penalties of positive law. But if the pact is afterwards fulfilled, the penalties are drawn back to the time of the pact. Some, however, concede this only in the forum of conscience alone, as Navarre, *c. 25, num. 104*, Henriquez, *de excom. chapter 19*. Likewise, that it holds only after sentence, Lessius teaches, *at the place cited*, Sanchez, book 9, *de matrim. disp. 30*.

> *NOTA, hanc Simoniam, iure tantum Ecclesiastico vetitam, solam inducere ipso facto poenas iuris positivi. Quod si postea impleta fuerit pactio, retrotrahuntur poenae ad tempus pacti. Aliqui tamen haec in solo foro soli concedunt, ut Navar.* c. 25. num. 104. *Henriquez* de excom. cap. 19. *Itidem valere solum post sententiam docent Lessius* loco cit. *Sanchez* lib. 9. de matrim. disp. 30.

[11] Take note also that these unfitnesses are incurred even when examiners take something from the examination for parishes from those to be examined, as Lessius notes, *chapter 34, dub. 26 and 27*.

> *Aduerte etiam has inhabilitates incurri etiam quando examinatores ad paroecias aliquid ex examine ab incurrandis accipiunt ut notat Lessias* cap. 34. dub. 26. et 27.

[12] REAL simony in sacred orders incurs these penalties. First, the ordainer is excommunicated. Second, suspended from conferring any orders, even first tonsure. Third, suspended from every pontifical act. Fourth, interdicted from entering the Church. Fifth, if he still acts against these, he is suspended from the administration of his Church and from receiving all the fruits of benefices. Sixth, he can be absolved by the Roman Pontiff alone, even if the offense is occult, *Extravaganza Cum detestabile, Sixtus V*. See Lessius, *book 2, chapter 35, dub. 24*.

SIMONIA realis in ordinibus sacris has poenas subit. Primo ordinans est excommunicatus. Secundo suspensus a conferendis ullis ordinibus, etiam prima tonsura. Tertio suspensus ab omni actu Pontificali. Quarto interdictus ab ingressu Ecclesiae. Quinto si contra haec adhuc agat, suspensus est ab administratione suae Ecclesiae, et perceptione omnium fructuum beneficiorum. Sexto a solo Rom. Pontifice potest absolui, etsi delictum sit occultum, Extrau. Cum detestabile. Sixti V. *Vide Lessium* lib. 2. cap. 35. dub. 24.

13 WHOEVER has received an order in this way: First, he is excommunicated by that very fact. Second, suspended from the exercise of his orders. Third, if he ministers, he becomes irregular. Then, by the Bull of Sixtus, he is by that very fact deprived of all dignities and benefices, and becomes unfit for them. Fourth, absolution and dispensation are reserved to the Pope; but if the case is occult, setting aside the Bull of Sixtus, the Bishop could dispense and absolve, from the Council of Trent. See Diana, *part 4, tract. 4, resol. 157*.

QUI ordinem sic susceperit, Primo excommunicatus est ipso facto. Secundo suspensus ab executione suorum ordinum. Tertio ministrans fit irregularis. Deinde per Bullam Sixti ipso facto privatur omnibus dignitatibus, et beneficiis, et fit inhabilis ad illa. Quarto absolutio, et dispensatio reservatur Papae; si autem casus sit occultus, seposita Bulla Sixti, posset dispensare, et absolvere, Episcopus e Concil. Trident. Vide Dianam 4. part. tract. 4. resol. 157.

14 WHOEVER confers or procures a benefice for another by real simony, by electing, presenting, postulating, or instituting, is by that very fact excommunicated. Under the name of benefice understand an Abbey, Priory, Rectorship, Guardianship, Provincialate, Generalate, etc., as Portel teaches, *V. Simonia*, Suarez, *tract. 5, disp. 52, sect. 4*, Sigismund of Bologna, *part 2, chapter 1, disp. 55*, Diana, *at the place cited, resol. 156*, Bassaeus, *V. Simonia 6, num. 2*. Others, however, restrict the name of benefice, since in an odious matter, to benefices with revenue. So Azor, *part 3, book 12, chapter 21, question 6*, Bonacina, *disp. 1, question 7, §. 2*, and others, who thus approach a benefice: First, he is by that very fact excommunicated; Second, such a conferment is null and bestows no right; nevertheless, if the simony was committed for an institution, the election is not void. Third, he becomes unfit for that same benefice, and even if the simony is public and brought to the external forum, only the Pope can by law render him fit again. But if it is occult, some hold that it is removed by the Bishop. That it can be taken away also by the mendicant confessors, Croufers teaches, *ad c. 7. Reg. min. sect. 28*, Bassaeus, *V. Simon. 6, num. 2*.

QUI beneficium confert, vel procurat alteri simonia reali eligendo, praesentando, postulando, vel instituendo, est ipso facto excommunicatus. Nomine beneficii intellige Abbatiam, Prioratum, Rectoratum, Guardianatum, Prouincialatum, Generalatum, etc. ut docent Portel. V. Simonia, *Suarez* tract. 5. disp. 52. sect. 4. *Sigismundus a Bononia* part. 2. cap. 1. disp. 55. *Diana* loco cit. resol. 156. *Bassaeus* V. Simonia 6. num. 2. *Alii tamen nomen beneficii restringunt, quippe in materia odiosa, ad prouentualia. Ita Azor* 3. part. lib. 12. cap. 21. quaestio 6. *Bonacina* disp. 1. quaest. 7. §. 2. *et alii qui beneficium sic, adit: Primo est ipso facto excommunicatus, Secundo talis collatio est nulla, nullumque ius tribuit; tamen si Simonia pro institutione commissa sit, electio non est irrita. Tertio fit inhabilis ad idem beneficium, etsi Simonia est publica, et deducta ad forum externum a solo Papa iure potest reddi habilis. Si vero occulta, censent aliqui, eam tolli ab Episcopo. Eandem a confessariis mendicantibus auferri posse docent Croufers* ad c. 7. Reg. min. sect. 28. *Bassaeus* V. Simon. 6. num. 2.

15 REAL simony concerning entrance into religion: First, it induces anathema. Second, suspension of the convent or Chapter, if they consented. Third, the admitted are unfit for the monastery. Yet these penalties are incurred with the profession following, but not if the simony is retracted before it, so

Filliucius, *chapter 13*, Reginald, *book 23, n. 173*, Suarez, *chapter 56, num. 7*, Bassaeus, *at the place cited, num. 3*.

> *SIMONIA realis circa religionis ingressum, Primo inducit anathema. Secundo conuentui, seu Capitulo suspensionem, si consenserint. Tertio admissi sunt inhabiles ad monasterium. Hae tamen poenae incurruntur secuta professione, non autem si ante eam Simonia retractetur, ita Filliucius* cap. 13. *Reginaldus* lib. 23. n. 173. *Suarez* cap. 56. num. 7. *Bassaeus* cit. num. 3.

16 NOTE that by the common opinion, the excommunication inflicted against simoniacs in an order or benefice is incurred also on account of a simony forbidden by human law alone, as in the permutation of a benefice without the authority of a superior, the reservation of a pension without the authority of the Pope, etc. So the Doctors in Bassaeus. Yet others teach the opposite, with Diana, *part 4, tract. 4, resol. 155*. See Tanner, *num. 95*.

> *NOTA ex communi sententia excommunicationem, quae contra Simoniacos in ordine, vel beneficio infligitur, incurri etiam ob Simoniam, solo iure humano vetitam, ut in permutatione beneficii sine superioris authoritate, reservatio pensionis sine authoritate Papae, etc. Ita DD. in Bassaeo. Tamen oppositum docent alii cum Diana* part. 4. tract. 4. resol. 155. *Vide Tanncrum* num. 95.

17 THAT every simony can be absolved by the confessors of the Mendicants, our Croufers teaches, *lecture 28*, because the Popes after Sixtus, who made the reservation, say that he who can absolve from heresy can also absolve from any reserved cases.

> *OMNEM Simoniam absolui posse a confessariis Mendic. docet noster Croufers* lect. 28. *quia Pontifices post Sixtum reservantem, dicunt eum, qui potest absolvere ab haeresi, posse etiam a quibusvis reservatis.*

18 SOME add that the penalties established by law have their place in the Sacrament of order, and in benefices, and entrance into Religion: wherefore, they say, they are not incurred in conferring other Sacraments, in consecrations, dispensations, and in the selling of a pension, just as not in the permutation mentioned above, because no law expresses it: so Tannerus. But only the Pope can dispense a simoniacal benefice-holder who acts knowingly.

> *ADDUNT aliqui, poenas iure statutas habere locum in Sacramento ordinis, atque in beneficiis, et ingressu Religionis: Quare in aliis Sacramentis conferendis, in consectationibus, dispensationibus, et in pensione vendenda dicunt eas non incurri, sicuti nec in permutatione supra dicta, quia nullo iure exprimitur: Sic Tannerus. Potest autem in Simoniaco scienter beneficiato solus Papa dispensare.*

19 RESTITUTION also presses upon one who has accepted simoniacally. So the Doctors, with D. Bonaventure, *in book 4, at the place cited*.

> *RESTITUTIO quoque instat Simoniace accepti. Ita DD. cum D. Bonauent.* in 4. loco cit.

20 What is accepted for a spiritual thing must be restored by divine law, even if the spiritual thing has not been handed over. That this restitution is to be made to the one who handed it over, some teach, in Bassaeus, *7, from the chapter Veniens, on Simony*, before the judge's sentence.

> *Acceptum pro re spirituali restituendum est iure diuino, etsi res spiritualis non sit tradita. Hanc restitutionem faciendam ei, qui tradidit, docent aliqui apud Bassaeum* 7. ex cap. veniens de Simonia*, ante iudicis sententiam.*

21 YET the true opinion is that it must be restored to the Church. So D. Thomas, *question 100, article 6, ad 4, and question 32, article 7*, and all the Doctors before Soto, with D. Bonaventure. The Canonists,

to support this opinion, cite the chapters, *de hoc; and cap. Audivimus, de sim.*

> *VERA tamen sententia est, restituendum Ecclesiae. Ita D. Thom.* quaest. 100. art. 6. ad 4. et quaest. 32. art. 7. *et Doctores omnes ante Sotum cum D. Bonauent. Allegantur sententiam Canonistae,* cap. de hoc; et cap. Audivimus, de sim.

22 At the *chapter Veniens*, I say that in that case he gave without fault. Hence Valencia and others do not rightly say that the dominion over the temporal thing is not primary dominion, but only over the spiritual. Certainly each, acting in bad faith, is equal.

> *Ad* cap. Veniens, *dico eo casu eum dedisse absque culpa. Itaque non rite Valentia, et alii dicunt dominium rei temporalis non primari dominio, sed solum spirituali. Sane uterque, mala fide agens, est aequalis.*

23 IF the benefice has already been handed over, and the simony is completed on both sides, some, with Soto, teach that it must be restored to the giver before the sentence, but after it to the Church.

> *SI beneficium iam sit traditum, et Simonia utrinque completa, aliqui cum Soto docent restituendum danti ante sententiam, sed post eam Ecclesiae.*

24 YET the true opinion, as I said, is that it must be restored even before the sentence. So D. Thomas above, and D. Bonaventure.

> *VERA tamen sententia, ut dixi, est restituendum etiam ante sententiam. Ita D. Thom. supra, et D. Bonaventura.*

25 A PRICE accepted simoniacally, but not unjustly, is not subject to restitution by natural divine law, because restitution is owed to violated justice; but simony is irreligion.

> *PRETIUM Simoniace, sed non iniuste acceptum, non est restitutioni obnoxium iure naturali diuino, quia restitutio debetur violatae iustitiae: at Simonia est irreligiositas.*

26 BUT a price accepted for a spiritual thing is against justice: therefore he is bound, although Navarre, *n. 103*, Sylvester, *question 20*, Cajetan, *V. simon.*, say he is not bound to restore.

> *PRETIUM vero, pro re spirituali acceptum, est contra iustitiam: Ideo tenetur, tametsi Nauar.* n. 103. *Syluester* quaest. 20. *Caietanus* V. simon. *dicant non teneri ad restituendum.*

27 A SPIRITUAL thing, simoniacally acquired, is not by divine law to be given up; say, a benefice. So commonly in Bassaeus, *7, num. 3*.

> *RES spiritualis, Simoniace acquisita, non est iure diuino dimittenda; puta beneficium. Ita communiter apud Bassaeum* 7. num. 3.

28 By ecclesiastical law, however, a spiritual thing is not to be restored unless it is an ecclesiastical benefice. But other spiritual things either cannot be given up, as the Sacraments, except as to use, as in Orders, as the Saintly Doctor says above, or are not to be given up before the sentence.

> *Iure autem Ecclesiastico res spiritualis non est restituenda, nisi sit beneficium Ecclesiasticum. Caetera autem spiritualia, vel dimitti nequeunt, ut Sacramenta, nisi quoad usum, ut in Ordinibus, ut ait S. Doctor supra, vel non sunt dimittenda ante sententiam.*

29 NEVERTHELESS, as to the price, it must be restored by positive law.

> *TAMEN quoad pretium, est iure positivo restituendum.*

30 NOTE also that the fruits are to be restored either to the Church, or to the Apostolic treasury, or to pious uses; or to the successor, where there is use, of the fruits of the vacant benefice given to this one, Lessius, *num. 174*, Tannerus, *92*, and others.

> *NOTA etiam fructus restituendos, vel Ecclesiae, vel aerario Apostolico, vel in pios usus; vel successori, ubi usus est, fructus vacantis beneficii huic dati, Less.* num. 174. *Tannerus* 92. *et alii.*

31 ALSO, whoever in good faith acquired for himself something from another who obtained it simoniacally is bound to restitution (except fruits consumed in good faith), from D. Thomas, *ad 3*.

> *ETIAM qui bona fide acquisivit sibi ab alio Simoniace obtento, tenetur restitutioni (excipe fructus bona fide consumptos) ex D. Thom.* ad 3.

32 THEY EXCEPT the case where that one, out of malice, burdened him with these goods, so that he would be forced to restore; for then the law did not oblige.

> *EXCIPIUNT, si ille ex malitia hunc eis bonis oneravit, ut restituere cogeretur; tunc enim lex non obligauit.*

Disputation XIII: On the Other Virtues Annexed to Justice

1 JUSTICE, beyond the other virtues, holds this privilege, that it makes man concordant with God, with himself, and with his neighbor; hence, in its full breadth, it is a kind of general virtue, nor does it take command of the soul before it is attended by a great company of many virtues and is secure in its own dominion; we have weighed its chief rights and duties down to this point; we have also examined the vices which have waged perpetual war against it. There remain, then, here certain handmaid virtues, perpetually serving Justice; it pleases us now to examine them: And first occurs Piety, exhibiting a benevolent regard toward one's country, parents, etc.; Second, Observance, rendering due honor to superiors; Third, Dulia, which venerates the saints and all that belongs to them; Fourth, Obedience, omitting nothing commanded; Fifth, Gratitude, in which the benefit remains stored in the depths of the mind, so that it may repay it in due time; Sixth, finally, Vindication confronts us, which does not leave unpunished the injury done to Justice. Against these are opposed many vices, more than there are virtues, since evil is wont to divide into more heads than good, which is the more secure with united forces. I shall treat each with my usual brevity.

> *IUSTITIA, praeter caeteras virtutes, id obtinet privilegii, ut hominem Deo, sibi, et proximo concordem faciat; ideo in sua latitudine generalis quaedam est virtus, nec animae imperium prius occupat, quam magno plurium virtutum comitatu stipata, de suo sit secura dominio; praecipua eius iura, et munia huc usque expendimus; vitia quoque, quae perpetuam ipsi bellum iudixere, discussimus. Restant igitur hic pedissequae quaedam virtutes, Iustitiae iugiter obsequentes; eas modo libet examinare: Et primo quidem occurrit Pietas, patriae, parentibus, etc. benevolum exhibens cultum: Secundo Observantia, debitum superioribus honorem deferens: Tertio Dulia, quae sanctos, et quidquid horum est, veneratur: Quarto Obedientia, nil praeceptum praetermittens: Quinto Gratitudo, cui manet alta mente repositum beneficium, ut illud suo tempore rependat: Sexto denique obviat Vindicatio, quae illatam Iustitiae iniuriam inultam non reliquit: His opponuntur plura, quam sint virtutes, vitia, cum malum in plura soleat dividi capita, quam bonum, unitis quippe viribus securius: Solita de singulis brevitate agam.*

Section I: On Piety

1 VIRTUES which are joined by some kindred bond often lend one another their names; hence Piety is often taken for mercy, or that compassion by which we are moved toward others, and conversely; hence also that affection by which certain Brute animals nourish their young with such solicitude passes into a semblance of piety, as some call it. It will not be beside the point, therefore, to inquire what Piety truly is, in how many ways it is taken, and what kind of virtue it is.

> *VIRTUTES, quae cognato aliquo faedere iunguntur, sibi sua nomina non raro accomodant; unde Pietas pro misericordia, seu illa compassione, qua erga aliquos movemur, saepe sumitur, et e contra; hinc etiam affectus ille, quo, quaedam Bruta suos faetus tanta alunt sollicitudine, in speciem pietatis transit, ut a nonnullis vocatur; non abs re igitur erit, quid vere sit Pietas, quot modis sumitur, et qualis sit virtus, inquirere.*

Question I: What piety is, and what kind of virtue

1 THE Saintly Doctor notes, in book 3 here, and dist. 9, article 2, question 1, ad 3, from D. Augustine, book 10, *de civitate, cap. 1*, and in other places, that Piety is taken in many ways.

> ***Quid sit PIETAS, et qualis Virtus.***

NOTAT S. Doctor in 3. hic, et dist. 9. art. 2. quaest. 1. ad 3. ex D. Augustino 10. de civitate, cap. 1. *et aliis locis, Pietatem multimode accipi.*

2 FIRST, indeed, it signifies the worship of God, and the very virtue of Religion, by which God is worshiped, which the Greeks call EUSEBIA. On this account, wishing to commend someone for his Religion, we call him pious.

PRIMO enim significat cultum Dei, ipsamque Religionis virtutem, qua Deus colitur, quam Graeci EUSOBIAM vocant. Qua ratione volentes aliquem a Religione commendare, eum appellamus pium.

3 SECOND, it signifies the virtue of mercy, as Hugh also writes, *de claustro*, and D. Bonaventure, *de dono Pietatis*, and D. Gregory, book 1, *moral. cap.* 2. S. Augustine gives the reason for this, *at the place cited*, because the works of mercy are commanded by God in a special manner, whence it has come about by custom that God himself is called pious.

SECUNDO significat virtutem misericordiae, ut scribit etiam Hugo de claustro*, et D. Bonavent.* de dono Pietatis*, et D. Gregorius 1.* moral. cap. 2. *huius autem rationem reddit S. Augustinus* loco cit. *quia opera misericordiae sunt a Deo peculiari ratione praecepta, ex qua consuetudine factum est, ut et ipse Deus pius dicatur.*

4 THIRD, it signifies the special gift of the Holy Spirit, as you have in *Isaiah 11*.

TERTIO significat speciale donum Spiritus sancti, ut habes Isaie 11.

5 MOREOVER, in another way it is taken here for the Virtue by which due worship is rendered to one's country, parents, kindred, and fellow citizens. The Saintly Doctor defines it thus, *part 3 of the Summa contra Gentiles, sect. 42, and Opusc. declaratorio terminorum Theol., and in the Compend. Theol. verit., book 5, cap. 37, from Cicero, book 2, de Inventute: Piety is that by which dutiful service and diligent worship are rendered to those joined by blood and to a benevolent country.*

CAETERUM alio modo accipitur hic pro Virtute, qua debitus patriae, parentibus, consanguineis, et concivibus cultus tribuitur. Hanc sic definit S. Doctor 3. part. Gentil. sect. 42. et Opusc. declaratorio terminorum Theol. et in Compend. Theol. verit. lib. 5. cap. 37. e Cicerone, lib. 2. de Inventute. Pietas est per quam sanguine iunctis, patriaeque benevolis officium, et diligens tribuitur cultus.

6 The REASON is the one Tanner gives, *disp. 6, question 1, dub. 1, from D. Bonaventure, book 3, dist. 35*: because natural law dictates affection toward one's principle, in a special way, and therefore by a special virtue. Just as we are moved toward God in a special way, as our principle, by the virtue of Religion. For parents and country are those from whom we have arisen and been nourished, secondary principles for us after God.

RATIO est, quam affert Tanner disp. 6. quaest. 1. dub. 1. ex D. Bonavent. 3. dist. 35. *quia naturale ius dictat affectum erga suum principium, speciali ratione, atque adeo virtute. Sicuti speciali ratione ferimur in Deum, ut principium nostrum, virtute Religionis. Sunt enim parentes, et patria, e quibus ortum habuimus, et enutriti, secundaria nobis post Deum principia.*

7 IN the worship of parents, indeed, is included the honor due to ascendants and the other kindred, since they belong to our parents either as principles, or as effects, or as joined to them, as S. Bonaventure teaches, *in the places cited*, from Aristotle, book 8, *Eth. cap. 12*. Likewise, in the worship of one's country is included the worship of all fellow citizens and of all the friends of the country.

IN cultu sane parentum includitur honor debitus ascendentibus, et caeteris consanguineis, quippe ad nostros parentes spectant, vel ut principia, vel ut effectus, vel coniuncti, ut docet S. Bonavent. locis adductis*, ex Aristotele 8.* Eth. cap. 12. *In cultu itidem patriae includitur cultus omnium concivium, et omnium patriae amicorum.*

8 THIS virtue is an eminent potential part of Justice, as the Saintly Doctor teaches, *sect. 1 of D. Thom., art. 3, and others*, since it is directed to a special object, namely, to parents and country, as principle begetting and governing. For although to love all belongs to Charity; yet affection toward parents under this aspect is the special Virtue of Piety. So also, although legal justice is directed to the country as the common good; yet insofar as it is the principle of our being and lasting, it belongs to the special virtue of Piety.

HAEC virtus est pars potentialis Iustitiae eximia, ut docet S. Doctor sect. 1. D. Thom. art. 3. et alii*, quippe quae speciale in obiectum fertur, nempe, in parentes, et patriam, ut sunt principium producens, atque gubernans. Quamvis enim diligere omnes sit Charitatis; tamen affectus in parentes sub ratione hac, est specialis Virtus Pietatis. Sic etiam, tametsi iustitia Legalis feratur ad patriam, ut bonum commune; tamen ut est nobis principium essendi, et durandi, ad specialem virtutem Pietatis spectat.*

9 The duty of this virtue is of itself indeed to render to parents, and therefore to country, and so to fellow citizens, honor and reverence; but per accidens, and in a case of necessity, also the duty of aid and sustenance. So D. Thomas, art. 102, ad 1, D. Bonaventure, sermon 5, on the ten commandments, and commonly in Fagundez on the fourth commandment. He proves both from the fourth precept of the Decalogue, *Honor thy Father and thy Mother*, which Christ explains, *Matthew* 15, reproaching the Pharisees for hindering sons from sustaining their parents. And Cicero taught this above, in the definition of Piety, where he says the object of Piety is the duty which is referred to the service of aid, and the worship, which is directed to reverence; for as D. Augustine says above, we are said to worship those men whom we frequent with honorific remembrance or presence.

Huius virtutis officium est per se quidem parentibus, et patriae, adeoque concivibus honorem, et reverentiam; per accidens vero, et in casu necessitatis etiam officium subventionis, atque sustentationis exhibere. Ita D. Thom. art. 102. ad 1. D. Bonavent. serm. 5. de decem praeceptis, et communiter apud Fagundez in 4. praecepto. Utrunque probat ex quarto praecepto Decal. Honora Patrem, et Matrem*, quod explicat Christus,* Matth. *15. reprehendens Pharisaeos, impedientes filios a parentibus sustentandis. Et hoc docuit Cicero supra, in definitione Pietatis, ubi obiectum Pietatis ait esse officium, quod refertur ad obsequium subventionis, et cultum, qui ad reverentiam fertur; nam ut ait D. Augustinus supra, dicimur colere homines, quos honorifica vel recordatione, vel praesentia frequentamus.*

10 The reason of D. Bonaventure, in the cited sermon, is that if we are bound by Charity to come to the aid of others in necessity; much more are we bound in a special way to aid parents, and others joined to us by blood, and our benevolent country.

Ratio D. Bonavent. est citato sermone, quia si ex Charitate caeteris tenemur in necessitate subvenire; multo magis speciali ratione tenemur parentibus, aliisque sanguine iunctis, et patriae benevolis.

11 Parents indeed are bound to lay up treasure for their children, not children for their parents, as the Apostle says, 2 *Corinth.* 12, because children ought to succeed their parents; yet in sustaining parents out of necessity, the obligation of children toward parents is greater.

Tenentur quidem parentes filiis thesaurizare, non filii parentibus, ut ait Apostolus 2. Corinth. *12. quia filii parentibus succedere debent, tamen in sustentandis parentibus ex necessitate, maior est obligatio filiorum erga parentes.*

12 But the Saintly Doctor brings forward a most excellent reason, *in the cited sermon, from Ecclesiasticus* 13, where it is said: *He that feareth God shall honor his father and mother, and shall serve them as a master them that begat him*, since indeed children are parts precisely of their parents, the whole is more owed to them than to each part the whole. The Saintly Doctor gravely proves this from *Ephesians* 6, where he says that it pertains to justice: *Children, obey your parents: for this is just*. Where, with the Apostle, he observes that he is called to the first commandment in promise, because to him is promised a long dwelling on the earth, whereas with the other precepts no promise of any good is added. Longevity, moreover, does not sound merely length of days (for many good sons die), but value, as the Saintly Doctor says, at the place cited, as it is said in *Ecclesiasticus* 3, as below.

> *Praeclare autem rationem affert S. Doctor* serm. citato, ex Eccl. *13. ubi dicitur:* Qui timet Deum, honorabit patrem, et matrem suam, et quasi dominus serviet eis, qui se genuerunt*, cum enim filii sint partes praecise a parentibus, debitae sunt suo toto magis, quam totum partibus singulis. Hoc graviter probat S. Doctor ex* Ephes. *6. ubi, ad iustitiam id ait pertinere:* Filii obedite parentibus vestris: hoc enim iustum est. *Ubi cum Apostolo observat, eum vocari ad mandatum primum in repromissione, quia ei repromittitur longaeva super terram habitatio, cum caeteris praeceptis non addatur repromissio alicuius boni. Longaevitas autem non mere longitudinem dierum sonat; (multi enim moriuntur boni filii,) sed valorem, ut ait S. Doctor loco cit. ut dicitur* Eccl. *3. ut infra.*

13 The Saintly Doctor shows the same also from that passage of *Ecclesiasticus* 3: *Son, support the old age of thy father, and grieve him not in his life: He that honoreth his father shall enjoy his children, and in the day of his prayer he shall be heard. He that honoreth his father shall live a long life: and he that obeyeth his father shall be a comfort to his mother. He that feareth the Lord, honoreth his parents, and shall serve them as masters them that begat him. In work, and word, and all patience honor thy father, that a blessing may come upon thee from God, and his blessing may remain in the latter end.* See the Saintly Doctor, at the place cited, expounding these things most excellently.

> *Idipsum ostendit S. Doctor etiam ex illo* Eccles. *3.* Fili suscipe senectam patris tui, et non contristes in vita illius: Qui honorat patrem suum, iucundatur in filiis, et in die orationis suae exaudietur. Qui honorat patrem suum, vita vivet longiore: et qui obedit patri, refrigerabit matrem suam. Qui timet Dominum, honorat parentes, et quasi dominis serviet his, qui se genuerunt. In opere, et sermone, et omni patientia honora patrem tuum, ut superveniat tibi benedictio a Deo, et benedictio eius in novissimo maneat. *Vide S. Doctorem loco cit. haec praeclare exponentem.*

14 He adds, however, that if the service of parents draws us away from the worship owed to God, then the worship of parents is no longer to be insisted upon against the worship of God, as Christ also taught, *Luke* 14, and there the Saintly Doctor comments most excellently: *If anyone comes to me, and hateth not his father, and mother, and wife, and children, and brethren, and sisters, yea, and his own life also, he cannot be my disciple*; and the same is found in *Matthew* 10. Whence in praise of James and John it is said, *Matthew* 4, that they, leaving their nets and their father, followed Christ; and in praise of the Levites, *Deuteronomy* 33: *Who said to his father, and to his mother: I know you not; and to his brethren: I see you not: and their children they knew not. These kept thy word, and observed thy covenant*, as the Saintly Doctor observes, on *chapter* 9 of *Luke*, toward the end, on these words: *Suffer the dead to bury their dead.*

> *Addit tamen, quod si obsequium parentum abstrahat nos a cultu Deo debito, iam non est insistendum cultui parentum contra Dei cultum, ut etiam Christus docuit* Lucae *14. et ibi egregie S. Doctor commentatur:* Si quis venit ad me, et non odit patrem suum, et matrem, et uxorem, et filios, et fratres, et sorores, adhuc autem et animam suam, non potest meus esse discipulus*, et* Matth. *10. idem habetur. Unde in laudem Iacobi, et Ioannis dicitur:*

> Matth. *4. eos relictis retibus, et patre, secutos Christum; et in laudem Levitarum,* Deuter. *33.* Qui dixit Patri suo, et matri suae: Nescio vos; et fratribus suis: Ignoro vos: et nescierunt filios suos. Hi custodierunt eloquium tuum, et pactum tuum servaverunt, *ut observat S. Doctor ad* cap. *9.* Lucae *ad finem in ea verba:* Sine mortuos sepelire mortuos suos.

15 The Saintly Doctor also brings forward that saying of D. Jerome, *epistle* 1, to Heliodorus: *Go forth, trampling underfoot thy father, go forth, trampling underfoot thy mother, and fly to the standard of the Cross: The highest kind of piety is to have been cruel in this matter.* The reason of the Saintly Doctor is that we are more bound to worship God than our parents, and *we must obey God rather than men, Acts* 5.

> *Affert etiam S. Doctor illam D. Hieronymi sententiam,* epist. *1. ad Heliodorum:* Percalcatum perge patrem, percalcatam perge matrem, et ad vexillum Crucis evola: Summum genus pietatis est, in hac re fuisse crudelem. *Ratio S. Doctoris est, quia magis obligamur ad colendum Deum, quam parentes, et* magis oportet obedire Deo, quam hominibus, Act. *5.*

16 Yet that he infers the same — that we must often omit some spiritual goods for the sake of aiding parents, and that we are not bound to enter religion, because this is a good of counsel; but to aid parents in necessity is a precept, as the Saintly Doctor teaches, *on chapter* 1 of the *Rule*, and S. Thomas here, *art.* 4.

> *Quod idem tamen infert, saepe nobis omittenda aliqua bona spiritualia ob parentes adiuvandos, et religionem non debemus ingredi, quia hoc est bonum consilii; at subvenire parentibus in necessitate, est praeceptum, ut docet S. Doctor* in cap. *1.* Regulae, et *S. Thom. hic* art. *4.*

17 Here certain questions occur, which I shall resolve. I shall set forth, however, that the name of son in Greek Φίλος indicates *Philo*, that is, friend.

> *Hic occurrunt quaestiones aliquae, quas solvam. Praelibo autem filii nomen Graece Φίλο indicate* Philo *idest amicus.*

18 For since children are held to exhibit three things to their parents: Love with reverence, Obedience, and Beneficence, or, as D. Bonaventure says, *in the cited sermon*, a threefold honor is owed to parents, of Reverence, Obedience, and Beneficence; from this threefold head they contract special obligations.

> *Cum enim filii tria teneantur exhibere parentibus; Amorem cum reverentia, Obedientiam, et Beneficientiam, seu ut ait D. Bonavent.* serm. citato, *triplex honor parentibus debetur, Reverentiae, Obedientiae, et Beneficentiae; ex hoc triplici capite speciales contrahunt obligationes.*

19 As to the first, they are bound to love their parents in a singular way, not only inwardly, but also outwardly, so that hatred toward parents, or contempt, is a graver sin than toward others; for they offend not only against charity, but also against piety. Therefore this circumstance is to be explained in confession, just as one who killed his father would be bound to explain that circumstance. So D. Bonaventure, *serm. cit.*, Bass., V. *Filius* 2, Toletus, *book* 5 of the *summa, c.* 1, Navarre, *in manuali lat. c.* 24, Azor, *tract.* 2, *lib.* 2, *cap.* 2, *question* 2, Sylvester, V. *filius, question* 22, Tabiena, *there, question* 26, Fagundez, *lib.* 4, *c.* 2. They are also bound to behave reverently toward them.

> *Quoad primum tenentur amare singulariter parentes, non solum interne, sed etiam externe, adeo ut odium erga parentes, vel aspetitas, sit gravius peccatum, quam erga alios; quia non solum contra charitatem, sed etiam contra pietatem delinquunt. Ideo haec circumstantia est in confessione explicanda, sicut, qui patrem occideret, teneretur eam circumstantiam explicare. Ita D. Bonavent.* serm. cit. *Bass. V.* Filius *2. Toletus* lib. *5.* summae, c. *1. Navar.* in

manuali lat. c. *24*. *Azor* tract. *2*. lib. *2*. cap. *2*. quaestio *2*. *Sylvest. V.* filius, quaestio *22*. *Tabiena* ibi, quaest. *26*. *Fagundez* lib. *4*. c. *2*. *Tenentur etiam reverenter erga eos se habere.*

20 As to the second, they are bound to obey their parents in their governance.

Quoad secundum, tenentur obedire parentibus in gubernatione.

21 As to the third, they are bound to come to their aid in necessities; but many doubts can occur in these matters.

Quoad tertium, tenentur in necessitatibus subvenire; multa vero dubia in his occurrete possunt.

Question II: What reverence is to be shown to parents

1 I ASSERT first, that children are bound not to hurl insults, or to inflict grave injuries upon their parents. It is the common opinion, with D. Bonaventure, *serm.* 5, *on the ten commandments*. So also Navarre, *man. cap.* 14, Tolet., *lib.* 5, *c.* 5, Richard., *in* 3, *dist.* 37, Alens., 3 *p. dist.* 4, *praecepto*, Sylvester, V. *filii, q.* 22, Molseus, *tract.* 2, *c.* 18, Bassaeus, *at the place cited*.

Quae reverentia Parentibus sit exhibenda.

Assero primo, teneri filios non iacere contumelias, vel iniurias graves parentibus inferre. Est communis sententia cum D. Bonavent. serm. *5.* in decem praecepta. *Ita etiam Navar.* man. cap. *14. Tolet.* lib. *5.* c. *5. Richard.* in *3.* dist. *37. Alens. 3.* p. dist. *4.* praecepto, *Sylvest. V.* filii, q. *22. Molses.* tract. *2.* c. *18. Bassaeus* cit.

2 Yet it is never licit to lay hands upon parents, unless the children are forced to it to defend their life, or their country. So Azorius, *tract.* 2, *cap.* 11, *q.* 9, 10. Hence neither is it licit to kill a proscribed father. So Julius Clarus, *in praxi, lib.* 5, §. *Homicidium*, Bonac., *de contract. dub.* 2, *q. ult. sect.* 1, *p.* 2, Diana, *part.* 5, *tract.* 4, *resol.* 25.

Non licet tamen unquam parentibus manus iniicere, nisi cogantur filii ad vitam tuendam, aut patriam. Ita Azorius tract. *2.* cap. *11.* q. *9. 10. Itaque neque licet patrem bannitum occidere. Ita Iulius Clarus* in praxi, lib. *5. §.* Homicidium, *Bonac.* de contract. dub. *2.* q. ult. sect. *1.* p. 2. *Diana* part. *5.* tract. *4.* resol. *25.*

3 I ASSERT second, that children sin mortally who despise their parents, and contemn them on account of poverty.

Assero secundo, mortifere peccare filios, qui parentes dedignantur, et ratione paupertatis contemnunt.

4 The Saintly Doctor reports, *at the place cited*, a horrible case of this matter, of a certain son who, at the persuasion of his wife, a noble, talkative, and wanton woman, despised his father and hid from him his food. One day the wretched old man arrived, and they scarcely brought him beans; but as he withdrew, they brought out from the chest a fat cooked capon, which, turned into a monstrous toad, leaped upon his face, and pressing the nose with two feet and also the two eyes with two, oppressed his whole face, and could not be torn away by any diligence or force. A physician was summoned, and applied remedies of surpassing power; then the venomous toad, fixing its terrible eyes upon the man in the middle, fell down as if terrified; but soon it miserably killed the impious young man. The Saintly Doctor testifies that he heard this from a certain man worthy of trust, who had known the man slain.

Huius rei casum horribilem refert S. Doctor loco cit. *cuiusdam filii, qui suadente uxore nobili, garrula, et petulante, dedignabatur patrem suum, et ei abscondebat esculenta. Quadam die advenit miser senex, et vix ei fabas detulere; eo*

autem recedente, pinguem protulere ex arca coctum caponem, qui in monstruosum versus bufonem, insiliit in faciem eius, et duobus pedibus rostrum premens et et duobus oculos, totam faciem opprimebat, et nulla diligentia, nullaque vi potuit avelli. Advehit medicus, applicuitque remedia praepotentia, tunc bufo venenatus, terribilesque difigens in medium oculos, ut territus ceciderit; mox vero impium iuvenem misere interemit. Hoc S. Doctor testatur se audisse a quodam viro, fide digno, qui interemptum noverat.

5 If, however, grave harm should befall them by acknowledging them, it will not be a fault to refuse to recognize them, provided you show reverence and come to their aid. So Toletus, *lib. 5, cap. 5*, Navarre, *man. cap. 14*, Fagundez, *lib. 4, cap. 5*.

Si tamen grave damnum ingruat eos agnoscendo, non erit culpa eos renuere, dummodo reverentiam exhibeas, atque subvenias. Ita Toletus lib. 5. cap. 5. Navar. man. cap. 14. *Fagundez* lib. 4. cap. 5.

6 I ASSERT third, that children accusing their parents in judgment sin gravely, and are not to be admitted. Yet it is licit for a son to ask that sustenance unjustly denied by his parents be exhibited. It is licit also in the crime of heresy and lèse-majesté. See the Doctors in Fagundez.

ASSERO tertio, filios accusantes in iudicio parentes, graviter peccare, nec recipi. Licet tamen filio petere, ut a parentibus negata iniuste alimenta exhibeantur. Licitum est etiam in crimine haeresis, et laesae maiestatis. Vide Doctores apud Fagundez

7 The REASON is that the public good, by natural law, is to be preferred to the private. Which reason seems to prove only that one is bound even when heresy can be pernicious to others, but not if it were secret; nor does it appear that she would teach it, as Fagundez says, with others, to be cited in Diana; but I say with D. Paul that every heresy creeps like a cancer. Therefore I assert that in such a case the son is bound. So Farinacius, *de haeresi, quaest. 197*, Suarez, *de fide, disp. 20, sect. 4*, Azor, *part 2, lib. 2, cap. 2, question 13*, Diana, *p. p. Tract. de Denunc. resol 4*. I say the same of a husband against a wife, and conversely. See Diana, *resol. 5*. In cases, however, where heresy is doubtful, many deny this, as in Diana, *resol. 6*.

RATIO est, quia bonum publicum, iure naturae, est privato anteponendum. Quae ratio solum probare videtur teneri etiam, quando haeresis esse potest aliis perniciosa, non autem si esset secreta; neque patet eam doceret, ut ait Fagundez cum aliis apud Dianam citandum; sed ego omnem haeresim, ut cancrum serpere dico cum D. Paulo. Ideo assero in tali casu filium teneri. Ita Farinacius de haeresi, quaest. 197. *Suarez* de fide, disp. 20. sect. 4. *Azor* par. 2. lib. 2. cap. 2. quaestio 13. *Diana* p. p. Tract. de Denunc. resol 4. *Idem dico de marito in uxorem, et e contra. Vide Dianam* resol. 5. *In casibus vero sapientibus haeresim, multi id negant apud Dianam* resol. 6.

Question III: What obedience is to be shown to parents by children

1 I ASSERT first that children are bound to obey their parents in matters concerning the governance of the household. Thus for children not to obey their parents commanding the son to guard against some mortal sin, or its near occasion, so that he not go out by night, nor walk with criminals, so as to flee forbidden games, harlots, and the like, is mortal. So St. Bonaventure *serm. 5. in decem praecepta,* Toletus *lib. 5. cap. 1.* Navarr. *man. cap. 14.* Fagundez *in 4. praeceptum, cap. 4.*

Quae obedientia sit Parentibus exhibenda a Filiis.

ASSERO primo teneri filios obedire parentibus in his, quae ad regimen domus spectant. Itaque non obedire parentibus, praecipientibus filio, ut caveat ab aliquo mortali, vel occasione eius proxima, ne nocte egrediatur, nec cum facinorosis

ambulet, ut fugiat ludos vetitos, meretrices, et similia, est mortale. Ita S. Bonavent. serm. 5. in decem praecepta, *Toletus* lib. 5. cap. 1. *Navar.* man. cap. 14. *Fagundez* in 4. praeceptum, cap. 4.

2 I ASSERT second, that children are not bound to obey their parents in unjust matters, and in this sense Christ commands hatred toward parents, as I said *quaest. prima.* So D. Bonaventure *loco cit.* Toletus *lib. 5. cap. 5.* Navarr. Fagundez *loco cit.*

ASSERO secundo, non teneri filios obedire parentibus in rebus iniquis, et hoc sensu odium erga parentes praecipit Christus, ut dixi quaest. prima. *Ita D. Bonavent.* loco cit. *Toletus* lib. 5. cap. 5. *Navar. Fagundez* loco cit.

3 I ASSERT third, that children are not bound to obey their parents in those things which pertain to taking on a state of life, as religion or matrimony. For each one ought to be free in this, as the holy Doctor observes on those words of the rule, *cap. 2. Si qui voluerint hanc vitam accipere.* He proves it by that passage of Matt. 19, *Si vis perfectus esse, etc.* The same is noted by Fagundez *num. 3.* with others. The same the holy Doctor shows from the liberty of vocation to these states *in 1. dist. 29. quaest. 3.*

ASSERO tertio, neque teneri filios obedire parentibus in his, quae ad statum vitae capescendum pertinent, ut ad religionem, vel ad matrimonium. Debet enim quisque in hoc liber esse, ut observat S. Doctor ad ea verba regulae, cap. 2. Si qui voluerint hanc vitam accipere. *Id probat illo Matth. 19.* Si vis perfectus esse, etc. *Idem advertit Fagundez* num. 3. *cum aliis. Idem ostendit ex libertate vocationis ad haec S. Doctor* in 1. dist. 29. quaest. 3.

4 I ASSERT fourth, yet supposing that the children wish to marry, that it is mortal not to take, at the father's command, a worthy bride, so that the enmities may be lulled to sleep, says Fagundez with Toletus and Navarrus to be adduced, and Henriquez *lib. 11. de matrim. cap. 6. et* this is the common opinion, and it is D. Bonaventure's, to be cited below. But I would add that it be understood, if that please, and there be no danger, as often happens, of perpetual estrangement, or of the dishonor of marriage, so that he turn aside to harlots. For this is a law of perpetual servitude: so the Doctors commonly, as at Hurtado *de matr. d. 6. diff. 10. num. 35.* Diana *part. 4. tract. 4. resol. 132.*

ASSERO quarto, posito tamen quod filii velint contrahere, mortale esse non accipere, iussu patris, dignam, ut inimicitiae sopiantur, ait Fagundez cum Toleto, et Navarro allegandis, et Henriquez lib. 11. de matrim. cap. 6. et *esse communem sententiam, estque D. Bonavent. infra allegandi. Sed ego adderem intelligi, si illa placeat, neque sit periculum, ut saepe evenit, aversionis perpetuae, inhonori matrimonii, ut ille deviet ad meretrices. Est enim haec lex perpetuae servitutis: Sic Doctores communiter apud Hurtadum* de matr. d. 6. diff. 10. num. 35. *Dianam* part. 4. tract. 4. resol. 132.

5 A GRAVE question however presses: whether a son sins gravely, unwilling to marry a worthy woman at his father's command, and taking another worthy one without a reasonable cause, by his mere will.

URGET autem gravis quaestio: an graviter peccet filius, nolens ducere dignam iussu patris, et aliam dignam accipiens sine rationabili causa, sua mera voluntate.

6 The FIRST opinion is that he sins gravely. So Guttierrez *lib. 1. qq. can. cap. 20.* Barbosa *4. part. lib. 1. ff. soluto matrimonio, num. 33.* Veracruz *in speculo coniugali 3. part. art. 20.* They cite also both Sotos, Menochius, and others; Fagundez follows them *lib. 4. cap. 4. num. 4.* it seems to Navarr. *in summa Lat. cap. 4. num. 15.*

PRIMA opinio est eum graviter peccare. Ita Guttierz lib. 1. qq. can. cap. 20. *Barbosa* 4. part. lib. 1. ff. soluto matrimonio, num. 33. *Veracruz* in speculo coniugali 3. part. art. 20. *citant etiam ambos Sotos, Menochium, et*

alios; sequitur Fagundez lib. 4. cap. 4. num. 4. *videtur Navarr.* in summa Lat. cap. 4. num. 15.

7 The SECOND opinion denies it: So Toler. *lib. 5. cap. 1.* Molina *de primog. lib. 2. cap. 13.* D. Thomas is also cited *2. 2. quaest. 104. art. 5. in corpore,* Corduba *casu 171.* Victoria *§. 267.* Couarr. *cap. 3. § 8.* Henriquez *lib. 11. de matrim. cap. 6.* Bassaeus *V. Filius, num. 5.* provided however no grave cause of forbidding be present for the Father.

SECUNDA opinio negat: Sic Toler. lib. 5. cap. 1. *Molina* de primog. lib. 2. cap. 13. *citatur etiam D. Thom.* 2. 2. quaest. 104. art. 5. in corpore, *Corduba* casu 171. *Victoria* §. 267. *Couarr.* cap. 3. § 8. *Henriquez* lib. 11. de matrim. cap. 6. *Bassaeus* V. Filius, num. 5. *si tamen nulla Patri causa gravis adsit vetandi.*

8 The THIRD opinion teaches that he is indeed bound to consult his parents, yet not to obey their counsel. So Sanchez *lib. 4. de matrim. d. 23.* adducing others, especially D. Thomas and Guttierrez, but wrongly.

TERTIA opinio docet, eum teneri quidem consulere parentes, non tamen obedire consilio. Ita Sanchez lib. 4. de matrim. d. 23. *alios adducens, praecipue D. Thom. et Guttierz, sed male.*

9 The SENTENCE of D. Bonaventure *in 4. d. 29. quaest. 1.* is this, that a father cannot command a son to take some woman in marriage, unless a reasonable cause urges, as if they have enmities, nor can they otherwise be reconciled. Or unless charity urges, as if he commands that he not contract with a wicked woman. Or unless the son himself has promised, or contracted espousals. Wherefore the holy Doctor is with the second opinion, which I maintain.

SENTENTIA D. Bonavent. in 4. d. 29. quaest. 1. *haec est, non posse patrem praecipere filio, ut aliquam ducat in uxorem, nisi rationabilis causa instet, ut si habeant inimicitias, neque aliter possint conciliari. Vel nisi charitas urgeat, ut si praecipiat, ne contrahat cum muliere mala. Vel nisi ipse filius promiserit, seu sponsalia contraxerit. Quare S. Doctor est cum secunda sententia, quam astruo.*

10 It is PROVED first by the holy Doctor, because in that in which we are equals, one is not bound to obey the other; but with respect to the right of marriage all are equals, unless another precept of the same natural law presses from above: Therefore the command of a father, as father, does not compel.

PROBATUR primo a S. Doctore quia in eo, in quo sumus pares, unus non tenetur alteri obedire; sed quo ad ius matrimonii omnes sunt pares, nisi aliud eiusdem iuris praeceptum naturale desuper ingruat: Ergo praeceptum patris, ut pater est, non cogit.

11 It is PROVED second by the holy Doctor: With the father commanding marriage, the son can vow chastity: Therefore he is not bound to obey his father.

PROBATUR secundo a S. Doctore: Patre imperante matrimonium, potest filius castitatem vovere: Ergo non tenetur patri obedire.

12 It is PROVED third by the holy Doctor; if a son wishes to enter religion, he is not bound to obey his father determining or forbidding, because the vow is spontaneous: Therefore likewise the promise of marriage.

PROBATUR tertio a S. Doctore; si filius vult religionem intrare, non tenetur patri determinanti, vel prohibenti obedire, quia votum est spontaneum: Ergo similiter et promissio matrimonii.

13 It is PROVED fourth by the holy Doctor: No one can destine me to perpetual servitude. But a man, by the fact that he contracts with a wife, gives her perpetual power over his body: Therefore.

PROBATUR quarto a S. Doctore: Non potest quis me perpetuae destinare servituti. Sed vir, eo quod contrahit cum uxore, dat ei sui corporis perpetuam potestatem: Ergo.

14 It is PROVED fifth by the holy Doctor: If a father can compel: Therefore espousals contracted by parents without the son's consent are valid.

PROBATUR quinto a S. Doctore: Si pater cogere potest: Ergo sponsalia a parentibus contracta absque filii consensu, sunt valida.

15 YOU WILL OBJECT however first. Isaac commanded his son Jacob not to take wives of the Chanaanites, *Genes. 28*. Therefore a Father can forbid this.

OBIICIES tamen primo. Isaac praecepit filio Iacob, ne acciperet uxores Chananaeas, Genes. 28. *Potest ergo Pater id prohibere.*

16 The holy Doctor RESPONDS, that he commanded this both because those women were wicked and contagious. For of them the Lord said: *Certissime avertent corda vestra.* Then because this kind of men was to be destroyed by God's command, and this is intimated in the text to have been known to Isaac.

RESPONDET S. Doctor, hoc praecepisse, tum quia illae erant mulieres malae, et contagiosae. De his enim dixit Dominus: Certissime avertent corda vestra. *Deinde quia hoc genus hominum erat Dei iussu destruendum, et hoc insinuatur in textu, notum fuisse Isaac.*

17 YOU WILL OBJECT second, *Coloss. 3*. we have: *Filii obedite parentibus per omnia.* The Gloss adds, *quae non sunt contra Dominum:* But marriage is not against God: Therefore.

OBIICIES secundo, Coloss. 3. *habetur:* Filii obedite parentibus per omnia. *Addit Glossa,* quae non sunt contra Dominum: *Sed matrimonium non est contra Deum: Ergo.*

18 The holy Doctor RESPONDS, that that distribution is understood only of those things which pertain to the honorification of parents and to the governance of the family. As to the rest, it is only counsel, which the Gloss intimates, saying: *Placet Deo, si per omnia obediatis, ita tamen, si Domino obediatis.*

RESPONDET S. Doctor, illam distributionem intelligi solum de his, quae ad honorificationem parentum, et ad regimen familiae spectant. Quoad reliqua, esse solum consilium, quod innuit Glossa dicens: Placet Deo, si per omnia obediatis, ita tamen, si Domino obediatis.

19 YOU WILL OBJECT *third.* As the spiritual Father stands with respect to spiritual matrimony, so the carnal father with respect to carnal: But the Lord Pope can command under excommunication that someone espouse himself to the Church by spiritual marriage, by accepting a Bishopric: Therefore.

OBIICIES tertio. *Sicut se habet Pater spiritualis respectu matrimonii spiritualis; ita pater carnalis respectu carnalis: Sed Dominus Papa potest sub excommunicatione praecipere, ut aliquis Ecclesiae sibi despondeat matrimonio spirituali, acceptando Episcopatum: Ergo.*

20 The *holy Doctor* RESPONDS by denying the parity, because the spiritual Father has ampler power in governance than the carnal; and the more so because it pertains to the public good, which prevails over the private. Then a heavier yoke is imposed by carnal marriage, which is inseparable; whereas a Bishopric can be dispensed, laid down, etc.

RESPONDET S. Doctor, *negando patitatem, quia Pater spiritualis habet ampliorem potestatem in gubernatione, quam carnalis; et eo magis quod ad bonum publicum spectet, quod privato praevalet. Deinde gravius iugum imponitur matrimonio carnali, quod est inseparabile; at Episcopatus potest dispensari, deponi, etc.*

21 He ADDS that of so great a parent it is presumed that, inspired by the Holy Spirit, he governs the Church, and accordingly commands for the public good, and therefore is to be obeyed. Wherefore the holy Doctor explodes the opinion of those saying that the Pontiff cannot command this. That one can, he says, refuse, if he knows certainly that he is unequal to the burden, and therefore that the Bishopric is dangerous for himself.

ADDET praesumi de tanto parente, quod Spiritu Sancto afflatus gubernet Ecclesiam, atque adeo ad bonum publicum praecipiat, et proinde obediendum. Quare explodit S. Doctor opinionem dicentium, non posse Pontificem hoc praecipere. Posse tamen, ait, recusare, si certo cognoscat se oneri imparem, ac ideo Episcopatum sibi esse periculosum.

22 In our matter much more can the son, who is oppressed by his father, whether because he is not nourished, or not according to his station, or is sent farther away, that he not marry, marry with a worthy woman against his father's will; even if of inferior condition: So almost all grant, from the liberty of the state of marriage, Fagundez *num. 5.* Molina *lib. 2. de primog. cap. 13.* and others, as at Bassaeus *loc. cit.*

In re nostra multo magis potest filius, qui a patre opprimitur, seu quia non alitur, sive quia non secundum statum, sive quia longius emittitur, ne contrahat, potest invito patre inire cum muliere digna; esto inferioris conditionis: Ita fere concedunt ex libertate status matrimonii, Fagundez num. 5. *Molina* lib. 2. de primog. cap. 13. *et alii, apud Bassaeum* loc. cit.

23 *From which I also deduce*, that such a son or daughter does not lose a legacy left under this condition, that she marry with her father's consent. So Henriquez *lib. 11. de matrim. cap. 6.* Gamma *decis. 314.* Emmanuel Acosta *l. cum tale, §. si arbitratus, ff. de condit. et demonst.* Molina *lib. 2. de primog. cap. 13.* Sanchez *Tom. 1. de matrim. lib. 1. d. 34.* Molina the Theologian *Tom. 1. de Iust. d. 207.* Manuel Rodrig. *tom. 1. summae edit. prima, cap. 133.* Sylvest. *verbo Concilium*, Mencacha, *controv. cap. 5.* Fagund. *num. 6.* and others commonly among these authors.

Ex quo etiam deduco, *non amittere talem filium, vel filiam legata sub hac conditione, ut consensu patris nubat. Ita Henriquez* lib. 11. de matrim. cap. 6. *Gamma* decis. 314. *Emmanuel Acosta* l. cum tale, §. si arbitratus, ff. de condit. et demonst. *Molina* lib. 2. de primog. cap. 13. *Sanchez* Tom. 1. de matrim. lib. 1. d. 34. *Molina Theologus* Tom. 1. de Iust. d. 207. *Manuel Rodrig.* tom. 1. summae edit. prima, cap. 133. *Sylvest.* verbo Concilium, *Mencacha,* controv. cap. 5. *Fagund.* num. 6. *et alii communiter apud istos.*

24 The SAME must be said of the right of primogeniture and the like, if they are established under such a condition. For there is one and the same reason on both sides, as Molina, Iustisconsultus, and Fagundez note.

IDEM dicendum de maioratu, et similibus, si sub tali conditione statuta sint. Est enim utrobique una ratio, ut notant Molina, Iustisconsultus, et Fagundez.

25 The FOUNDATION is, because such a condition impedes the liberty of marriage, and therefore must be judged as not appended; for although it is honorable for children to follow the will of their parents in contracting marriages, nevertheless the laws, wishing to favor altogether the liberty of marriage, reject conditions repugnant to this liberty, and judge them as not appended. Certainly such

conditions weaken the liberty, which ought to be full, as we have *cap. Gemma mulieri, de sponsal.* Second, because this case must be decided according to *l. filia suae, ff. de condit. et demonst. et l. cum tale, §. si arbitratu.*

> *FUNDAMENTUM est, quia ea conditio impedit libertatem matrimonii, ac proinde pro non apposita censenda est; nam licet honestum sit, filios in contrahendis matrimoniis voluntatem parentum sequi; tamen iura, volentia omnimodae libertati matrimonii favere, conditiones huic libertati repugnantes reiiciunt, et pro non appositis iudicant. Sane tales conditiones infirmant libertatem, quae plena esse debet, ut habetur* cap. Gemma mulieri, de sponsal. *Secundo, quia hic casus decernendus est iuxta* l. filia suae, ff. de condit. et demonst. et l. cum tale, §. si arbitratu.

26 MANY however of those cited ADD that it avails, if a condition be appended of consulting parents or others, without denying the liberty not to carry out the counsel.

> *ADDUNT tamen multi ex allegatis, valere, si apponatur conditio consulendi parentes, vel alios, non negata libertate non exequendi consilium.*

27 This however Acosta impugns *loc. cit.* referring to others who hold the same as himself.

> *Hoc tamen impugnat Acosta* loc. cit. *alios referens, qui idem, quod ipse, sentiunt.*

28 YET I think the legacy avails, if it be left under that condition, that she marry a certain kind of noble persons, because it invites by a reward and compels toward better things. So Henriquez *loc. cit.* and Fagundez *num. 9.*

> *VALERE tamen reor legatum, si sub ea conditione relinquatur, si nubat certo genere personarum nobili, quia praemio invitat, et ad meliora compellit. Ita Henriquez* loc. cit. *et Fagundez* num. 9.

Question IV: How, and when, children are bound to relieve their parents

1 I HAVE said in the first question, in expounding the definition of Piety, that children are bound to supply their parents with food and clothing in their necessities. But certain difficulties occur.

> Quomodo, et quando teneantur Filii Parentibus subvenire.
>
> *IAM dixi quaestione prima in explicanda Pietatis definitione, teneri filios parentibus, alimenta et vestitum in necessitatibus subministrare. Occurrunt vero aliquae difficultates.*

2 The FIRST is; whether children are bound to nourish heretical parents, and some assert it. So Azorius *Tom. 2. lib. 2. cap. 3. quaestio 2. Glossa 12. cap. 1. verbo fidelis, d. 30.* Castro *lib. 2. de iusta haeret. punit. cap. 7.* who says that a heretical father is to be preferred to a Catholic stranger.

> *PRIMA est; an teneantur alere parentes haereticos, et aliqui asserunt. Ita Azorius* Tom. 2. lib. 2. cap. 3. quaestio 2. Glossa 12. cap. 1. verbo fidelis, d. 30. *Castro* lib. 2. de iusta haeret. punit. cap. 7. *qui ait, praeferendum patrem haereticum extraneo catholico.*

3 The SECOND opinion asserts in extreme necessity, but not in grave. So Cara *l. 6. quis a liberis, §. et si impubes, ff. de lib. agnosc.* Sardus *de alim. tit. 7.* Sanchez *lib. 2. decal. cap. 24.* Fagundez *lib. 4. cap. 2. num. 6.*

> *SECUNDA opinio asserit in necessitate extrema, non autem in gravi. Ita Cara* l. 6. quis a liberis, §. et si impubes, ff. de lib. agnosc. *Sardus* de alim. tit. 7. *Sanchez* lib. 2. decal. cap. 24. *Fagundez* lib. 4. cap. 2. num. 6.

4 NAY, Fagundez adds, nor are they bound in extreme necessity, if the parents try to lead them into error against the faith, and refuse to desist. So it seems D. Thom. *2. 2. quaest. 101. art. 4. ad 1.*

expounding *Lucae 14. Si quis venit ad me, et non odit patrem suum, etc. non potest meus esse discipulus.* The same S. Bonaventure indicates in his *Commentary on that passage.*

> *IMO addit Fagundez, nec in extrema necessitate teneri, si parentes in errorem contra fidem inducere conentur, et nolint desistere. Ita videtur D. Thom.* 2. 2. quaest. 101. art. 4. ad 1. *explicans id* Lucae 14. Si quis venit ad me, et non odit patrem suum, etc. non potest meus esse discipulus. *Idem indicat S. Bonavent. in* Commentario illius loci.

5 MOREOVER the holy Doctor asserts *in 4. d. 18. part. 2. quaest. 5. in corpore*, that aid must be brought not only to excommunicate parents of whatever kind, but even to strangers in necessity, when they have nothing by which to be sustained. This seems to require extreme necessity, yet not clearly; for it can also be understood of grave necessity.

> *CAETERUM asserit S. Doctor* in 4. d. 18. part. 2. quaest. 5. in corpore*, non modo parentibus excommunicatis quibuscumque, sed etiam exteris in necessitate subveniendum, quando non habent, quo sustententur. Hoc videtur extremam exigere necessitatem, non tamen clare; potest enim etiam de gravi intelligi.*

6 I ASSERT first, that it is more probable that a son is bound to nourish heretical parents only in extreme necessity.

> *ASSERO primo, probabilius esse in sola extrema necessitate teneri filium alere parentes haereticos.*

7 *It is PROVED first.* Fathers are bound to their sons by a stronger bond of natural law than sons to fathers; for nature descends from parents to children, not the reverse: But Catholic fathers are not bound to nourish heretical sons, unless they be in extreme need, as Surdus proves *tit. 7. quaest. 2.* Therefore.

> PROBATUR primo. *Maiori vinculo iuris naturae tenentur patres ad filios, quam filii ad patres; natura enim descendit a parentibus ad filios, non e contra: Sed patres Catholici non tenentur alere filios haereticos, nisi extreme indigeant, ut probat Surdus* tit. 7. quaest. 2. *Ergo.*

8 *It is PROVED second*, because a Father can deprive a heretical son of the inheritance, as is clear from *Authent. Ut cum, de appellat. cognosc. §. causas, et l. Regia Hispanae 7. tit. 7. part. 6. et l. Lusitana, l. 4. novae recopil. tit. 88.* Now it is the common opinion, as at Molina *de primog. lib. 2. cap. 16.* Azor. *tom. 2. lib. 2. quaestio 6. cap. 5.* Sanchez, and Fagundez *loc. cit.* that in all cases in which parents can disinherit their children, they can also, apart from extreme necessity, deny them maintenance: Therefore.

> PROBATUR secundo*, quia Pater potest filium haereticum haereditate privare, ut constat ex* Authent. Ut cum, de appellat. cognosc. §. causas, et l. Regia Hispanae 7. tit. 7. part. 6. et l. Lusitana, l. 4. novae recopil. tit. 88. *Est autem communis sententia apud Molinam* de primog. lib. 2. cap. 16. *Azor.* tom. 2. lib. 2. quaestio 6. cap. 5. *Sanchez, et Fagundez* loc. cit. *quod in omnibus casibus, in quibus possunt parentes filios exhaeredare, possunt etiam alimenta, seclusa necessitate extrema, ipsis denegare: Ergo.*

9 *From this understand* what the *l. Hispana 8. tit. 23. part. 1.* infers, defining that a needy heretical father is to be preferred to a Catholic stranger, in the alms to be bestowed by the son; for it is understood in extreme necessity, as Surdus notes *tract. de alim. tit. 1. quaest. 18. et 19.* and as the holy Doctor indicates *in corpore, loc. cit.* when he places first the parents, then the excommunicate pilgrims, when they have nothing by which to be sustained.

> HINC intellige*, quid inferat* l. Hispana 8. tit. 23. part. 1. *definiens, patrem haereticum egenum, praeferendum extraneo Catholico, in eleemosyna a filio eroganda; intelligitur enim in extrema necessitate, ut notat Surdus* tract. de

alim. tit. 1. quaest. 18. et 19. *et indicat S. Doctor* in corpore, loc. cit. *dum primo parentes, deinde peregrinos excommunicatos ponit, dum non habent, quo sustententur.*

10 A QUESTION arises: Whether the fisc is bound to maintain the alimony of Catholic children from goods devolved to it from a heretical Father. Of this great controversy Peregrinus treats *de iure fisci, lib. 5. tit. 1.* Farinacius *tom. 1. part. 1. tit. de delictis, et poenis, quaest. 24.*

QUAESTIO oritur: An fiscus teneatur servare alimenta filiis Catholicis de bonis, devolutis sibi, Patris haeretici. De hac magna controversia agit Peregrinus de iure fisci, lib. 5. tit. 1. *Farinacius* tom. 1. part. 1. tit. de delictis, et poenis, quaest. 24.

11 The FIRST opinion is that, in the goods of the father being made public, the alimony cannot be computed, nay not even the children's legitima. Many among those cited follow it, to whom I add Guilielmus, Benedictus, citing Raynutius under the word, *et uxorem, decis. 5. num. 286. de testam.* It seems D. Bonaventure's *in 4. loco citato.*

PRIMA opinio est, non posse in bonis patris publicandis computari alimenta, imo neque legitimam filiorum. Eam sequuntur multi apud allegatos, quibus addo Guilielmum, Benedictum, cit. Raynutium verbo, et uxorem, decis. 5. num. 286. de testam. *Videtur D. Bonaventura* in 4. loco citato.

12 The second opinion teaches that children can be denied alimony from their father's published goods by the Inquisitors and the fisc, on account of these two crimes only, namely heresy, and the crime of lèse-majesté. Fagundez says it is today the common one *lib. 4. cap. 1.* referring to many, with Sanchez *lib. 2. Decal. cap. 16.*

Secunda sententia docet, posse filiis ab Inquisitoribus, et fisco negari alimenta de bonis patris publicatis, ob duo haec crimina tantum, nempe haeresim, et crimen laesae Maiestatis. Eam hodie communem ait Fagundez lib. 4. cap. 1. *multos referens cum Sanchez* lib. 2. Decal. cap. 16.

13 I assert that the first opinion is probable, namely that the children's alimony is not to be computed in the Father's goods.

Assero, probabilem esse primam sententiam, alimenta scilicet filiorum non esse in bonis Patris computandam.

14 It is proved first by the argument of S. Bonavent. 3. with the explanation of the body added. The fisc succeeds to the father's goods: But a father cannot deny his son alimony in extreme necessity. And certainly it seems barbarity, toward infant children, after the inheritance and legitima have been snatched away, finally to deny them even alimony, and to punish the sins of parents in children against Divine law.

Probatur primo argumento S. Bonavent. 3. addita explicatione corporis. Fiscus in bonis succedit patri: At pater non potest filio negare alimenta in extrema necessitate. Et sane videtur barbaries infontibus filiis, post ereptam haereditatem, et legitimam, tandem etiam alimenta denegare, et punire peccata parentum in filiis contra ius Divinum.

15 Nor let Fagundez say that only the Father is punished. For let it be that the father too is punished as to the patrimony of the inheritance; yet as to the denying of alimony, it is rather the son who is punished. For if any penalties whatever could be imposed to terrify delinquents, it would be lawful also to burn children alive.

Neque dicat Fagundez, puniri tantum Patrem. Esto enim puniatur et pater quoad facultatem haereditatis, tamen quoad neganda alimenta, punitur magis filius. Quod si ad terrorem delinquentium liceret poenas quasque imponere, liceret

etiam filios vivos comburere.

16 It is confirmed, for on account of the crime of heresy of the son himself, his castrensial or quasi-castrensial goods, which belong entirely to the same son himself, cannot be proscribed, as very many teach, whom Sanchez cites *lib. 2. cap. 15.* to whom I add Diana *part. 4. Tract. 8. de Inquisit. resol. 61.* Sanctarellus *de haeresi, cap. 18. d. 1.* and it is clear from *l. si filius, C. de bonis damn.* Therefore much less, on account of the father's offense, are the son's alimony and maintenance, which are owed to the son by natural law more than castrensial goods, to be proscribed.

Confirmatur, nam propter crimen haeresis fili, non possunt proscribi bona eiusdem filii castrensia, aut quasi castrensia, quae sunt omnino eiusdem filii, ut docent plurimi, quos citat Sanchez lib. 2. cap. 15. *quibus addo Dianam* part. 4. Tract. 8. de Inquisit. resol. 61. *Sanctarellum* de haeresi, cap. 18. d. 1. *et patet ex* l. si filius, C. de bonis damn. *Ergo multo minus ob delictum patris sunt proscribenda alimenta filii, quae iure naturae magis debentur filio, quam bona castrensia.*

17 You will object first. A parent can subject all his goods to a mortgage by contract: Therefore much more by offense.

Obiicies primo. Potest parens omnia bona subiicere hypothecae per contractum: Ergo multo magis per delictum.

18 It is answered first, by denying the Antecedent; for this would be impious, even if valid; for it is against the law of natural piety.

Respondetur primo, negando Antecedens; hoc enim impium esset, esto validum; nam est contra legem pietatis naturalem.

19 You will object second, *cap. Vergentis, de haereticis*, where the Pontiff takes away entirely all succession from the children as to the goods of heretical fathers, and commands, with them wholly disinherited, that all the goods be made public.

Obiicies secundo, cap. Vergentis, de haereticis*, ubi Pontifex aufert omnino omnem successionem filiis in bona patrum haereticorum, iubetque, eis penitus exhaeredatis, omnia bona publicari.*

20 It is answered, that odious laws are not to be extended. Now the Pontiff commands that the inheritance be proscribed, but not that alimony be taken from the children, because that would be against natural law.

Respondetur, leges odiosas non esse dilatandas. Iubet autem Pontifex, haereditatem proscribi, non autem auferri alimenta filiis, quia esset contra ius naturae.

21 I confess however that the opposite opinion is also probable.

Fateor tamen, etiam oppositam sententiam esse probabilem.

22 ¶ Under what law then are children bound to minister alimony to their parents; I say they are bound by natural law, as the Theologians commonly teach, with D. Bonavent. *serm. 5. in decem praecepta*, and in other places adduced *quaest. 1.* It is proved by S. Bonaventure because nature there binds more strongly, where there is the greater debt; but children owe more to their parents, from whom they have being, than parents to children. And they say this is by natural law: Therefore. See on this matter Fagundez *loc. cit.* and Rebellius *de oblig. iust. part. 2. lib. 5. quaest. 8.*

¶ *Quo autem iure teneantur filii parentibus alimenta ministrare; Dico teneri iure naturae, ut docent communiter Theologi cum D. Bonavent.* serm. 5. in decem praecepta*, et aliis locis adductis* quaest. 1. *Probatur a S. Bonavent.*

quia natura ibi magis obligat, ubi est maius debitum; sed filii magis debent patribus, a quibus habent esse, quam patres filiis. Et hoc dicunt esse iure naturae: Ergo. Vide hac de re Fagundez loc. cit. *et Rebellium* de oblig. iust. part. 2. lib. 5. quaest. 8.

23 And it is so true, that in extreme necessity children are bound more to their parents than to their own children, as the Theologians teach, with D. Thom. *2. 2. quaest. 26. art. 8. ad 3.* and D. Bonavent. as I showed, *Tract. de charitate, de ordine charitatis*, where I also discussed what is to be done in grave necessity.

Estque adeo verum, ut in extrema necessitate teneantur magis filii parentibus, quam propriis filiis, ut docent Theologi cum D. Thom. 2. 2. quaest. 26. art. 8. ad 3. *et D. Bonavent. ut ostendi* Tract. de charitate, de ordine charitatis, *ubi etiam quid in gravi necessitate agendum sit, disserui.*

24 But in either necessity of parents it is not lawful for children to abandon them and enter religion. So D. Thom. *2. 2. quaest. 101. art. 4. ad 4.* Toletus *lib. 5. summae, cap. 1.* Alens. *3. p. quaest. 33. m. 4. quaest. 2.* Angelus *verb. Religio, num. 32.* Rosella *2. num. 7.* Sylvest. quaesito 7. Azor. *tom. 2. lib. 2. cap. 3. quaesito 5.* with D. Bonavent. *serm. 5. in 4. praecept. et loco cit. in 4.* This also is true, if such a necessity begins during the novitiate, as is clear. But in doubt whether the necessity be grave and otherwise not removable, it seems to be in the son's discretion to choose either. See the Doctors also in Bassaeus, *V. filius, num. 7.*

In utraque vero necessitate parentum non licet filiis eos deserere, et religionem ingredi. Ita D. Thom. 2. 2. quaest. 101. art. 4. ad 4. *Toletus* lib. 5. summae, cap. 1. *Alens.* 3. p. quaest. 33. m. 4. quaest. 2. *Angelus* verb. Religio, num. 32. *Rosella* 2. num. 7. *Sylvest. quaesito 7. Azor.* tom. 2. lib. 2. cap. 3. quaesito 5. *cum D. Bonavent.* serm. 5. in 4. praecept. et loco cit. in 4. *Hoc etiam verum est, si novitiatus tempore incipiat talis necessitas, ut constat. In dubio vero, an sit gravis necessitas aliter non removibilis, videtur in arbitrio filii eligere utrumlibet. Vide Doctores etiam in Bassaeo,* V. filius, num. 7.

25 For one who has a vow of entering religion ought not to enter, while the necessity of his parents lasts: yet if he enters and makes profession, he will sin; nevertheless his profession will be valid; for no law annulling it is found, as Fagundez notes *num. 10.*

Quod enim votum habeat ingrediendi religionem, non debet ingredi, durante parentum necessitate: si tamen ingrediatur, et profiteatur, peccabit; sed tamen erit professio valida; nullum enim ius eam irritans invenitur, ut notat Fagundez num. 10.

26 But the grave doubt is: whether, in the necessity of his parents, a son who has made profession in religion is bound to leave it, when he cannot come to their aid in Religion.

Dubitatio vero gravis est: an in necessitate parentum teneatur filius, religionem professus, egredi, cum nequeat in Religione eis subvenire.

27 In extreme necessity certainly all confess they are bound, as is seen in Sanchez *lib. 4. Decal. cap. 20.* Bassaeus *num. 8.* Fagundez *num. 21.* nor does D. Thom. *quaest. 101. art. 4. ad 4.* contradict this, as Fagundez thinks.

In extrema sane omnes fatentur teneri, ut videre est apud Sanchez lib. 4. Decal. cap. 20. *Bassaeum* num. 8. *Fagundez* num. 21. *neque repugnat D. Thom.* quaest. 101. art. 4. ad 4. *ut putat Fagundez.*

28 The question then is in grave necessity, if, remaining in religion, he cannot come to their aid.

Quaestio est ergo in gravi necessitate, si non possit, in religione stans, subvenire.

29 The FIRST opinion is that he is bound, the faculty asked, even if not obtained. So Ancona *de potestate Papae, quaest. 5. art. 1.* Henriq. *quaest. 6. quaest. 6.* Iansen. *in concord. Euang. cap. 60.* Viguer. *lib. 6. Instit. moral. cap. 6. §. 7.* Corduba *in Reg. Minorum, cap. 2. quaest. 6. art. 2.*

Prima opinio est teneri, petita, etiamsi non obtenta facultate. Ita Ancona de potestate Papae, quaest. 5. art. 1. *Henriq.* quaest. 6. quaest. 6. *Iansen.* in concord. Euang. cap. 60. *Viguer.* lib. 6. Instit. moral. cap. 6. §. 7. *Corduba* in Reg. Minorum, cap. 2. quaest. 6. art. 2.

30 The SECOND opinion is, that he is bound, if the necessity existed before his profession, but not if it came afterward. So Nauar. *in man. cap. 14.* Tolet. *lib. 5. cap. 1.* Lopez *p. p. Instruct. cap. 34.* Rodrig. *tom. 1. summae, cap. 6.* Cucus *lib. 3. Instit. maiorat. tit. 1. num. 126.* Bassaeus *num. 8.* Sanch. *summ. lib. 4. cap. 20. num. 14.*

Secunda opinio est, teneri, si necessitas fuit ante professionem, non autem si postea advenerit. Sic Nauar. in man. cap. 14. *Tolet.* lib. 5. cap. 1. *Lopez* p. p. Instruct. cap. 34. *Rodrig.* tom. 1. summae, cap. 6. *Cucus* lib. 3. Instit. maiorat. tit. 1. num. 126. *Bassaeus* num. 8. *Sanch.* summ. lib. 4. cap. 20. num. 14.

31 The THIRD opinion is, that he is not bound, whenever the necessity may have arisen; yet he can leave, the faculty asked, even if not obtained. So Sà *verb. Religio, num. 2.* Rosella ibi *verb. Religio 2. num. 7.* D. Antonin. *3. part. tit. 16. cap. 2.* Armilla *verb. Pietas.* Tabiena ibi. Corduba *in summa, quaest. 141. art. 2.* Angles *flor. 3. part. quaest. un. de voto, art. 2. diffic. 13.* Passarellus *de privil. minorum, cap. 42.* Rodriguez *tom. 2. qq. Regularium.* Alens. *3. part. q. 33. m. 4. art. 1.* Fagundez *num. 27.* and others.

Tertia sententia est, non teneri, in quovis tempore advenerit necessitas; posse tamen exire, petita, etiamsi non obtenta facultate. Ita Sà verb. Religio, num. 2. *Rosella ibi* verb. Religio 2. num. 7. *D. Antonin.* 3. part. tit. 16. cap. 2. *Armilla* verb. Pietas. *Tabiena ibi. Corduba* in summa, quaest. 141. art. 2. *Angles* flor. 3. part. quaest. un. de voto, art. 2. diffic. 13. *Passarellus* de privil. minorum, cap. 42. *Rodriguez* tom. 2. qq. Regularium. *Alens.* 3. part. q. 33. m. 4. art. 1. *Fagundez* num. 27. *et alii.*

32 To me the first opinion seems more probable, because when several laws concur, the higher law ought to prevail; but to succor one's parents is pure natural law, and the first law in the order of charity toward one's neighbor: Therefore the vows of Religion cannot be made absolutely to the prejudice of that law, but conditionally, unless the bond of natural law be repugnant.

Mihi videtur probabilior prima sententia, quia dum plura occurrunt iura, debet altius ius praevalere; at succurrere parentibus est ius naturae merum, et primum ius in ordine charitatis ad proximum: Ergo vota Religionis non possunt absolute iniri in praeiudicium iuris istius, sed conditionaliter, nisi vinculum legis naturalis repugnet.

33 Fagundez answers *num. 25.* that vows are conditional as to extreme necessity, but not as to grave.

Respondet Fagundez num. 25. *vota esse conditionata pro extrema necessitate, non autem pro gravi.*

34 But this author ought here to have recalled that he taught, *num. 14. et cap. 5.* that even in grave necessity the natural precept of coming to the aid of parents presses.

Sed debuit hic author recordari, se num. 14. et cap. 5. *docuisse, etiam in gravi necessitate urgere praeceptum naturale subveniendi parentibus.*

35 You will say. Sons are not bound to leave their wife, that they may come to the aid of their parents, nor are clerics bound to take up the name of soldiery, that they may succor them, even if no other

way be available: Therefore neither are they bound to abandon Religion, when they have delivered themselves to the power of the Prelates.

> *Dices. Filii non tenentur relinquere uxorem, ut parentibus subveniant, neque tenentur clerici militiae nomen dare, ut eis succurrant, etiamsi alia non suppetat via: Ergo neque tenentur Religionem deserere, cum se potestati tradiderint Praelatorum.*

36 It is answered, that these assumptions are beside the point. And first I say that the bond of marriage is indeed of absolute natural right, nor does dissolving the bond of marriage help toward aiding parents. For meanwhile he ought, if he can, to aid his parents, even in marriage.

> *Respondetur, haec assumpta non esse ad rem. Et primo dico, vinculum matrimonii esse quidem iuris absoluti naturae, neque iuvare ad subveniendum parentibus solvere vinculum matrimonii. Interim enim debet, si possit, subvenire parentibus, etiam in matrimonio.*

37 To what is said of soldiery, I answer, that one can also follow the soldiery, if no other way of aiding his parents be available; and acquire castrensial goods; but what then? Can he not accomplish the same with quasi-castrensial goods in the clerical state? As to the power of the Prelates, it is clear that it is conditional, without prejudice to the precepts of nature.

> *Quod dicitur de militia, respondeo, posse etiam militiam sequi, si alia via non suppetat subveniendi parentibus; atque bona castrensia acquirere; sed quid? Nonne potest bonis quasi castrensibus in clericatu idem efficere? Quoad potestatem Praelatorum, tam constat esse conditionalem, absque praeiudicio praeceptorum naturae.*

38 I ADD also that the habit can be laid aside, if otherwise he cannot exercise the work of piety in this case, as *Fagundez num. 28.* notes.

> *ADDO etiam, posse dimittere habitum, si aliter nequeat opus pietatis exercere in hoc casu, ut notat* Fagundez num. 28.

39 It is ALSO ASKED: when parents are in extreme necessity, and the son's creditor, is the latter bound rather to the parents than to the creditor.

> *QUAERUNTUR etiam: an existentibus in extrema necessitate parentibus, et creditore filii, teneatur ne is magis parentibus, quam creditori.*

40 I SAY, he is bound rather to the parents, and to himself, for in such necessity the debt of justice ceases, because all things, as to their use, are common *leg. 2. §. Cum in eadem, ff. ad legem Rhodiamam de iactu.* So also think *Azor tract. 2. lib. 12. cap. 8. quaest. 5. Paludan. 4. dist. 15. quaest. 2. art. 1. Sotus lib. 4. de Iustitia, quaest. 7. art. 1. Caietanus 2. 2. quaest. 62. art. 5 ad 4. Tabiena verb. restitut. quaest. 4. Fagundez lib. 4. cap. 2. num. 30.* Nay, as to dominion all things are common, as I said.

> *DICO, teneri magis parentibus, et sibi, nam in tali necessitate cessat debitum iustitiae, quia omnia, quoad usum, sunt communia* leg. 2. §. Cum in eadem, ff. ad legem Rhodiamam de iactu. *Sic etiam sentiunt* Azor tract. 2. lib. 12. cap. 8. quaest. 5. Paludan. 4. dist. 15. quaest. 2. art. 1. Sotus lib. 4. de Iustitia, quaest. 7. art. 1. Caietanus 2. 2. quaest. 62. art. 5 ad 4. Tabiena verb. restitut. quaest. 4. Fagundez lib. 4. cap. 2. num. 30. *Imo quoad dominium sunt omnia communia, ut dixi.*

41 By the argument cited is also solved the adverse reason of those teaching that a son is bound to his creditors, because he is bound to them by a double bond, namely of Charity, and of justice. For I say the bond of justice ceases.

Ex allato argumento solvitur etiam ratio adversa docentium, filium teneri creditoribus, quia ad illos duplici vinculo ligatur, scilicet Charitatis, et iustitiae. Dico enim cessare vinculum iustitiae.

42 NOR will he be bound to restore to the creditor, if he should be restored to prosperous fortune.

NEQUE tenebitur restituere creditori, si ad pinguem reducatur fortunam.

43 The reason is, because from the beginning all things were common, and they were divided by the law of nations with this condition, that they return in that part which is necessary in extremity; otherwise the law would have been imprudent and unjust. See *Fagundez num. 32.*

Ratio est, quia ab initio omnia erant communia, et iure gentium divisa sunt cum hac conditione, ut redeant pro ea parte, quae est necessaria in extremis, alioqui imprudens fuisset, et iniqua lex. Vide Fagundez num. 32.

44 It is ALSO ASKED: whether elder sons, who have received nothing from their parents beyond the bare right of primogeniture, are bound to pay their parents' debts from the means of the maioratus.

QUAERITUR etiam: an filii natu maiores, qui nihil a parentibus, praeter nudam maioratum acceperunt, solvere teneantur parentum debita, e facultate maioratus.

45 The COMMON answer, as at Fagundez *num. 33.* is that if the debts were contracted before the institution of the maioratus, those goods could not be bound to them; since they were debts owed to creditors; but if he contracted them after the institution of the maioratus. The true opinion asserts he is bound. So many Jurists, whom he adduces and follows, *Fagundez lib. 4. cap. 2. num. 34.*

COMMUNIS responsio est apud Fagundez num. 33. *quod si debita contracta sunt ante maioratum institutum, non potuere ea bona ligari; cum essent creditoribus debita; si vero ea contraxere post institutum maioratum. Vera opinio asserit, teneri. Ita multi Iuristae, quos adducit, et sequitur* Fagundez lib. 4. cap. 2. num. 34.

46 *It is PROVED*, because those debts of the parents were converted to the utility of the sons, to whom the bound goods and maioratus pertain. Therefore they are bound to pay them, if he is not solvent who received them, *leg. ei qui, §. Alioquin, Cod. eum eo, et leg. His solis, ff. de condit. indebit. ut exponit Glossa.*

PROBATUR, *quia ea debita parentum conversa sunt in utilitatem filiorum, ad quos bona vinculata, et maioratus spectant. Ideo tenentur ea solvere, si non est solvendo, qui recepit* leg. ei qui, §. Alioquin, Cod. eum eo, et leg. His solis, ff. de condit. indebit. ut exponit Glossa.

47 YET I do not deny that the opposite opinion is also probable, as at Fagundez *num. 35.*

NON nego tamen probabilem esse etiam oppositam opinionem, apud Fagundez num. 35.

Question V: On the obligation of parents toward their children

1 I ASSERT first, that fathers are bound to provide support to their children in grave necessity. Under the name of support come clothing, food, medicine, lodging, and all those things without which human life cannot go on, as Panormitanus teaches *in cap. cum secundum de praebendis, as is clear from cap. non liceat, on the same title:* Moreover, by the name of Fathers are understood those ascending along the paternal line, and likewise of the Mother.

ASSERO primo, teneri patres filiis in gravi necessitate alimenta praebere. Alimentorum autem nomine veniunt vestes, cibi, medicinae, habitatio, atque ea omnia, sine quibus vita humana transigi nequit, ut docet Panormit. in cap. cum

secundum de praebendis, ut patet ex cap. non liceat, eodem titulo: *Praeterea nomine Patrum intelligunt ascendentes per lineam paternam, et sic de Matre.*

2 *IT IS PROVED* because he who gives life ought to supply the things necessary to it. It is the common opinion, as Covarruvias shows *in Epit. part. 3. cap. 8. §. 6. Azor, tom. 1. lib. 2. cap. 4. Sylvester under the word alimenta.*

PROBATUR *quia dans vitam, debet ea, quae sunt ad eam necessaria, apponere. Est communis sententia, ut ostendit Couar.* in Epit. part. 3. cap. 8. §. 6. Azor, tom. 1. lib. 2. cap. 4. Syluester verb. alimenta.

3 Yet the Father may, for correction, restrict the support given to his son. For he is bound to provide his children with good education and discipline by fitting means. Wherefore, even if by accident he cannot go out to hear Mass, it does not matter, as *Fagundez says cap. 1. num 3.*

POTEST tamen Pater, ad correctionem, alimenta filio restringere. Tenetur enim bonam educationem, et disciplinam filiis praestare, mediis accommodis: Quare, etiamsi per accidens non possit exire ad sacrum audiendum, non refert, ut ait Fagundez cap. 1. num 3.

4 NOTE that under the name of children are included also illegitimate ones. Wherefore parents gravely sin who, being able to support their spurious children, expose them in churches and hospitals for alms. So *Fagundez num. 5. Toledo lib. 5. cap. 1. Navarr. man. cap. 14.*

ADVERTE, nomine filiorum venire, etiam illegitimos. Quare graviter peccant parentes, potentes alere filios spurios, et eos exponunt in templis, hospitalibus ad eleemosynas. Ita Fagundez num. 5. Tolet. lib. 5. cap. 1. Navar. man. cap. 14.

5 Nor let them excuse themselves by saying that those places of the Hospitals have revenues for this end; they have them for the poor as their children. Therefore they are bound here to restitution, as *Fagundez says num. 5. after Sylvester under the word Adulterium. Navarr. man. cap. 16. Rebell. p. p. de obligat. iust. lib. 3. quaest. 10.*

NEQUE sic excusent dicentes, illa loca Hospitalium habere proventus ad hunc finem, habent enim eos pro filiis pauperibus. Ideo tenentur hic ad restitutionem, ut ait Fagundez num. 5. post Sylvest. verb. Adulterium. Navar. man. cap. 16. Rebell. p. p. de obligat. iust. lib. 3. quaest. 10.

6 Some add that spurious children are not bound to be dowered. So Panormitanus *in cap. Pervenit, de arbitr. Vasquez de success. creatu. lib. 2. §. 10. num. 314. Molina Tom. 1. de iust. dub. 223.* Fagundez *num. 6.* inclines to it, though he holds the opposite probable, which many follow.

ADDUNT aliqui, non teneri filios spurios dotare. Ita Panormit. in cap. Pervenit, de arbitr. Vasquez de success. creatu. lib. 2. §. 10. num. 314. Molina Tom. 1. de iust. dub. 223. *Inclinat* Fagundez num. 6. *etsi oppositam probabilem censeat, quam multi sequuntur.*

7 The reason therefore is that the argument from support to dowry does not hold.

Ratio igitur ea est, quia non valet argumentatio de alimentis ad dotem.

8 From what has been said it follows that fathers are bound to provide support to their children even if they contract marriage without their consent with some person. So *Sanchez lib. 4. de matrim. disp. 27. Decius on the rule nuptias 30. at the end, ff. de reg. iuris, Molina lib. 2. de primog. cap. 16. Fagundez num. 10.*

Ex dictis sequitur, teneri patres alimenta praestare filiis, etiamsi absque eorum consensu matrimonium ineant cum aliqua persona. Ita Sanchez lib. 4. de matrim. disp. 27. Decius in reg. nuptias 30. fine, ff. de reg. iuris, Molina lib. 2. de primog. cap. 16. Fagundez num. 10.

9 I ASSERT secondly, that parents are bound to provide for the right education of their children, which contains the nourishment of the mind.

ASSERO secundo, teneri parentes prospicere rectae filiorum educationi, quae alimenta animi continet.

10 THEREFORE they are bound to instruct them in the law of God; to keep daughters from shameless lovers, lest they allow them 'with stibium' etc. to adorn the face wantonly. Say the same of others under whose care they fall.

ITAQUE tenentur eos in lege Dei erudire; filias ab amatoribus impudicis arcere, Ne sinant eas stibio etc. ad lascive faciem ornandam, uti. Idem dic de aliis, ad quorum curam spectant.

11 I ASSERT thirdly, that parents cannot force their children to undertake a state of life, forcing them either to Religion or to marriage; yet for marriage there can be a grave cause. Therefore the Council of Trent *session 25. cap. 18.* strikes with excommunication those forcing women, girls or widows, to enter Religion, or to take the habit, or to make profession.

ASSERO tertio, non posse parentes cogere filios ad statum vitae suscipiendum, cogendo eos, vel ad Religionem, vel ad matrimonium; potest tamen ad matrimonium esse causa gravis. Itaque Concilium Trid. sess. 25. cap. 18. *excommunicatione ferit cogentes foeminas puellas, vel viduas ad ingressum Religionis, vel ad habitus susceptionem, vel ad profitendum.*

Question VI: In which cases parents can disinherit their children

1 NOTE that in all cases in which parents and children can disinherit one another, they can also deny one another a dowry and support, extreme necessity set aside, as the Doctors commonly teach. *Azor. tom. 1. lib. 2. cap. 5. question 6. Molina de primog. lib. 2. cap. 16. Sanchez lib. 2. Decal. cap. 24. and lib. 4. de matrim. d. 26. Molina Theol. Tom. 1. de Iust. d. 176. Menoch. lib. 4. de praesumpt. 189. Spino in spec. testam. glossa 20. num. 66. Fagundez lib. 4. cap. 3.* Therefore, once the cases in which children may be disinherited are seen, it will be clear when support may be denied; you will always except extreme necessity.

NOTA, in omnibus, in quibus possunt parentes Filios, et Filii parentes exhaeredare; posse etiam illis dotem, et alimenta negare, seclusa extrema necessitate, ut docent communiter Doctores. Azor. tom. 1. lib. 2. cap. 5. quaesito 6. Molina de primog. lib. 2. cap. 16. Sanchez lib. 2. Decal. cap. 24. et lib. 4. de matrim. d. 26. Molina Theol. Tom. 1. de Iust. d. 176. Menoch. lib. 4. de praesumpt. 189. Spino in spec. testam. glossa 20. num. 66. Fagundez lib. 4. cap. 3. *Igitur visis casibus in quibus possint filii exhaeredari, constabit quando possint alimenta negare; excipies semper extremam necessitatem.*

2 The FIRST case is brought forward if a daughter marries before twenty-five years of age without the consent of her parents, or sins against her own body, or chooses a disgraceful life. *Authent. ut cum de appellat. cognosc. §. Cansas,* as the Doctors commonly expound, as cited by *Fagundez cap. 3. num. 8.* who nevertheless held that the Authentic speaks there of her who marries before twenty-five years of age.

PRIMUS casus affertur, si filia ante vigintiquinque annos nubat sine consensu parentum, vel peccaverit in corpus suum, vel turpem vitam elegerit. Authent. ut cum de appellat. cognosc. §. Cansas, ut *communiter exponunt Doctores*

apud Fagundez cap. 3. num. 8. *qui tamen tenuit, ibi Authenticam loqui de ea, quae ante vigintiquinque annos nubit.*

3 This cause, however, seems abrogated by canon law to protect the liberty of marriage. So St. Thomas 2. 2. question 124. article 5. and others cited by Fagundez cap. 3. num. 3. Sanchez lib. 4. de matrim. d. 65.

Haec tamen causa videtur abrogata iure canonico ad libertatem matrimonii tuendam. Ita D. Thom. 2. 2. quaest. 124. art. 5. et alii apud Fagundez cap. 3. num. 3. Sanchez lib. 4. de matrim. d. 65.

4 It is nevertheless probable that it has not been abrogated, as Fagundez writes num. 5.; it does not, however, hold for children, as Menochius notes cons. 3. Sanchez lib. 4. de matr. d. 24. Barbosa on l. 1. 4. part. num. 31. ff. solut. matrim.

Probabile tamen est non esse abrogatam, ut scribit Fagundez num. 5. non tamen de filiis valet, ut notat Menoch. cons. 3. Sanchez lib. 4. de matr. d. 24. Barbosa in l. 1. 4. part. num. 31. ff. solut. matrim.

5 The SECOND case is, if he lays violent hands on his father or mother: *Authent. Ut cum de Appellat. cognosc. §. causas autem:* Understand with mortal fault; otherwise if he did it in defense of himself or of his country.

Secundus casus est, si mittat manus violentas in patrem, vel matrem : Authent. Ut cum de Appellat. cognosc. §. causas autem: *Intellige cum lethali culpa; secus si ob sui, vel patriae defensionem id ageret.*

6 The THIRD case is, if he inflicts grave insults, especially in a public place, or defames his parents. See Fagundez *num. 30.* who cites only Hispanic law.

Tertius casus est, si graves contumelias intulerit, maxime in loco publico, vel infamaverit parentes. Vide Fagundez num. 30. *qui solum ius Hispanicum affert.*

7 The FOURTH case, if against the will of their parents they play the mime and join themselves to actors and persist in that profession, provided nevertheless their parents were not of the same profession. Likewise if a daughter or son becomes a malefactor and lives familiarly with them; understand this copulatively, as Molina expounds *Tom. 1. Inst. tract. 2. d. 176.* Fagundez *num. 31.*

Quartus casus, si contra voluntatem parentum mimos egerint, et se histrionibus sociaverint, et in hac professione permanserint, dummodo tamen parentes eiusdem professionis non fuerint. Item si filia, vel filius maleficus fiat, et cum eis familiariter vivat; Quod copulative intellige, ut exponunt Molina Tom. 1. Inst. tract. 2. d. 176. *Fagundez* num. 31.

8 The FIFTH case, if they attempt to remove their parents by poison, or give favor, counsel or aid to others doing so. So Covarruvias *cap. Raynutius, num. 13.* Molina *d. 171.*

Quintus casus, si veneno parentes de medio tollere tentaverint, aut favorem, consilium, auxiliumve aliis dederint. Ita Couar. cap. Raynutius, num. 13. *Molina* d. 171.

9 The SIXTH, if they have dealings with a stepmother, or with a concubine reared in the house. So Covarruvias and Molina, and Fagundez *num. 34.*

Sextus, si cum noverca rem habeant, aut cum concubina, domi alita. Ita Couar. et Molina, atque Fagundez num. 34.

10 The SEVENTH, if he composed a defamatory pamphlet against his father or mother, and was their informer.

Septimus, si libellum famosum contra patrem, vel matrem, et delator fuit eorum.

11 The EIGHTH, if the parent is in prison, and the son, though able, refused to become surety when requested by him; *Authent. ut Cum, de Appellat.*

> *Octavus, si parens in carcere sit, et filius masculus ab eo requisitus fideiussor esse noluerit, cum posset;* Authent. ut Cum, de Appellat.

12 The NINTH case, if he prevents a parent from making a will. See Fagundez *num. 37.*

> *Nonus casus, si prohibeat parenti facere testamentum. Vide Fagundez* num. 37.

13 The TENTH, if the other parent falls into madness, and the children deny help or neglect the care. Wherefore if an outsider, seeing the children, grandchildren, and others neglect, and moved by pity, takes the care, with protestation made and the heirs notified in writing, if these neglect and he carries the care through to the end, the whole inheritance is assigned to him by the Judge. *Auth. ut Cum de Appellat. cognosc. §. si quis de praedictis. and in Auth. Liberti C. de Episcopali audientia.*

> *Decimus, si alter parens in amentiam cadat, et filii negent auxilium, vel negligant curationem. Quare si exter videns filios, nepotes, et alios negligere, et misericordia motus, curam habeat, praemissa protestatione, et intimata scripto haeredibus, si hi neglexerint, et ille curam usque ad finem egerit; haereditas tota ipsi a Iudice adscribitur.* Auth. ut Cum de Appellat. cognosc. §. si quis de praedictis. et in Auth. Liberti C. de Episcopali audientia.

14 The ELEVENTH, if the other parent is a captive, and the children do not care for their liberty.[2] *Auth. Ut cum, §. si unum de praedictis.*

2 Editor's note: the print reads 'non cutent', an evident typographical corruption of 'curant' ('do not care for').

> *Undecimus, si parens alter captivus sit, et filii libertatem eorum non curant.* Auth. Ut cum, §. si unum de praedictis.

15 The TWELFTH, if they have criminally accused their parents of things that are not against the Prince or the fatherland, or are not heresy. So Mol. *d. 176.* Fagundez *num. 40.*

> *Duodecimus, si parentes criminaliter accusaverint de his, quae non sint contra Principem, aut patriam, vel haeresis non sit. Ita Mol.* d. 176. *Fagundez* num. 40.

16 The THIRTEENTH, if the children are heretics *Auth. Ut cum, §. citato.*

> *Tertiusdecimus, si filii sint haeretici* Auth. Ut cum, §. citato.

Question VII: Whether children can ever refuse sustenance to their parents, and disinherit them

1 I PREMISE that from all the causes for which it is lawful for children to disinherit their parents, it is likewise lawful for them to deny them support, extreme necessity set aside, as I said *question 5.* and Molina notes *d. 168.* and it is clear from *Leg. ult. Cod. de alendis liberis. Leg. si quis a liberis, §. Iudex, ff. de liberis agnosc. and the Gloss in both places.*

> An Filii possint aliquando alimenta Parentibus negare, eosque exhaeredare.
>
> *Praemitto, ex omnibus causis, ob quas licitum est filiis parentes exhaeredare, licitum quoque eis esse alimenta negare, seclusa extrema necessitate, ut dixi* quaest. 5. *et notat Molina* d. 168. *et patet* Leg. ult. Cod. de alendis liberis. Leg. si quis a liberis, §. Iudex, ff. de liberis agnosc. et Glossa utrobique.

2 Only SEVEN cases are reported in the aforesaid *Auth. Ut cum de Appellat, etc.*

> *Septem autem casus tantum referuntur praeallegat*. Auth. Ut cum de Appellat, etc.

3 The FIRST case, if the parents or ascendants have administered poison to their child, or threatened death in any other way. Molina adds *d. 176*. that it pertains to the same if they accused their child of such crimes as to deserve the punishment of death or of mutilation. Except the cases brought forward in the *preceding question*.

> *Primus casus, si parentes, vel ascendentes venenum filio propinaverint, aut necem quavis alio modo intentarint. Addit Molina* d. 176. *ad idem pertinere, si filium criminibus talibus accusarint, ut mererentur poenam mortis; vel mutilationis. Excipe casus allatos* quaest. praeced.

4 The SECOND case, if the father has lain with his son's wife, or with a concubine kept in the house in act, or one that was reared in the house, if he knew it.

> *Secundus casus, si pater concubuerit cum uxore filii, aut concubina domi retenta actu, vel quae fuerit domi alita, si id sciuerit*.

5 The THIRD, when the father or mother etc. have been by guile an impediment, so that the children or grandchildren could not make a will.

> *Tertius, quando pater, vel mater, etc. fuerint impedimento dolose, ne filii, vel nepotes conderent testamentum.*

6 The FOURTH, if the parents or ascendants have driven their children mad with a potion, or in any other way plotted against their lives, or schemed death for them.

> *Quartus, si parentes, vel ascendentes, filios potione dementaverint, vel quovis alio modo eorum vitae fuerint insidiati, aut mortem illis moliti fuerint*.

7 The FIFTH, if they have neglected the care of their children who have lost their minds.

> *Quintus, si filiorum, qui mente exciderunt, curam neglexerint*.

8 The SIXTH, if, forgetful of their children in captivity, they have neglected their liberation. But if they die in captivity through the negligence of the parents or heirs, other captives are to be ransomed from their goods, of which they could have disposed by will, as Molina teaches *loc. cit*.

> *Sextus, si filiorum in captivitate obliti, eorum liberationem neglexerint. Quod si ob parentum, aut haeredum negligentiam in captivitate moriantur, ex eorum bonis, de quibus testari poterant, sunt alii captivi redimendi, ut docet Molina* loc. cit.

9 The SEVENTH, when the children are Catholics; the parents heretics. If, however, after the offenses they are reconciled, they can no longer disinherit them for the same; for that would be an impious vengeance.

> *Septimus, quando filii sunt Catholici; parentes vero haeretici. Si tamen post offensas reconcilientur, non possunt amplius ob easdem exhaeredare; impia enim vindicta esset*.

10 The doubt is, however: Whether besides the causes related here and in the *preceding question* there are other similar causes for disinheriting. I judge that there are none. For it is defined in the cited Authentic: *Ut praeter ipsos nulli liceat ex alia lege ingratitudinis causas apponere, nisi quae in huius constitutionis serie continentur.* It is confirmed because punishments are not to be extended, and an argument from similarity does not hold for extending punishments.

Dubium est autem: An praeter causas relatas hic, et quaest. praeced. *adsint aliae similes causae exhaeredandi. Arbitror, non existere. Sic enim in allegato Authentico definitur:* Ut praeter ipsos nulli liceat ex alia lege ingratitudinis causas apponere, nisi quae in huius constitutionis serie continentur. *Confirmatur, quia poenae non sunt extendendae, et argumentum a simili non valet ad poenas extendendas.*

Question VIII: To what a woman is bound who has a son by adultery, or has passed off a child as her husband's

1 First indeed I say, that she is not bound to make known her crime at the peril of life or reputation. So Navarr. *in man. cap. 16. num. 43.* Covarr. *reg. peccatum at the beginning.* Cajetan *2. 2. question 62. art. 6.* and others whom he adduces; and Fagundez follows *lib. 4. cap. 5.*

Ad quid teneatur Mulier, quae Filium ex adulterio habet, vel supposuit.

Primo quidem dico, non teneri suum crimen manifestare cum periculo vitae, vel famae. Ita Nauarr. in man. cap. 16. num. 43. *Couarr.* reg. peccatum initio. *Caietanus* 2. 2. quaest. 62. art. 6. *et alii, quos adducit; et sequitur Fagundez* lib. 4. cap. 5.

2 The reason is that this disclosure, if it is necessary, will certainly be for restitution; but one is not bound to make restitution with damage or loss of a good of a higher order.

Ratio est, quia haec manifestatio, si est necessaria, hoc erit sane ad restitutionem; at non tenetur quis cum damno, vel amissione boni superioris ordinis, restituere.

3 Add that this disclosure would be in vain; for the son is not bound to believe it.

Adde, hanc manifestationem esse frustra; nam filius non tenetur credere.

4 I say secondly, however, that she is bound, when she can repair the damage, by leaving her goods to her legitimate children, when she can do so without disclosure.

Dico tamen secundo, teneri, quando potest reficere damnum, ut relinquendo sua bona filiis legitimis, quando potest sine propalatione.

5 Next she is bound to persuade her son to enter Religion, in which he will not succeed to the goods. But if the mother has made herself known with so many circumstances that he without doubt believes himself illegitimate, he is bound to restore the inheritance to others. He is nevertheless foolish if he believes it, since he was born under the appearance of marriage and is legitimate according to public fame, which prevails over the private, as we have in *Leg. filium, ff. Qui sunt sui iuris.*

Deinde tenetur suadere filio, ut Religionem ingrediatur, in qua non succedat in bonis. Si vero mater se manifestaverit tot circumstantiis, ut ille indubitanter credat se esse illegitimum, tenetur haereditatem aliis restituere. Stultus est tamen, si credit, cum sit natus sub specie matrimonii, et sit legitimus iuxta famam publicam, quae privatae praevalet, ut habetur Leg. filium, ff. Qui sunt sui iuris.

6 I say further, that she is not bound to expose herself to the peril of reputation or life, even if the gravest damage befall the other children, as if a principality or kingdom were lost. The reason is that reputation and life are of a still higher order. *For a good name is better than great riches.* Proverbs 22. Hence Ecclesiasticus 41: *Have care of a good name, for this will remain with you more than a thousand treasures precious and costly;* And it is the common opinion, as Fagundez says *cap. 5. num. 15.*

> *Dico amplius, non teneri periculo famae, aut vitae se prodere, etiamsi gravissimum damnum aliis filiis eveniat, ut si sit Principatus, vel regni amisfio. Ratio est, quia fama, et vita sunt ordinis adhuc superioris.* Melius est enim nomen bonum, quod divitiae multae. *Proverb. 22. Unde Eccl. 41.* Curam habe de bono nomine, hoc enim magis permanebit tibi quam mille thesauri pretiosi; *Estque communis opinio, ut ait Fagundez* cap. 5. num. 15.

7 In doubt, however, the adulteress is not bound to make good the damage to her legitimate children, nor to support, dower, or make heir her son, etc.

> *In dubio vero, adulter non tenetur filiis legitimis damnum refarcire, nec filium alere, dotare, haeredare, etc.*

8 But if she certainly acknowledges her offspring to be hers, she is bound to restore support for three years and from the third part of her goods, and to make good the damages inflicted on the other children.

> *Si vero certo prolem suam esse agnoscat, tenetur restituere alimenta a triennio, et'ex bonorum suorum tertia parte, refarcire damna, aliis filiis illata.*

9 On the mutual obligation of spouses I shall treat in *part 3, Tract. de matrim. disp. 9.*

> *De obligatione coniugum mutua agam* 3. parte Tract. de matrim. disp. 9.

Question IX: On the mutual obligation of servants and masters

1 First indeed masters are bound out of charity and justice to take care that slaves do not live wickedly, that they keep the commandments of God, as also of the Church. Out of charity indeed, because they are their neighbors; out of justice, however, because as the slave is bound to serve the master out of justice, so the master is bound out of the same justice to give him wages, feed him, and teach him.

> *Primo sane tenentur Domini ex charitate, et iustitia curare, ne servi prave vivant, ut praecepta Dei servent, uti et Ecclesiae; Ex charitate quidem, quia sunt proximi: Ex iustitia vero, quia sicut servus tenetur Domino ex iustitia servire, sic Dominus tenetur ei ex eadem iustitia stipendia dare, alere et docere.*

2 They are bound, if they see them incorrigible, to rebuke and cast them out. So Navarr. *Man. cap. 14. num. 21.* Fagund. *lib. 4. cap. 14.*

> *Tenentur vero, si eos incorrectos videant, arguere, et eiicere. Ita Navarr.* Man. cap. 14. num. 21. *Fagund.* lib. 4. cap. 14.

3 They are bound also not to impede the marriages of slaves; they may, however, refuse their consent; the slaves, however, may contract marriage against the will of their masters, as St. Bonaventure teaches *4 d. 36. question 1.* St. Thomas *there, in the single question, art. 2.* and all the Thomists, Sanchez *lib. 7. de matrim. d. 21.* Fagundez *lib. 4. cap. 14.* The rest I shall say in the *Tract. de matrimonio.* In the meantime I shall indicate that doubt: whether a slave ordered by his master to accomplish something, and called by his wife to render the debt, being involved in both, is bound rather to the master.

> *Tenentur etiam non impedire servorum matrimonia, possunt tamen negare consensum, possunt autem illi invitis Dominis matrimonium inire, ut docet D Bonavent.* 4 d. 36. quaest. 1. *D. Thom.* ibi quaest. un. art. 2. *et omnes Thomistae, Sanchez* lib. 7. de matrim. d. 21. *Fagundez* lib. 4. cap. 14. *Caetera dicam* Tract. de matrimonio.

Interim dubium illud indicabo; an servus iussus a Domino aliquid peragere, et a coniuge ad debitum reddendum, ei rei implicans, vocetur, teneatur magis Domino.

4 It is answered that if he entered marriage with the master's consent, he is bound rather to his wife, because whoever grants something necessarily grants also what is connected with it. So St. Bonaventure *loc. cit.* St. Thomas *ad 3.* and commonly, as cited by Fagundez *lib. 4. cap. 14.*

Respondetur, si matrimonium iniit Domino consentiente, teneri magis uxori, quia qui aliquid concedit necessario concedit etiam connexa. Ita D. Bonavent. loc. cit. *D. Thom.* ad 3. *et communiter apud Fagundez* lib. 4. cap. 14.

5 But Sanchez *lib. 7. d. 21.* says the service of the master is always to be preferred; but of this in *part 3, loc. cit.*

At Sanchez lib. 7. d. 21. *semper anteferendum servitium Domini ait, sed de hoc* 3. part. loc. cit.

6 I say also that if a master has hired a servant for a fixed time, say for a year, and dismisses him without cause after a month, or even before, the master is to be compelled to pay the whole wage. So commonly the Doctors, as cited by Fagundez *cap. 15. num. 20.* The reason is that it did not lie with him. And say the same of a slave, if he is dismissed for his own fault; or if he runs away before the prescribed time, he is worthy of no wage.

Dico etiam, si Dominus famulum ad tantum tempus conductum, puta ad annum, pellat sine causa post mensem, vel etiam ante, compellendus est Dominus mercedem integram solvere. Ita communiter Doctores apud Fagundez cap. 15. num. 20. *Ratio est, quia per illum non stetit. Et idem dic de servo, si ex culpa sua dimittitur; vel si aufugit ante praescriptum tempus, nulla est mercede dignus.*

7 A servant hired for wages is bound also for damage done to the master himself through his own fault, at least light. So commonly the Doctors, as cited by Fagundez *num. 22.*

Tenetur etiam famulus, mercede conductus, damno ex culpa sua, saltem levi, facto ipsi Domino. Ita communiter Doctores apud Fagundez num. 22.

8 Likewise he is bound for damage inflicted on the master himself by another in a thing that was under his custody, and this out of justice, and so he ought to make restitution; but if the thing was not under his custody, he was bound only out of charity, and therefore he is not compelled to restitution. So Azor. *3. part. lib. 8. cap. 13. question 8.* Molin. *tom. 2. de Iust. d. 506.* Fagund. *loc. cit. num. 23.*

Similiter tenetur de damno illato ipsi Domino ab alio in re, quae erat sub sua custodia, et hoc ex iustitia, atque adeo restituere debet; at si res non erat sub sua custodia, tenebatur solum ex charitate, ideo ad restitutionem non cogitur. Sic Azor. 3. part. lib. 8. cap. 13. quaestio 8. *Molin.* tom. 2. de Iust. d. 506. *Fagund.* loc. cit. num. 23.

9 There occurs the case of slaves committing petty thefts under the appearance of just compensation from the master.

Occurrit, servos furtula quaedam facere sub specie iustae compensationis a Domino.

10 NOTE that if they are so ill treated that not even the lowest usual price is given for their servitude, or if, hired for food alone, they do not have necessaries, they can usurp something. See Fagundez *from num. 31. and* Molina *loc. cit.*

> *Adverte, si ita male tractentur, ut neque infimum pretium detur servitutis solitum, vel si solo victu conducti non habeant necessaria, posse aliqua usurpare. Vide Fagundez* a num. 31. et *Molinam* loc. cit.

Question X: On the obligation of brothers toward brothers and sisters, and conversely

1 First I say, that these owe one another support out of justice in extreme indigence.

> *Primo dico, hos invicem ex iustitia debere alimenta in extrema indigentia.*

2 So Azor. *Tom. 2. lib. 11. cap. 40. question 1.* Fagund. *lib. 4. cap. 16.* For if they are bound to outsiders, much more to brothers and sisters.

> *Ita Azor.* Tom. 2. lib. 11. cap. 40. quaestio 1. *Fagund.* lib. 4. cap. 16. *Si enim externis tenentur, multo magis fratribus, et sororibus.*

3 In grave necessity also, when they have not wherewith to live according to their state, rich brothers are bound in either forum to provide support, and the Judge, when appealed to, is bound to bind them to it.

> *In gravi etiam necessitate, quando non habent, quo iuxta suum statum vivant, tenentur in utroque foro fratres divites alimenta praestare, et Iudex imploratus tenetur obligare eos.*

4 A poor sister by both parents a brother is bound in either forum to support and dower. It is the common opinion, as cited by Fagundez *cap. 16.*

> *Sororem ex utroque parente pauperem, frater alere, et dotare in utroque foro tenetur. Est communis sententia apud Fagundez* cap. 16.

5 Say the same of a sister by the same father, but a different mother; we have *leg. cum plures, §. Cum tutor ff. de administr. tutorum,* which excludes only uterine sisters, as Bartholomew notes there *in the final §.* It excludes, however, as to dowering according to her opulent state, unless she is heir of the mother's goods; they are bound, nevertheless, always to support her. So Barthol. *loc. cit.* and others, as cited by Fagundez *num. 4.* He is bound, however, always to dower her to the measure of support, namely, in place of a dowry, by setting aside what would have been expended on support.

> *Idem dic de sorore ex eodem patre, sed alia matre, habetur* leg. cum plures, §. Cum tutor ff. de administr. tutorum, *quae excludit tantum sorores uterinas, ut notat Barthol. ibi §.* finali. *Excludit autem quoad dotandum iuxta statum suum opulentum, nisi sit haeres bonorum matris, tenentur tamen semper alere. Ita Barthol.* loc. cit. *et alii apud Fagundez* num. 4. *Tenetur tamen dotare semper pro modulo alimentorum, nempe, pro dote, deputando id, quod in alimentis esset insumendum.*

6 So conversely rich sisters are bound to dower poor sisters, and brothers to support them together with them. It is clear from the rule of correlatives. So Barbosa *Tom. 1. part. 4. leg. 1. ff. soluto matrim.* Fagundez *cap. 16. num. 14.*

> *Ita e contra tenentur sorores divites dotare sorores pauperes, et fratres cum eis alere. Patet ex regula correlativorum. Ita Barbosa* Tom. 1. part. 4. leg. 1. ff. soluto matrim. *Fagundez* cap. 16. num. 14.

7 Clerics are bound also to support their parents, brothers, and sisters that are poor from the revenues of the Church. So many, as cited by Fagundez *cap. 17. num. 1.*

Tenentur etiam clerici alere suos parentes, fratres, et sorores pauperes e proventibus Ecclesiae, Ita multi apud Fagundez cap. 17. num. 1.

8 The reason is that the fruit of a benefice is for the uses of the poor, much more of one's own household. If in *cap. Pervenit.* the contrary seems to be said, understand it of rich kinsmen, to whom the fruits of the benefice are not to be communicated, but rather to outside paupers.

Ratio est, quia fructus beneficiorum est in usus pauperum, multo magis domesticorum. Quod si in cap. Pervenit. *videtur dici contrarium; hoc intellige de consanguineis divitibus, quibus non sunt communicandi fructus beneficii, sed magis exteris inopibus.*

9 I say also that one may dower needy daughters or sisters from the fruits of a benefice, but is not bound to. See Fagundez *num. 2.*

Dico etiam, posse de fructibus beneficii dotare filias, vel sorores inopes, non tamen teneri. Vide Fagundez num. 2.

10 The question here demands: whether sons who gravely squander their goods beyond the others are bound to bring them to the collation with their brothers, and to recall their own legitimate portion.

Quaestio hic postulat; an filii, qui prae aliis graviter dissipant bona, teneantur ea ad collationem cum fratribus adducere, et ad suam revocare legitimam.

11 Indeed I have seen very many holding such to be at fault, and I judge them bound. So Navarr. *summa, cap. 17.* Sylvester *under the word peculium, 2. question 9.* Antonius Gomez *ad leg. 29. Tauri;* nevertheless Navarrus, with St. Antoninus *2. part. tit. 1. cap. 15.* excepts unless the father while living forgave it; but this does not please me, because he is bound to bring to partition even those things which the father gave.

Vidi equidem plurimos, hoc vitiosos censentes, eosque arbitror teneri. Ita Navarr. summa, cap. 17. *Sylvest.* verb. peculium, 2. quaest. 9. *Antonius Gomez* ad leg. 29. Tauri; *attamen Navarr. cum D. Antonino* 2. part. tit. 1. cap. 15. *excipit, nisi pater vivens condonaverit; sed non placet, quia tenetur adducere ad partitionem, etiam ea, quae pater donavit.*

Section II: On Observance, Reverence, and Dulia

1 Of these but little remains to be said, since what is understood of Observance can be applied by a certain proportion to Reverence and Dulia, though they differ essentially from one another; I shall treat of each with one brief question or another.

De Observantia, Reverentia, et Dulia.

DE his pauca restant dicenda, cum quod de Observantia intelligitur, proportione quadam Reverentiae, et Duliae possit applicari; cum tamen essentialiter inter se differant; una, aut altera quaestiuncula de singulis agam.

Question I: On observance and reverence

1 OBSERVANCE is a special Virtue, by which cult and honor are rendered to persons constituted in dignity. So St. Bonaventure *in the cited opuscula, serm. 1. question 1.* St. Thomas *here art. 1.* and Cicero *lib. 2. de Invent.*

De Observantia, et Reverentia.

OBSERVANTIA est specialis Virtus, per quam cultus, et honor exhibetur personis, in dignitate constitutis. Ita D. Bonavent. opusculis allegatis serm. 1. quaest. 1. *D. Thom.* hic art. 1. *et Cicerone* lib. 2. de Invent.

2 For in it is found a special reason of honesty and of duty, just as the same persons in a certain order of things are, by a kind of analogy, called Fathers, as being certain principles of governance with respect to those same things: as the Prince of a city in civil matters; the Commander of an army in military matters; the Master in the disciplines, namely, by reason of the likeness of the care which they have in their way in common with parents. For this reason also the servants of Naaman called their master father, *4. Kings 5.*

INVENITUR enim in hac specialis ratio honestatis, et debiti, sicut etiam eaedem personae in certo rerum genere, per quandam analogiam, Patres nominantur, tanquam principia quaedam gubernationis respectu earumdem rerum, ut est Princeps civitatis in rebus civilibus; Dux exercitus in rebus bellicis; Magister in disciplinis, nempe, ob similitudinem curae, quam habent suo modo cum parentibus communem. Quae ratione etiam servi Naaman dominum suum, patrem dixerunt, 4. Reg. 5.

3 To the same virtue pertains Reverence, which is rendered to some on account of knowledge and virtue, or any excellence whatsoever. The reason is that by knowledge and virtue a man is rendered fit for the dignities, to which the deference of observance is owed.

AD eandem virtutem pertinet Reverentia, quae propter scientiam, et virtutem, seu quamcumque excellentiam, aliquibus exhibetur. Ratio est, quia per scientiam, et virtutem redditur homo idoneus ad dignitates, quae sunt obsequium observantiae.

4 To observance pertains, toward persons constituted in dignity, not only to show honor, but also the cult of obedience and beneficence. So St. Thomas *art. 2.* For in persons constituted in dignity there is a twofold preeminence: one of excellence of status, and to this Observance is owed; the other of governance, and to this obedience and deference are owed.

AD observantiam pertinet personis in dignitate constitutis, non solum exhibere honorem, sed etiam cultum obedientiae, ac beneficentiae. Ita D. Thom. art. 2. *Personis enim in dignitate constitutis inest duplex praeminentia, altera excellentiae status, et huic debetur Observantia; altera gubernationis, et huic debetur obedientia, et obsequium.*

5 SINCE, however, we are bound by legal debt only to our Prelates and Magistrates, therefore to these alone are we bound out of legal debt to observance and cult, because they hold prelation over us; to others, however, only out of moral debt, or out of a kind of honesty. So St. Thomas *loc. cit.*

QUIA tamen solis Praelatis, ac Magistratibus nostris legali debito obstringimur, idcirco his solis ex debito legali ad observantiam, et cultum obstringimur, quia super nos praelationem habent; caeteris autem, non nisi ex debito morali, seu ex quadam honestate. Ita D. Thom. loc. cit.

Question II: On dulia

1 DULIA is defined by St. Bonaventure *3. part. Centil. sect. 44. It is the servitude, or cult, owed to a rational creature ruling over one.* So also St. Thomas *art. 3. from St. Augustine lib. 10. de Civitate, cap. 1.* ¶ Of this I shall treat more fully *in part 3, Tract. 1. d. 17.*

De Dulia.

DULIA definitur a D. Bonavent. 3. part. Centil. sect. 44. Est servitus, vel cultus creaturae debitus rationali dominanti. *Ita etiam D. Thom.* art. 3. ex D. Augustino lib. 10. de Civitate, cap. 1. ¶ *De hoc latius agam* 3. part.

Tract. 1. d. 17.

2 DULIA in Greek is called *servitude*, and differs from Latria, which is the servitude owed to God, as the Seraphic Doctor teaches *loc. cit. and in the opusc. declaratio terminorum Theol. and in 6 other places cited in sect. 1. question 1.* Hence Hyperdulia signifies the servitude owed to the preeminent creature, having a special affinity with God, as St. Bonaventure teaches *in the places cited.*

DULIA graece servitus *dicitur, et differt a Latria, quae est servitus Deo debita, ut docet S. Doctor* loc. cit. et in opusc. declaratio terminorum Theol. et 6 aliis locis adductis sect. 1. quaest. 1. *Hinc Hyperdulia significat servitutem debitam praecellenti creaturae, habenti specialem cum Deo affinitatem, ut docet D. Bonavent.* locis adductis.

Section III: On Obedience and Disobedience

1 ABOVE I treated of Obedience insofar as it is the matter of the Vow; now insofar as it is a Virtue common to all subjects I shall discuss it. Its excellence Sacred Scripture everywhere describes, and indeed since men's happiness consists in this, that they be subject to God, which is wrought by this virtue, not undeservedly should it be proclaimed by the mouth of all.

SUPRA egi de Obedientia, quatenus materia est Voti, nunc quatenus est Virtus omnibus subditis communis, eam discutiam. Huius excellentiam passim describit Sacra Scriptura, et revera cum hominum faelicitas in eo stet, ut Deo subiiciantur, quod hac virtute praestatur, non immerito omnium ore debeat circumferri.

Question I: What obedience is, and what kind of virtue

1 OBEDIENCE is a special virtue, whereby inferiors obey their superiors commanding: hence its object is the command of the superior. So D. Thom. *quaest. 104. art. 1.* D. Bonavent. *in the places cited, quaest. praeced.* See him *3. part. Centil. sect. 44.* citing many other definitions of obedience.

Quid sit, et qualis virtus Obedientia.

OBEDIENTIA est virtus specialis, qua inferiores suis superioribus praecipientibus obediunt: cuius proinde obiectum est praeceptum superioris. Ita D. Thom. quaest. 104. art. 1. *D. Bonavent.* locis adductis quaest. praeced. *Vide eum* 3. part. Centil. sect. 44. *multas alias obedientiae definitiones referentem.*

2 IT IS PROVED, because it has a special object, namely to obey the command of superiors, which according to the order of nature is right, just as in natural things the lower are governed by the higher. Obedience is indeed found in every act of virtue; as disobedience in every sin. But no wonder, as D. Thom. says *art. 1. ad 1.* for nothing prevents several material objective aspects from being contained in one act, just as a soldier, defending the King's castle, exercises acts of fortitude, undergoing the perils of death, and acts of Justice, rendering due service to his Lord. Nevertheless obedience has for its formal object the very command, and therefore it is a virtue distinct from the others.

PROBATUR, quia habet speciale obiectum, nimirum obedire praecepto superiorum, quod secundum ordinem naturae est rectum, sicuti in naturalibus inferiora a superioribus reguntur. Invenitur sane in omni virtutis actu obedientia; sicut et in quolibet peccato inobedientia. Sed nil mirum, ut ait D. Thom. art. 1. ad 1. *nihil enim prohibet plures rationes materiales obiectivas in uno actu contineri, sicut miles, defendendo castrum Regis, exercet actus fortitudinis, subeundo pericula mortis, et actus Iustitiae, debitum servitium Domino suo reddens. Attamen obedientia habet pro formali obiecto ipsum praeceptum, ideo est virtus distincta a caeteris.*

3 I ASSERT first, that Obedience is a moral, not a Theological virtue. So S. Bonavent. *in the places cited, especially in the declarat. of the Theological termini and 2. p. Brevil. cap. 11. where he also explains bare obedience, which is, when the command binds of itself alone, not from any cause; and such a command is called a command of discipline, because by it is learned how great is the virtue of obedience. Such a command was given to Adam.*

> *ASSERO primo, Obedientia est virtus moralis, non Theologica. Ita S. Bonavent.* locis adductis praecipue in declarat. terminorum Theol. et 2. p. Brevil. cap. 11. ubi obedientiam etiam meram explicat, quae est, quando praeceptum ex se solo ligat, non ex aliqua causa et tale dicitur praeceptum disciplinae, quia per ipsum discitur quanta est virtus obedientiae. Tale praeceptum datum est Adae.

4 THE REASON is, because it does not regard God immediately, but the command of a superior. And although it has no mean, yet it is itself the mean between excess and diminution.

> *RATIO est, quia non respicit Deum immediate, sed superioris praeceptum. Quamvis autem non habeat medium, tamen ipsa est media inter superfluum, et diminutum.*

5 BEST obedience the Saintly Doctor expounds in eight conferences, collat. 3. and de profectu, loc. cit. and in the Mirror of Novices, cap. 4. and de Instit. Novit. 12. and in the rule of novices, cap. 13. and in the Dieta, tit. 3. cap. 2.

> *OPTIMAM obedientiam explicat S. Doctor in octo collationibus, collat. 3. et de profectu, loc. cit. et in speculo ad Novitios, cap. 4. et de Instit. Novit. 12. et in regula novitiorum, cap. 13. et in Dieta, tit. 3. cap. 2.*

6 I ASSERT second, that obedience, among the moral virtues (except Religion), is the most excellent.

> *ASSERO secundo, obedientiam, inter virtutes morales (excipe Religionem) esse praestantissimam.*

7 THE REASON is that of D. Thomae art. 3. D. Bonavent. in the exposition of the Rule. Among the moral virtues that one is more excellent which despises better things in order to adhere to God: But obedience despises one's own will, which is the most excellent good: Therefore. For the good of the soul is more excellent than the goods of fortune and of the body, and in the soul the will excels.

> *RATIO est D. Thomae art. 3. D. Bonavent. in expositione Regulae. Inter virtutes morales ea est praestantior, quae meliora contemnit, ut Deo adhaereat: Sed obedientia contemnit propriam voluntatem, quae est praestantissimum bonum: Ergo. Bonum enim animae est praestantius bonis fortunae, et corporis, et in anima praestat voluntas.*

8 EXAMPLES of obedience from scripture the Saintly Doctor reports in the Bibliis pauperum, cap. 25. Its praises indeed in the Pharetra, lib. 2. cap. 43. and in the acceptae vitis, cap. 44.

> *OBEDIENTIAE exempla e scriptura refert S. Doctor in Bibliis pauperum, cap. 25. Laudes vero in Pharetra, lib. 2. cap. 43. et in acceptae vitis, cap. 44.*

9 I ASSERT third, that obedience is owed to God in all things. See the excellent passages in D. Bonavent. de profectu Relig. from cap. 38.

> *ASSERO tertio, obedientiam esse Deo in omnibus. Vide praeclara in D. Bonavent. de profectu Relig. a cap. 38.*

10 THE REASON of the SS. DD. is; because God, just as He is the first mover of all natural things, so also of all wills: But as first mover of natural things all natural things owe Him obedience: Therefore, etc.

> *RATIO SS. DD. est; quia Deus, sicuti est primus motor omnium naturalium, ita etiam omnium voluntatum: Sed ut motor primus naturalium omnia naturalia sibi habet obedientia: Ergo, etc.*

11 THE DEGREES of obedience see in S. Bonavent. in the Dieta, tit. 3. cap. 2. and de profectu Religiosi, cap. 41.

> *OBEDIENTIAE gradus vide in S. Bonavent. in Dieta, tit. 3. cap. 2. et de profectu Religiosi, cap. 41.*

12 I ASSERT fourth, that inferiors must obey their superiors in all things in which they are subject to them, and in which it does not conflict with higher powers. See D. Bonavent. on cap. 1. and 10. of our Rule.

> *ASSERO quarto, obediendum ab inferioribus suis superioribus in omnibus, in quibus ipsi subiiciuntur, et in quibus non repugnat sublimioribus potestatibus. Vide D. Bonavent. ad cap. 1. et 10. Regulae nostrae.*

13 THE REASON, D. Bonavent. de profectu Religiosi, cap. 19. gives, is, because God governs the lowest through means, and the middle through the highest, as is evident.

> *RATIO D. Bonavent. de profectu Religiosi, cap. 19. est, quia Deus infima per media, et media per supremum regit, ut patet.*

14 THEREFORE on a double ground they are not bound to obey: First, because of the command of a higher power, according to that of Act. 5. *We must obey God rather than men.* Second, if he command something to which the subject is not subject, as D. Thom. notes, quaest. 104. art. 5.

> *IDEO ex duplici capite non tenentur obedire: Primo ob praeceptum maioris potestatis, iuxta id Act. 5.* Obedire oportet Deo magis, quam hominibus. *Secundo, si aliquid praecipiat, in quo subditus non est, ut notat D. Thom. quaest. 104. art. 5.*

15 HENCE if a Prelate command against the rule, they are not bound to obey, as S. P. Francis rightly teaches cap. 10. of the Rule, and there S. Bonavent. and commonly the DD. as found in Tannerus d. 6. quaest. 1. dub. 2. The reason of the SS. DD. is, because we are bound rather to the universal rule than to the particular. Nay rather, the Minors are bound to obey in all things in which manifest sin does not appear, as our Expositors of the Rule commonly teach. The same concerning the Society of Jesus Lessius teaches lib. 2. cap. 41. dub. 9. num. 75. Of this I treated in the Tract. de Votis.

> *ITAQUE si Praelatus contra regulam praecipiat, non tenentur obedire, ut recte docet S. P. Franciscus cap. 10. Regulae, et ibi S. Bonavent. et communiter DD. apud Tannerum d. 6. quaest. 1. dub. 2. Ratio SS. DD. est, quia debemus magis confirmati regulae universali, quam particulari. Imo Minores tenentur obedire in omnibus, in quibus non apparet manifeste peccatum, ut docent communiter regulae nostrae Expositores. Quod idem de Societate Iesu docet Lessius lib. 2. cap. 41. dub. 9. num. 75. De hoc egi Tract. de Votis.*

16 I ASSERT fifth, that Christians are bound to obey secular Princes. So D. Bonavent. 2. d. 44. art. 3. quaest. 1. D. Thom. quaest. 104. art. 5. It is proved by the Saintly Doctor from Rom. 13. Tit. 3. 1. Petri 2. Heb. 13. Of which I treated sufficiently in the Tract. de legibus, disp. 5. wherein I also showed that the laws of Princes sometimes bind conscience; and whether Clerics are bound by the laws of Princes; And to what tributes and taxes they are bound.

> *ASSERO quinto, teneri Christianos saecularibus Principibus obedire. Ita D. Bonavent. 2. d. 44. art. 3. quaest. 1. D. Thom. quaest. 104. art. 5. Probatur a S. Doctore Rom. 13. Tit. 3. 1. Petri 2. Heb. 13. De quibus satis egi Tract. de legibus, disp. 5. ubi etiam ostendi, leges Principum aliquando conscientiam ligare; et num Clerici teneantur Principum legibus; Et quibusnam tributis, et vectigalibus teneantur.*

17 BUT I warned Dynasts to beware of casting the sickle into another's harvest, but according to the decree of Christ, Matth. 22. to distinguish the things that are Caesar's; and the things that are God's.

> *CAVENDUM autem monui Dynastis, ne falcem in messem alienam mittant, sed iuxta decretum Christi Matth. 22. distinguant ea, quae sunt Caesaris; et ea, quae sunt Dei.*

18 BUT ONE MUST BEWARE of the pestilent Beza, who interprets that passage of Rom. 13. *Let every soul be subject to the higher powers*, asserting that Chrysostom in serm. 23. there, expounds it wickedly indeed, as commanding every soul, and Priests too, to be subject to secular Princes in all things. Doubtless this most wicked flatterer, the plague of the Kingdom of France, grinds the Ecclesiastical dignity wholly under the secular power.

> *CAVENDUM vero a pestilenti Beza, qui interpretatur id Rom. 13.* Omnis anima potestatibus sublimioribus subdita sit*, asserente Chrysostomum serm. 23. ibi, Maligne autem sic explicat, praecipi omni animae, et Sacerdotibus, ut Principibus saecularibus subditi sint in omnibus. Nempe adulator hic pessimus, Regni Franciae lues, Ecclesiasticam dignitatem omnimode sub saeculo terit.*

19 TRULY, if this exposition is true, the subjects of the King of England will now be subjected to the Emperor. And the subjects of any Duke to any King, as Fagundez notes, in 4. praeceptum, lib. 4. cap. 15. num. 9. and D. Bonav. de profectu Religiosi, cap. 39. and in 2. loc. cit. rightly expounds. The genuine sense therefore is: Let every soul be subject respectively to its own powers. For so we are subject to Bishops, as is said Actor. 20. 1. Timot. 5. and in other places; and this is the sense of D. Chrysost. l. 1; see the Council of Arelat. II. cap. 2. I do not deny that they are subject in some respect, as I said in the Tract. de Legibus, disp. 6.

> *PROFECTO, si haec explicatio est vera, iam subditi Regis Angliae subiicientur Imperatori. Et subditi Ducis cuiusque, cuique Regi, ut notat Fagundez in 4. praeceptum, lib. 4. cap. 15. num. 9. et D. Bonav. de profectu Religiosi, cap. 39. et in 2. loc. cit. recte exponit. Sensus ergo germanus est: Omnis anima subdita sit respective potestatibus suis. Sic enim subdimur Episcopis, ut dicitur Actor. 20. 1. Timot. 5. et aliis locis; et hic est sensus D. Chrysost. l. 1 vide in Concilio Arelat. II. cap. 2. Non nego, eos subiici in aliquo, ut dixi Tract. de Legibus, disp. 6.*

20 NAY MORE, Kings are subject to Bishops in causes of faith, which the Emperor Valentinian confessed, as reported by Theodoret, lib. 4. hist. Eccl. cap. 5. for when the Bishops had been summoned, he said: *Place Him upon the Pontifical throne, to whom we too, as moderators of empire, sincerely subject our heads, and whose reproaches we gladly admit*. These things we pursued at length in the Tract. de Legibus.

> *IMO Reges subduntur Episcopis in causis fidei, quod fassus est Valentinianus Imperator apud Theodoreti, lib. 4. hist. Eccl. cap. 5. accersitis enim Episcopis, ait:* Eum collocate in Pontificali solio, cui nos quoque Impery moderatores, nostra capita sincere subdamus, cuiusque reprehensiones libenter admittamus. *Haec late prosecuti sumus, Tract. de Legibus.*

Question II: On disobedience

1 I ASSERT first, that Disobedience is a special sin when it is opposed to Obedience diametrically, by despising the power of the one commanding, or the command, with the intention of not subjecting oneself to it. So D. Thom. art. 1. D. Bonavent. in speculo animae, cap. 2. It is evident from the rules of virtues and vices.

ASSERO primo, Inobedientiam tunc esse peccatum speciale, cum Obedientiae e diametro opponitur, contemnendo potestatem praecipientis, vel praeceptum, intendendo ei non subiici. Ita D. Thom. art. 1. D. Bonavent. in speculo animae, cap. 2. Patet ex regulis virtutum, et vitiorum.

2 I ASSERT second, that it is not the gravest sin. It is evident, because it is not opposed to the highest virtues, but to obedience.

ASSERO secundo, non esse gravissimum peccatum. Patet, quia non opponitur supremis virtutibus, sed obedientiae.

3 From these Disobedience is defined by D. Bonavent. p. p. Centil. sect. 18. *It is the will fleeing the lessening of power, unwilling to be subject to superiors in what is due.* Hence see the printer's error in the opusc. declaratio Theologiae terminorum, in the Roman edition, where it says thus: *Disobedience is a will feigning.*

Ex his definitur Inobedientia a D. Bonavent. p. p. Centil. sect. 18. Est voluntas fugiens minorationem potestatis, nolens subiacere superioribus in debitis. *Hinc vide errorem typographi in opusc. declaratio Theologiae terminorum, in editione Romana, ubi sic ait:* Inobedientia est voluntas fingens.

4 I ASSERT third, that disobedience is mortal of its genus. It is proved from D. Bonavent. in speculo animae, cap. 1. from that of Rom. 13. *He that resisteth the power, resisteth the ordinance of God.* and Rom 1. Not obeying parents is asserted to be mortal. The same is asserted in 1 Timor. 3.

ASSERO tertio, inobedientiam esse ex genere mortalem. Probatur a D. Bonavent. in speculo animae, cap. 1. ex illo Rom. 13. Qui potestati resistit, Dei ordinationi resistit. *et Rom 1 Parentibus non obedite mortale asseritur. Idem asseritur prima Timor. 3.*

5 I ASSERT fourth, that it is not always an equal sin; for from an inequality of those commanding, or of the command, the obligation can be unequal.

ASSERO quarto, non semper esse aequale peccatum; potest enim ex praecipientium, vel praecepti inaequalitate, inaequalem esse obligationem.

Section IV: On Gratitude, Vindication, and the Vices Opposed to Them

1 TO RECOGNIZE prosperity, as also to repel adversity, is innate even to inanimate and unarmed things; thus the earth, in which a yet tender sapling thrives, cherishes it when grown larger with its leaves, and enriches it with its seeds: So the dug-up Hellebore, as if sensing the iron, emits a breath, which, by weighing down the digger's head, avenges the injury done to it; but what in these is natural, in man is moral, and free, whence it obtains the character of virtue, if done in a due manner; if not, it degenerates into the opposite vice.

PROSPERA recognoscere, sicut et adversa propulsare, rebus etiam inanimatis, et inermibus innatum est; sic terram, in qua prosperatur tenerum adhuc arbusculum, grandius factum. foliis fovet, ac seminibus ditat: Sic effossum Elleborum, veluti ad ferri sensum, halitum emittit, quo fossoris caput aggravando, illatam sibi iniuriam ulciscitur; verum quod in his est naturale, in homine morale, et liberum est, unde virtutis rationem obtinet, si debito modo fiat; sin autem, in oppositum vitium degenerat.

Question I: On gratitude

1 I ASSERT first, that Gratitude is a special virtue, whereby graces are acknowledged and referred to the benefactor. So D. Thom. here, D. Bonavent. 3. part. Centil. sect. 44. and the opusc. declaratio

terminorum Theologiae, which defines it in other words thus: *Gratia was instituted to keep the memory of benefits ever in mind, and to repay them where possible.* It is gathered from Tullius lib. 2. de Inventione.

> *ASSERO primo, Gratitudinem esse virtutem specialem, qua gratiae habentur, et referuntur benefactori. Ita D. Thom. hic, D. Bonavent. 3. part. Centil. sect. 44. et opusc. declaratio terminorum Theologiae, aliis verbis sic eam definit:* Gratia instituta est beneficia iugi memoria recordari, et possibiliter rependere. *Colligitur e Tullio lib. 2. de Inventione.*

2 THE REASON is, because in it is seen a special debt, not legal, but of honesty, and indeed a peculiar one.

> *RATIO est, quia in ea cernitur speciale debitum, non legale, sed honestatis, et quidem peculiaris.*

3 THE VARIOUS DEGREES of gratitude D. Bonav. reviews in de gradibus virtutum, cap. 20. where, according to the dignity of benefits, he assigns an even higher degree of Gratitude, as for gratuitous benefits more than for natural ones, etc. Where note that he there assigns gratitude also in order to God, insofar as He is the author of benefits. But D. Thom. quaest. 106. ad 1. seems here deliberately to omit gratitude toward God, reducing it to Religion. Yet Religion is not formally gratitude, although it commands the acts of this virtue; these however are elicited by the proper virtue of Gratitude, as Tannerus also warns, d. 6. quaest. 1. dub. 3.

> *GRADUS varios gratitudinis recenset D. Bonav. de gradibus virtutum, cap. 20. ubi pro dignitate beneficiorum altiorem etiam gradum Gratitudinis assignat, ut pro gratuitis magis, quam pro naturalibus, etc. Ubi nota, ibi assignare gratitudinem in ordine etiam ad Deum, prout est auctor beneficiorum. At D. Thom. quaest. 106. ad 1. gratitudinem ad Deum videtur hic consulto omittere, reducens eam ad Religionem. At Religio non est formaliter gratitudo, esto imperet huius virtutis actus; hi tamen a propria virtute Gratitudinis eliciuntur, ut monet etiam Tannerus d. 6. quaest. 1. dub. 3.*

4 S. Thom. ADDS, art. 2. that the innocent is more bound to God than the penitent. But of this it will be said in the Tract. de Poenitentia, disput. 1.

> *ADDIT S. Thom. art. 2. Innocentem magis Deo teneri, quam poenitentem. Sed de hoc erit dicendum, Tract. de Poenitentia, disput. 1.*

5 I ASSERT second, that thanks are owed to any benefactor whatever, and at least the affection of recompense, where the means are lacking. So D. Thom. art. 3. Because the formal aspect of this debt is any benefit whatever accepted; even if one benefit be greater than another, not only from the magnitude of the thing given, but also from the affection, and the inconvenience. Of which see Seneca lib. 2. de benef. cap. 6. and 12. where nonetheless he adds a golden saying, truly spoken: *It is the height of wickedness not to call a benefit anything but what affects the giver with some inconvenience.*

> *ASSERO secundo, cuilibet benefactori deberi gratias, et saltem recompensationis affectum, ubi facultas non est. Ita D. Thom. art. 3. Quia ratio formalis huius debiti est quodlibet beneficium acceptum; etsi beneficium aliud alio maius sit, non solum ex magnitudine rei datae, sed etiam ex affectu, et incommodo. De quo re Seneca lib. 2. de benef. cap. 6. et 12. ubi nihilominus addit aureum vere effatum:* Summae malignitatis est non vocare beneficium, nisi quod dantem aliquo incommodo afficit.

6 I ASSERT third, that the affection of gratitude must be shown at once, but compensation at an opportune time. So D. Thom. art. 4. from Seneca lib. 4. de benef. where he says: *He who desires to repay too quickly, repays unwillingly; he who repays unwillingly, is ungrateful.* The reason is, because as the benefit, so also the compensation of the benefit ought to be opportune for the receiver.

ASSERO tertio, affectum gratiae illico exhibendum, sed compensationem opportuno tempore. Ita D. Thom. art. 4. e Seneca lib. 4. de benef. ubi ait: Qui nimis cito cupit solvere, invitus debet; qui invitus debet, ingratus est. *Ratio est, quia sicut beneficium, ita et beneficii compensatio opportuna esse debet accipienti.*

7 I ASSERT fourth, that recompense ought to regard the affection rather than the effect. So D. Thom. art. 5. after Seneca lib. 1. de benef. cap. 7. The reason is, because gratitude regards the benefit insofar as it is bestowed gratuitously, which indeed pertains to the affection.

ASSERO quarto, recompensationem debere magis respicete ad affectum, quam ad effectum. Ita D. Thom. art. 5. post Senecam lib. 1. de benef. cap. 7. Ratio est, quia gratia respicit beneficium, prout est gratis impensum, quod sane pertinet ad affectum.

8 I ASSERT fifth, that the aspect of honesty, and the debt, require that the compensation not only equal but even surpass the benefit accepted. So D. Thom. art. 6. according to Aristotle 5. Eth. cap. 5.

ASSERO quinto, honestatis ratio, ac debitum postulat, ut compensatio non solum exaequet, sed etiam superet acceptum beneficium. Ita D. Thom. art. 6. iuxta Aristotelem 5. Eth. cap. 5.

9 THE REASON is, because in the benefactor this is especially commendable, that, grateful, and anticipated by no benefit, he bestowed the benefit: Therefore it is fitting that the good conferred be surpassed by the one repaying, because as long as he recompenses, giving less, or equal, he does not seem to act gratuitously, but to render back what he received.

RATIO est, quia in benefaciente, hoc praecipue commendabile est, quod gratus, nulloque beneficio praeventus, beneficium contulit: Ergo par est, ut bonum collatum a retribuente superetur, quia quamdiu recompensat, dando minus, vel aequale, non videtur facere gratis, sed reddere, quod accepit.

10 JUST as, however, in justice the equality of things is regarded, so in gratitude chiefly the equality of wills is regarded. See D. Thomam on the arguments.

SICUT tamen in iustitia attenditur aequalitas rerum, ita in gratitudine potissimum attenditur aequalitas voluntatum. Vide D. Thomam ad argumenta.

Question II: On ingratitude

1 THE VICE of an ungrateful spirit is the special contrary of gratitude, divided into various degrees, and, according to the diversity of circumstances, sometimes mortal; sometimes venial. So S. Thom. art. 1. 2. and 3. from the common teaching.

INGRATI animi vitium, est speciale gratitudinis contrarium, in varios distinctum gradus, et pro diversitate circumstantiarum, interdum mortale; interdum veniale. Ita S. Thom. art. 1. 2. et 3. ex communi.

2 THE FIRST part is proved, because it is opposed to a special virtue, when the benefit is formally despised, even though it be exercised in diverse ways, by detracting from and plotting against the benefactor, insofar as he is a benefactor.

PRIMA pars probatur, quia speciali opponitur virtuti, dum beneficium formaliter contemnitur, esto diversis modis exerceatur detrahendo, et insidiando benefactori, ut benefactor est.

3 THAT it has many degrees is proved, because, just as there are diverse degrees of gratitude, of which the first is to recognize the benefit received: the second, to praise it, is to give thanks: the third, to repay according to place and time; conversely, because what is last in generation is first in

resolution and corruption. The first degree of ingratitude is not to repay the benefit: The second, to dissemble it: The third, to forget it, or in some other way not to recognize it. And because in the affirmation of the opposite the negation is understood, therefore to the first degree of ingratitude belongs to repay evils for good: To the second, to disparage the benefit: But to the third, to reckon the benefit as if it were a wrongdoing.

> *QUOD vero habeat multos gradus probatur, quia, sicuti diversi sunt gradus gratitudinis, in quibus primus est, acceptum beneficium recognoscere: Secundus, laudare, est gratias agere: Tertius, retribuere pro loco, et tempore; e contra, quia quod est ultimum in generatione, est primum in resolutione, et corruptione. Primus ingratitudinis gradus est beneficium non retribuere: Secundus dissimulare: Tertius oblivisci, vel alio modo non recognoscere. Et quia in affirmatione opposita intelligitur negatio, ideo ad primum ingratitudinis gradum pertinet retribuere mala pro bonis: Ad secundum, beneficium vituperare: Sed tertium, beneficium quasi maleficium reputare.*

4 FINALLY I prove that it can be venial, as if from negligence one omits to repay, or omits only what is to be bestowed liberally; but if one omits what he owes, especially if the benefactor is condemned in his necessity, it will be the complete malice of an ungrateful spirit, and mortal, as D. Bonavent. teaches, lib. 3. Pharetrae, cap. 21. where he reports D. Augustinum de bono viduitatis, cap. 16. where he says: *Many have many gifts, and, not knowing God, from whom they have them, boast in impious vanity. But no one is blessed by the gifts of God who has been ungrateful to the giver. And de vera, et falsa poenit. cap. 14. He was ungrateful who, full of virtues, feared God not at all. For in this each one is the more guilty of sin, the more acceptable to God.*

> *TANDEM probo, posse esse veniale, ut si ex negligentia omittat rependere, vel omittat solum id quod liberaliter praestandum est; at si omittat id, quod debet, maxime si in necessitate condemnetur benefactor, erit completa ingrati animi malitia, atque mortalis, ut docet D. Bonavent. lib. 3. Pharetrae, cap. 21. ubi refert D. Augustinum de bono viduitatis, cap. 16. ubi ait:* Multi habent multa dona, et Deum nescientes, a quo habent, impia vanitate iactantur. Nemo autem est donis Dei beatus, qui donanti extiterit ingratus. Et de vera, et falsa poenit. cap. 14. Ingratus extitit, qui plenus virtutibus Deum omnino non timuit. In hoc enim quisque peccator sit culpabilior, quo est Deo acceptior.

5 D. BERNARDUS on the Ps. Qui habitat: *To him who humbly and devoutly confesses and gives thanks, ampler benefits are not undeservedly promised. On the contrary, he who has been ungrateful for what he has received is unworthy to receive.*

> *D. BERNARDUS in Psal. Qui habitat:* Confitenti humiliter, et devote gratias agenti, non immerito ampliora beneficia promittuntur. Sicut e contrario, accipiendis indignus est, qui fuerit de acceptis ingratus.

6 AND Serm. 2. de septem misericordiis: *Ingratitude blocks the ways of grace. And Serm. 51. in Cant. Ingratitude is a burning wind, drying up the fountain of piety, the dew of mercy, and the streams of all grace.*

> *ET Serm. 2. de septem misericordiis:* Ingratitudo vias obstruit gratiae. Et Serm. 51. in Cant. Ingratitudo ventus est urens, fontem siccans pietatis, rorem misericordiae, et fluenta omnis gratiae.

7 HOWEVER, although the ungrateful man deserves the subtraction of the benefit, it is not immediately fitting to subtract it. For the mark of an ungrateful spirit is not incurred so easily, as Seneca warns, lib. 3. de benef. cap. 7. But the man must be warned, that he may come to his senses. But if he becomes worse because of benefits, then at last one must cease from the bestowal of benefits. So S. Thomas art. 7.

QUAMVIS autem ingratus mereatur beneficii subtractionem, non statim tamen convenit beneficium subtrahere. Neque enim tam facile ingrati animi est nota incurenda, ut monet Seneca lib. 3. de benef. cap. 7. Monendus est autem, ut resipiscat. Quod si beneficiis deterior fiat, tum demum opportet a beneficiorum exhibitione cessare. Ita S. Thomas art. 7.

8 SUCH a one is marked chiefly by Seneca, ep. 73. *Whoever always thinks of receiving has forgotten what he has received: And cupidity has no greater evil than that it is ungrateful.* Him S. Bonavent. reports, loc. cit. of the Pharetra.

TALIS autem signatur praecipue a Seneca, ep. 73. Quisquis de accipiendo semper cogitat, oblitus accepti est: Nec ullum habet malum cupiditas maius, quam quod ingrata est. *Eum refert S. Bonavent. loc. cit. Pharetrae.*

Question III: On vindication

1 VINDICATION is defined by D. Bonavent. *3. part. Centil. sect. 44. and in the declaratorio terminorum Theologiae: Vindication is the virtue by which force, or injury, and absolutely everything that would harm, is repelled by defending, or avenging. Or: It is the virtue by which everything unjust is repelled and duly punished.*

De Vindicatione.

VINDICATIO definitur a D. Bonavent. 3. part. Centil. sect. 44. et in declaratorio terminorum Theologiae: Vindicatio est virtus, per quam vis, aut iniuria, et omnino omne quod obfuturum est, defendendo, aut ulciscendo propulsatur. Seu: Est virtus, qua omne iniustum repellitur, et debite punitur.

2 HENCE certain conditions are required, that a vindication be good.

HINC aliquae conditiones requiruntur, ut vindicatio sit bona.

3 THE FIRST is, that the intention be good, not resting in the evil from which vengeance is taken; for that would be to be overcome by evil, against the Apostle, *Rom.* 12. but it is necessary that the mind of the avenger be carried principally toward the good to come from the punishment of the sinner, namely, either for the amendment, or at least for the restraint of the sinner himself, and the quiet of others, the preservation of peace, and the honor of God, as D. Thom. teaches, *art. 1.*

PRIMA est, ut bona sit intentio, non sistens in malo, de quo vindicta sumitur; hoc enim esset vinci a malo contra Apostolum Rom. *12. sed necesse est, ut animus vindicantis principaliter feratur in bonum proventurum ex punitione peccantis, nempe, vel ad emendationem, vel saltem ad cohibitionem ipsius peccantis, et quietem aliorum, pacisque conservationem, ac Dei honorem, ut docet D. Thom.* art. 1.

4 THE SECOND condition is, that vengeance, properly so called, be done by one having power, which only a superior is, as is had in *Rom. 13. For he is God's minister: an avenger in wrath upon him who does evil.* as D. Thom. says, *quaest. 108. art. 1. ad 1.*

SECUNDA conditio est, ut vindicta, proprie accepta, fiat a potestatem habente, qualis solum est superior, ut habetur Rom. 13. Dei enim minister est: vindex in iram ei, qui male agit. *ut ait D. Thom.* quaest. 108. art. 1. ad 1.

5 THE THIRD is, that it be done according to the order of law and due moderation, lest the punishment exceed the fault.

TERTIA est, ut fiat secundum ordinem iuris, et debitam moderationem, ne poena excedat culpam.

6 VINDICATION can be done through any kinds of punishments defined by the laws. So D. Thom. *art. 3.* The reason is, because vindication is licit insofar as it tends to restrain evils; but men are

restrained from sinning insofar as they fear to lose things they love more than what they gain by sinning; otherwise fear would not check sin. Whence it comes that vengeance for sin must be taken by the subtraction of all that a man loves most, such as life, possessions, etc.

> *VINDICATIO potest fieri per quaevis poenarum genera, legibus definita. Ita D. Thom.* art. 3. *Ratio est, quia vindicatio licita est, ut tendit ad cohibenda mala; cohibentur autem homines a peccando, quatenus timent amittere aliqua, quae amant, magis quam, quae peccando adipiscuntur; alias timor non compesceret peccatum. Quo fit, ut per subtractionem omnium, quae homo maxime diligit, sit vindicta de peccato sumenda, qualia sunt vita, opes, etc.*

7 BUT S. Thom. warns, *art. 1. ad 5. and art. 3. ad 1.* that when the whole multitude sins, it is to be punished, either as to the whole sinful body, yet so that the good are not swept up in it; or as to a part, as the Saintly Doctor reports *in Bibliis pauperum, cap. 105.*

> *MONET autem S. Thom.* art. 1. ad 5. et art. 3. ad 1. *quando tota multitudo peccat, puniendam, vel quoad totam peccantem, ita tamen, ut non involvantur boni; vel quoad partem, sicuti refert S. Doctor* in Bibliis pauperum, cap. 105.

8 THEREFORE vindication of sins is a principal part of justice. So S. Thom. *art. 2.* D. Bonavent. *in the places cited, from M. Tullius lib. 2. de Inventione.*

> *EST igitur vindicatio peccatorum pars principalis iustitiae. Ita S. Thom.* art. 2. *D. Bonavent.* allatis locis ex M. Tullio lib. 2. de Inventione.

9 YET Suarez *opusc. ult. sect. 5.* and others deny that vindicative justice is a special virtue.

> *ATTAMEN Suarez* opusc. ult. sect. 5. *et alii negant, iustitiam vindicativam esse specialem virtutem.*

Section V: On Truth, Friendship, Liberality, Epikeia, and the Opposed Vices; on the Gift of Piety and the Precepts of the Decalogue That Concern Justice

1 I SHALL EMBRACE much here, yet in few words, that I may finish the other virtues which accompany justice; and in the first place I shall treat of Veritate, which is a virtue especially necessary to justice; for no one can be just in acting unless he be truthful in speaking. Second, I shall explain what that sweet bond of souls is which we call Amicitia. Third, I shall weigh what Liberalitas is, what Epikeia, or what vices are opposed to these. I shall also resume Pietas insofar as it is a Gift of the Holy Spirit; since, insofar as it has a place among the moral virtues, I discussed it above. Finally, whatever precepts of the Decalogue pertain to the observance of Justice, I shall briefly indicate.

> De Veritate, Amicitia, Liberalitate, Epikeia, et oppositis vitiis: De dono Pietatis, et Praeceptis Decalogi, ad Iustitiam spectantibus.
>
> *MULTA hic, non multis tamen verbis, complectar, ut caeteras virtutes, quae iustitiam comitantur, absolvam; et primo quidem loco agam de Veritate, quae est virtus apprime iustitiae necessaria; nemo enim valet esse in agendo iustus, nisi sit in dicendo verax. Secundo, quid sit gratum illud animorum vinculum, quod Amicitiam nuncupamus, exponam. Tertio, quid sit Liberalitas, quid Epikeia, quidve vitia his opposita, expendam. Pietatem etiam quatenus Spiritus Sancti Donum est, resumam; cum pro ut inter morales virtutes locum habet, eam supra discussi. Tandem si quae sunt Decalogi praecepta, ad Iustitiae observantiam spectantia, ea breviter indicabo.*

Question I: On truth

[1] TRUTH is a special moral virtue seated in the will, whereby one loves to speak the truth in words and deeds. So D. Thom. *art. 1. et 2.* and S. Bonav. wills the same *in explanatione terminorum Theologiae, near the end*, thus defining: *Truth is the virtue whereby the heart and words are commanded to accord with things. and 3. part. Centil. sect 44. thus defining: Truth is the virtue by which things that are, or were before, or are to be, are said unaltered.* The same is had *lib. 3. Compend. Theol. cap. 37.*

> De VERITATE.
>
> *VERITAS est specialis virtus moralis in voluntate sita, qua quis in verbis, et factis amat verum dicere. Ita D. Thom.* art. 1. et 2. *et idem vult S. Bonav.* in explanatione terminorum Theologiae, circa finem, *sic definiens:* Veritas est virtus, qua rebus cor, et verba concordare iubentur. et 3. part. Centil. sect 44. sic definiens: Veritas est virtus, per quam immutata ea, quae sunt, aut, quae ante fuerunt, aut futura sunt, dicuntur. *Quod idem habet* lib. 3. Compend. Theol. cap. 37.

[2] BUT this virtue does not consist in that consonance of the voice with the intellect, but in the expression consonant with it as commanded by the will. And although faith also, and the other intellectual virtues, are concerned with truth, yet those are concerned with truth to be sought and known; and this one with truth to be expressed. But this virtue has a mean, because it neither enlarges nor diminishes the thing to be signified. To it is opposed duplicity, which tends to one thing not in diverse, so as to intend one thing within and pretend another without.

> *NON stat autem haec virtus in illa consonantia vocis cum intellectu, sed pro ut est a voluntate imperata illa expressio consonans. Et quamvis etiam fides, aliaeque virtutes intellectuales circa veritatem versentur, tamen illae versantur in veritate indaganda, et agnoscenda; et ista in veritate exprimenda. Habet autem haec virtus medium, quia neque ampliat, neque diminuit rem significandam. Ei autem unificatus simplicitas, quae tendit in unum, non in diversa, ut aliud intendat interius, aliud praetendat exterius.*

[3] IT IS, moreover, a potential part of Justice, as S. Bonavent. teaches *in the places cited*. D. Thom. *art. 3.* from Marcus Tullius *l. 2. de invent.* It agrees with Justice, because it is directed to another, expressing one's meaning, and because it preserves a certain equality, adapting signs to the things which the speaker manifests. But it falls short of the proper aspect of justice, because it does not contain a legal debt pertaining to justice, but rather arises from honesty, insofar as man owes it to another sincerely to express the truth; for since man is a sociable animal, he must preserve those things that are necessary for preserving society; such indeed is the sincere expression, especially in contracts; for men could not converse with one another unless they believed one another. Truth indeed also concerns those things that pertain to doctrine, but specially those that pertain to man, that man express himself such as he is. So D. Thom. *art. 3. ad 3.*

> *EST autem pars potentialis Iustitiae, ut docent S. Bonavent.* locis adductis. *D. Thom.* art. 3. *ex Marco Tullio* l. 2. de invent. *Convenit cum Iustitia, quia est ad alterum explicans suum sensum, et quia servat aequalitatem quandam, adaequans signa rebus, quas loquens manifestat. Deficit vero a ratione propria iustitiae, quia non continet debitum legale, ad iustitiam pertinens, sed potius ex honestate, quatenus debet homo alteri sincere exprimere veritatem; cum enim homo sit animal sociabile, debet ea, quae ad societatem servandam necessaria sunt, servare, talis autem est sincera expressio, maxime in contractibus; non enim possent homines invicem conversari, nisi sibi invicem crederent. Spectat quidem veritas etiam ea, quae doctrinae sunt, specialiter tamen ea, quae sunt hominis, ut talem se homo exprimat, qualis ipse est. Ita D. Thom.* art. 3. ad 3.

Question II: On lying

[1] THE INTERCOURSE of human society requires that the lips accord with the heart, nor that one thing be uttered by the mouth and another conceived in the mind; whence, since by the Author of nature the voice was instituted as the vehicle of the interior concept, if it displays something alien outwardly, it will suffer a grave injury to the right of nature, being both frustrated of its end, and defrauding the trusting expectation of the other hearer; whence this sin cannot be made honest by any circumstance; yet in lying one can propose to himself diverse ends, and by these the greater or lesser malice of the lie will be specified, and although it never passes out of the species of sin, yet within that species it can sometimes be venial, sometimes mortal. But these things will be made clearer from the definitions of the lie soon to be given; wherefore, that the truth may shine forth more clearly from the very lie, I shall weigh this matter concisely and elegantly through dubitations.

> De MENDACIO.
>
> *SOCIETATIS humanae commeatus exigit, ut labia cordi consonent, nec aliud proferatur ore, aliud concipiatur mente; unde cum ab Authore naturae, vox instituta sit, ut interioris conceptus vehiculum, si alienum quid foris ostentet, naturae ius gravem patietur iniuriam, cum et suo fine destituatur, et alterius auscultantis fiducia frustretur; unde nequit peccatum hoc ulla circumstantia honestari; cum tamen inter mentiendum possit quis diversos sibi fines proponere, ab his maior, vel minor mendacii malitia specificabitur, et licet nunquam transeat a specie peccati, infra tamen eam poterit aliquando venialis esse, aliquando mortalis. Sed haec melius patebunt ex mendacii definitionibus mox tradendis, quare ut ex ipso mendacio clarior veritas allucescat, materiam hanc per dubitationes concise, et nitide expendam.*

Doubt I: What a lie is

[1] A Lie is opposed to *Truth*, simulation, Hypocrisy, Boasting, and Irony, as St. Bonaventure teaches. *3rd part. Centil. section 44. and in the Declaration of Theological Terms, and book 5. Compend. Theol. cap. 37. D. Thomas, question 110, art. 2. and question 112.* For either a falsehood is signified by words or by deeds according to the mind of the one conceiving it. If by deeds, it is simulation, or in a certain matter hypocrisy. If by words, it is a lie strictly taken. Which again, if it concerns the exceeding morals of the speaker, is called boasting: if by defect, it is called Irony.

> Quid sit Mendacium.
>
> Veritati *opponitur Mendacium, simulatio, Hypocrisis, Iactantia, et Ironia, ut docet S. Bonavent.* 3. part. Centil. sectione 44. et in Declaratorio terminorum Theol. et lib. 5. Compend. Theol. cap. 37. D. Thom. quaest. 110. art. 2. et quaest. 112. *Aut enim ex mente concipientis falsum significatur verbis, aut factis. Si factis, est simulatio, sive in certa materia hypocrisis. Si verbis, est mendacium stricte sumptum. Quod rursus, si circa mores loquentis versetur excedens, dicitur iactantia: Si per defectum, vocatur Ironia.*

[2] *These vices seem* however to coalesce into one, because they are all opposed to truth, and one thing is essentially opposed to one; but they differ in modes. Hence St. Augustine, *book against lying, cap. 3. He lies, who has one thing in his mind, and declares another by words, or by any significations whatsoever.* The same is indicated by St. Thomas, *question 111, art. 1.*

> Videntur *autem in unum haec vitia coire, quia omnia veritati opponuntur, et uni unum opponitur essentialiter; variant vero in modis. Hinc D. August.* lib. contra mendacium, cap. 3. Ille mentitur, qui aliud habet in animo, aliud verbis, aut quibuslibet significationibus enunciat. *Idem indicat S. Thom.* quaest. 111. art. 1.

3 A lie is *defined* by St. Augustine, *book against lying, cap. 12: A lie is a false signification of the voice with the intention of deceiving.* But to lie is explained by the same St. Augustine in the Enchiridion, *cap. 18,* thus: *He lies, who speaks against what he perceives in his mind, with the will to deceive.*

> Definitur *autem mendacium a D. August.* lib. cont. mendacium. cap. 12. Mendacium est falsa significatio vocis cum intensione fallendi. *Mentiri vero, ab eodem S. Augustino in Enchir.* cap. 18. *sic explicatur:* Ille mentitur, qui contra id, quod animo sentit, loquitur voluntate fallendi.

4 *Where* it is to be known from St. Bonaventure that a twofold falsity is found in a lie; the material, which is the false saying, and the formal, which is the intention of deceiving. Tanner adds, *disp. 6, question 2, num. 8,* together with Bassaeus, *V. Mend.*, an effective falsity on account of the will to deceive. But considered in its effect, once obtained, it belongs to the lie per accidens, for a lie can exist without anyone being deceived, as he himself admits; but he says that even the material of the lie, namely the false assertion, belongs per accidens to the lie. The same seems to be the mind of St. Thomas, *question 110, art. 1, in the body, and ad 1,* with the Thomists.

> Ubi *sciendum ex D. Bonavent. duplicem falsitatem reperiri in mendacio; materialem, quae est falsum dictum, et formalem, quae est intentio fallendi. Addit Tannerus* disp. 6. quaest. 2. num. 8. *cum Bassaeo* V. Mend. *falsitatem effectivam ob voluntatem fallendi. Sed considerata in suo effectu, iam obtento per accidens est, potest enim esse mendacium, absque eo quod aliquis decipiatur, ut ipse fatetur, sed dicit, etiam materiale mendacii, nempe, assertum falsum, per accidens esse mendacio. Idem sentire videtur D. Thom.* quaest. 110. art. 1. in corpore, et ad 1. *cum Thomistis.*

5 On the contrary, St. Bonaventure, in *3. d. 38, dub. 3, of the text, and question 1,* with the Master, holds that falsity is also required for a lie, although one may lie even if he says the truth, intending nevertheless to deceive.

> *E contra D. Bonavent. in* 3. d. 38. dub. 3. litterae, et quaest. 1. *cum magistro sustinet ad mendacium requiri etiam falsitatem, tametsi mentiri quis valeat, etiamsi verum dicat, intendens tamen fallere.*

6 *It is proved* first from the Holy Doctor in both places from the definition of a lie, given by St. Augustine, in which he requires for a lie a false signification and the intention of deceiving: But to lie, according to him, requires only the intention of deceiving, as I have reported; for one is said to lie, as it were, to go against the mind.

> Probatur *primo a S. Doctore utrobique ex definitione mendacii, lata a D. Augustino, in qua exigit mendacio falsam significationem, et intentionem fallendi: At mentiri, solum exigit, apud eum, intentionem fallendi, ut retuli; dicitur enim mentiri, quasi contra mentem ire.*

7 *It is proved* second from St. Bonaventure out of the same St. Augustine, *cap. 3 against lying*, where he opposes the lie to truth as darkness to light; but darkness is formally the privation of light: Therefore also a lie is the privation of truth.

> Probatur *secundo a S. Bonavent. ex eodem D. Augustino* cap. 3. cont. mendacium, *ubi mendacium ita opponit veritati, sicut tenebras luci; sed tenebra est formaliter privatio lucis: Ergo et mendacium privatio veritatis.*

8 *It is proved* third from St. Bonaventure: *As true being and a lie are related in a man; so in speech are truth and a lie related; but these two are incompossible in the same man at once and together, namely that he be truthful and a liar: Therefore they will likewise be incompossible in speech: Therefore it is impossible that the same speech be at once*

true and false. If therefore a lie cannot compare itself with truth, it seems that it carries with it an inseparable falsity.

> Probatur *tertio a S. Bonav.* Sicut se habet esse verum, et mendacium circa hominem; sic se habet circa orationem veritas, et mendacium; sed ista duo sunt incompossibilia circa eundem hominem simul, et semel, videlicet ipsum esse veracem, et mendacem: Ergo similiter erunt incompossibilia circa sermonem: Ergo impossibile est, quod idem sermo simul sit verus, et mendax. Si ergo mendacium non potest se compari cum veritate, videtur quod inseparabilem secum ferat falsitatem.

9 *It is proved* fourth from the Holy Doctor: *Every true thing is from the first truth, But no lie is from the first truth: Therefore no lie is true:* Therefore it is false.

> Probatur *quarto a S. Doctore:* Omne verum est a veritate prima, At nullum mendacium est a prima veritate: Ergo nullum mendacium est verum: *Ergo est falsum.*

10 *They object* first from St. Augustine in the *Enchiridion, cap. 18,* where he says: *He lies, who speaks against what he perceives in his mind, with the will to deceive:* Therefore a lie stands in the will to deceive alone.

> Obiiciunt *primo D. August in* Enchir. cap. 18. *ubi ait:* Is mentitur, qui contra id, quod animo sentit, loquitur voluntate fallendi: *Ergo mendacium in sola voluntate fallendi stat.*

11 *The Holy Doctor answers* that more is required for a lie than for lying, as I said; for a lie is referred both to the deceiving will and to the false thing; but lying regards only the deceit which the will undertakes, even if he were saying what is true, which he thinks is false.

> Respondet *S. Doctor, plura ad mendacium requiri, quam ad mentiendum, ut dixi; nam mendacium refertur, et ad voluntatem deceptricem, et ad rem falsam; at mentiti solum respicit fallaciam, quam voluntas molitur etiamsi vera diceret, quae falsa putat.*

12 *They object* second. As speech disagrees with the intention when one denies what he knows, so also it disagrees when he affirms what he does not know, and about which he doubts; and then it is a sin; but only of a lie: Therefore a lie can fall upon an unknown truth.

> Obiiciunt *secundo. Sicut verbum discordat ab intentione, cum quis negat illud, quod novit, sic etiam discordat, quando affirmat, quod ignorat, et de quo dubitat; et tunc est peccatum; at non nisi mendacii: Ergo potest mendacium cadere supra verum ignoratum.*

13 *The Holy Doctor answers* that in the assertion of a doubtful or unknown truth there is a lie secundum quid, and it is more properly called lying.

> Respondet *S. Doctor, in assertione veri dubii, vel ignorati, esse mendacium secundum quid, et magis dicit mentiti.*

14 *They object* third. A right intention makes right, and an oblique one makes oblique: Therefore in him who speaks the truth with an intention of deceiving, the whole utterance is made oblique; but this happens only in a lie: Therefore.

> Obiiciunt *tertio. Intentio recta rectificat, et obliqua obliquat: Ergo in eo, qui dicit verum intentione fallendi, tota prolatio obliquatur; sed hoc non fit nisi mendacio: Ergo.*

15 *The Holy Doctor answers* that the oblique intention falsifies the saying, not according to every account, but only according to the account which it has in respect of the speaker; but that respect

alone does not suffice for the account of a lie.

> Respondet *S. Doctor, intentionem obliquam falsificare dictum, non secundum omnem rationem, sed solum secundum rationem, quam habet ad dicentem; sed ille solus respectus non sufficit ad ratione mendacii.*

16 *They object* fourth. As sin is related to goodness; so a lie to truth: but he who does a good work with an evil intention commits a sin: Therefore he who says something true, with a perverse will to deceive, incurs a lie. *It is confirmed;* for it implies that some saying is both true and false.

> Obiiciunt *quarto. Sicut se habet peccatum ad bonitatem; ita mendacium ad veritatem: sed qui bonum opus agit mala intentione, facit peccatum: Ergo qui dicit aliquod verum, voluntate prava fallendi, incurrit mendacium.* Confirmatur*; nam implicat, aliquod dictum esse verum, et mendax.*

17 *The Holy Doctor answers* first, that a good thing done with an evil intention is not evil simply, but only to him who acts with an evil intention; as he who gives alms with an evil intention does not fall into sin in the alms given, but only in himself who gives by reason of the intention; so also in the present case.

> Respondet *S. Doctor primo, bonum mala intentione actum, non esse malum simpliciter, sed solum illi, qui mala intentione agit; sicuti, qui dat eleemosynam mala intentione, non cadit peccatum in data eleemosyna, sed solum in eo, qui dat ratione intentionis, sic et in proposito.*

18 *It is answered* second, by denying the parity, because sin denotes a privation of goodness; but goodness denotes an ordination to the end, which indeed has its being through a right intention, and therefore the right intention removed, the account of goodness perishes, and it is a sin; but a lie denotes a privation of truth, which consists not only in the comparison to the intention, but also to the very thing itself, and therefore, if the thing is true, it is not a lie, except secundum quid.

> Respondetur *secundo, negando paritatem, quia peccatum dicit privationem bonitatis; bonitas autem dicit ordinationem ad finem, quae quidem habet esse, mediante recta intentione, et ideo recta intentione sublata, petit ratio bonitatis, et est peccatum; mendacium autem dicit privationem veritatis, quae consistit non solum in comparatione ad intentionem, sed et ad ipsam rem, et ideo, si res est vera, non est mendacium, nisi secundum quid.*

Doubt II: Of how many kinds is a lie

1 *It is to be noted* first, that a lie is commonly divided into the Officious, the Jocose, and the Pernicious. So the Holy Doctors after St. Augustine, *ad 5. Psal. in the Gloss.* For since a lie has as its formal element the deceiving, according to the intention of the liar himself it is divided into species: But he who lies either intends to benefit; and it is an officious lie; or to delight, and behold, the jocose: or to harm, and behold the Pernicious. But he can harm spiritually, or temporally. And then either he harms one so as to benefit another, and according to this there are three differences of the pernicious lie. The first consists in a lie of the doctrine of Religion handed on, and this works to the harm of a spiritual good, namely, faith. The second consists in this, that the lie harm simply. The third, that it harm one; and benefit another.

> Quotuplex sit Mendacium.
>
> Notandum *primo, mendacium communiter dividi in Officiosum, Iocosum, et Perniciosum. Ita SS. DD. post D. Augustinum* ad 5. Psal. in Glossa. *Cum enim mendacium habeat pro formali fallendi, secundum intentionem ipsius mentientis in species dividitur: Mentiens autem aut intendit prodesse; et est mendacium officiosum; aut delectare, et ecce iocosum: aut laedere, et ecce Perniciosum. Laedere autem potest spiritualiter, vel temporaliter. Tunc aut ita laedit unum,*

ut alteri prosit, et secundum hoc sunt tres differentiae mendacii perniciosi. Prima consistit in mendacio doctrinae Religionis tradendae, et hoc facit ad nocumentum boni spiritualis, idest, fidei. Secunda consistit, ut mendacium simpliciter obsit. Tertia, ut uni obsit; alteri prosit.

2 ¶ But if he lies in order to delight, it is thus jocose, and this can be in two ways, either that he delight another, and thus it is simply jocose. Or that he delight himself by lying, and thus it is libidinous, which properly contains the lust of lying, and the malice, which is placed in the readiness for lying, according to Aristotle, 4. *Eth. cap. 7.* where he says, that a lie, because such it is by habit, rejoices in the lie itself.

¶ *Si vero mentitur, ut delectet, sic est iocosum, et hoc potest esse dupliciter, vel ut delectet alterum, et sic est simpliciter iocosum. Vel ut delectet se mentiendo, et sic est libidinosum, quod proprie continet mentiendi libidinem, et malitiam, quae in promptitudine mentiendi posita est, iuxta Aristotelem. 4.* Eth. cap. 7. *ubi ait, mendacium, eo quod tale est secundum habitum, ipso mendacio gaudere.*

3 But if he lies that he may benefit simply, not that he may harm; or that he may benefit with regard to the goods of fortune, as money, etc. Or to avoid death: Or to avoid impurity, or to preserve chastity, or holiness safe and sound, the lie is officious.

Si vero mentitur, ut prosit simpliciter, non ut obsit; vel ut prosit ad bona fortunae, ut pecuniarum, etc. Vel ad vitandam mortem: Vel ad vitandam impuritatem, seu ad castitatem, seu sanctitatem sartam tectam servandam, mendacium est officiosum.

4 ¶ Hence you have that division of a lie into eight members, by reason of the intention, and mode, which St. Augustine brings forward, *l. de mendacio, cap. 14. and* with him our Holy Doctors. The first, which is done in the doctrine of Religion, as to say that Christ is not born of the Blessed Virgin. The second, which benefits no one, and harms someone, as a lie of detraction. The third, which harms one, that it may benefit another, as a false witness in a pecuniary cause. The fourth, which is done out of the mere lust of lying: The fifth, which is done with the will of delighting by pleasant speech, as flattery. The sixth, whereby one lies for the sake of preserving money. The seventh for the sake of life. The eighth for the sake of preserving chastity. See St. Bonaventure, *p. p. Centil. sect. 12.*

¶ *Hinc habes divisionem illam mendacii in octo membra, ratione intentionis, et modi, quam affert S. Augustinus* l. de mendacio, cap. 14. et *cum eo SS. DD. nostri. Primum, quod fit in doctrina Religionis, ut dicere, Christum non esse natum de B. Virgine. Secundum, quod nulli prodest, et alicui obest, ut mendacium detractionis. Tertium, quod alicui obest, ut prosit alii, ut testis falsus in causa pecuniaria. Quartum, quod fit sola libidine mentiendi: Quintum, quod fit voluntate delectandi suavi cloquio, ut adulatio. Sextum, quo mentitur ob pecuniam conservandam. Septimum ob vitam. Octavum ob castitatem conservandam. Vide D. Bonavent.* p. p. Centil. sect. 12.

5 AGAINST this three-membered division the Holy Doctor objects certain arguments to himself, and solves them.

CONTRA trimembrem hanc divisionem opponit sibi S. Doctor aliqua argumenta, et solvit.

6 ¶ First. That which is per accidens ought not to denominate; but it is per accidens for a lie to benefit: Therefore the species of the officious lie ought not to be assigned.

¶ *Primo. Id, quod est per accidens, non debet denominare; at per accidens est mendacio prodesse: Ergo non debet assignari species mendacii officiosi.*

7 He answers, that an act takes its species from the intention, and because the officious is ordered by the intention that it benefit; therefore it can take its species from that.

> *Respondet, actus speciem accipere ab intentione, et quia officiosum ex intentione ordinatur ut prosit; ideo potest inde speciem sumere.*

8 He objects second. The same lie can benefit and at the same time harm: Therefore by this many differences of a lie are not rightly divided; for opposite differences never belong to the same thing.

> *Obiicit secundo. Idem mendacium potest prodesse simul; et obesse: Ergo per hoc non recte dividuntur multae differentiae mendacii; nam oppositae differentiae nunquam eidem conveniunt.*

9 He answers, that a lie takes its species from the intention, which either tends that it benefit, or that it harm, and thus the same lie never contains both formally, even though materially, as the falsity is.

> *Respondet, mendacium sumere speciem ab intentione, quae, vel tendit, ut prosit, vel ut obsit, et ita nunquam idem mendacium utrumque continet formaliter, esto materialiter, ut falsitas est.*

10 ¶ He objects third against the second difference. We also jest in other sins, and yet no species of sin is drawn from that: Therefore neither in a lie.

> ¶ *Obiicit tertio contra secundam differentiam. Etiam in aliis peccatis iocamur, nec tamen species inde aliqua peccati elicitur: Ergo neque in mendacio.*

11 The Holy Doctor answers first, that denomination is not taken from things that happen rarely; but rarely do we jest in accomplishing other things, as in a lie. He answers second, that if other works take their species from the intention, speech above all is denominated from it, and because a lie is in speech, hence it is that a jocose lie is more denominated.

> *Respondet S. Doctor primo, denominationem non sumi ab his, quae raro accidunt; raro autem iocamur in aliis patrandis, sicuti in mendacio. Respondet secundo, quod si alia opera sumant speciem ab intentione, maxime sermo ab ea denominatur, et quia mendacium est in sermone, hinc est quod magis denominatur iocosum mendacium.*

12 ¶ He objects fourth: A lie is a false signification of the voice with the intention of deceiving, according to St. Augustine, *cap. 12 against lying,* but he who jests does not intend to deceive: Therefore there is no jocose lie.

> ¶ *Obiicit quarto: Mendacium est falsa vocis significatio cum intentione fallendi, ex D. Augustino* cap. 12. cont. mendacium, *at iocans non intendit fallere: Ergo non datur mendacium iocosum.*

13 The Holy Doctor answers, that to deceive is the same as to say what is false, but not the same as to deceive [someone]; whence the sense of the definition is, with the intention of saying what is false, and this belongs to the jocose lie, though less completely, than to the pernicious.

> *Respondet S. Doctor, idem esse fallere, ac falsum dicere, non autem idem esse, ac decipere; unde sensus definitionis est, eum intentione falsum dicendi, et hoc convenit mendacio iocoso, licet minus complete, quam pernicioso.*

14 He objects fifth, against the third difference: To be pernicious is common to every sin.

> *Obiicit quinto, contra tertiam differentiam: Esse perniciosum est commune omni peccato.*

15 The Holy Doctor answers, that the pernicious is assigned as a difference opposed to the officious, which is proper to a lie; but other genera of sins are not divided thus into officious, etc.

Respondet S. Doctor, assignari perniciosum, tanquam differentiam oppositam officioso, quod est proprium mendacii; alia vero genera peccatorum non dividuntur sic in officiosum, etc.

16 He objects sixth: If the pernicious lie is distinguished from the others; this is either by reason of the matter, or by reason of the will. Not the first, because in any matter whatsoever a man can lie gravely and perniciously, if he lies out of malice. Nor by reason of the will, because in any genus of lie whatsoever the will can be moved inordinately, and bring perdition into the liar.

Obiicit sexto: Si mendacium perniciosum distinguitur ab aliis; vel hoc est ratione materiae, aut ratione voluntatis. Non primum, quia in quavis materia potest homo mentiri graviter, et perniciose, si mentiatur ex malignitate. Nec ratione voluntatis, quia in quovis genere mendacii potest voluntas inordinate moveri, et inducere perniciem in mentiente.

17 The Holy Doctor answers, that it is distinguished principally by reason of the will, and by reason of the intention does this differentiate this species from the others per se. It can be said also by reason of the matter with regard to that species of lie in the matter of the doctrine of Religion.

Respondet S. Doctor, distingui ratione voluntatis principaliter, et hoc ratione intentionis diversificet hanc speciem ab aliis per se. Potest dici etiam ratione materiae quoad illam speciem mendacii in materia doctrinae Religionis.

Doubt III: Whether every lie is intrinsically a sin

1 MANY of the ancients asserted that it is lawful to lie in grave necessity for the sake of a great good. St. Augustine reports them, *book against lying,* and refutes them.

An omne mendacium sit intrinsece peccatum.

MULTI ex antiquis asseruere, licitum esse mendacium in gravi necessitate ob magnum bonum. Eos refert, atque refellit S. Augustinus lib. cont. mendacium.

2 Into this opinion the following seem to have inclined: St. Jerome, *on the Epistle to the Galatians, and Epistle 89, which is the eleventh among the Epistles of St. Augustine. Chrysostom, homily 53 on Genesis. Cassian, conference 17, cap. 17 and 20. Dorotheus, sermon 9 on lying.*

In eam sententiam inclinasse videntur D. Hieron. in Epist. ad Galat. et Epist. 89. quae est undecima inter Epistolas D. August. Chrysost. homil. 53. in Genesim. Cassianus collat. 17. cap. 17. et 20. Dorotheus serm 9. de mendacio.

3 The MOST TRUE opinion nevertheless is, that every lie, whether by deed or by word, is so evil that it is never lawful; and that it is never dispensable, not even by God himself. So the Holy Doctors, whom all Theologians and Canon Jurists have followed.

VERISSIMA tamen sententia est, omne mendacium, sive facto, sive verbo, adeo malum esse, ut nunquam liceat; et nunquam sit dispensabile, vel a Deo ipso. Ita SS. DD. quos secuti sunt omnes Theologi, et Iuristae Canonici.

4 I ASSERT with this opinion that it is never lawful by any right whatsoever to lie.

ASSERO cum hac sententia, nullo unquam iure licere mentiri.

5 IT IS PROVED first from the Holy Doctor against the arguments, from the consensus of the Scriptures, where every lie is excluded, *Lev. 19: You shall not lie, nor shall anyone deceive his neighbor. Sap. 1: The mouth that lieth, killeth the soul.* See the Holy Doctor there in his commentary. *Eccl. 7: Be not willing to lie, Ephes. 4: Putting away lying, Coloss. 3: Lie not.* Where, since a lie is prohibited by a negative precept, it binds always, and it is forbidden.

PROBATUR primo a S. Doctore ad argumenta ex scripturarum consensu, ubi omne mendacium excluditur, Levit. 19. Non mentiemini, nec decipiet unusquisque proximum suum. sap. 1 Os, quod mentitur, occidit animam. *Vide S. Doctorem ibi in commentario.* Eccl. 7. Noli velle mentiri, Ephes. 4. Deponentes mendacium Coloss. 3. Nolite mentiri. *Ubi, cum negativo praecepto prohibeatur mendacium, obligat pro semper, et est vetitum.*

6 THE SAME opinion seems defined by Innocent III, cap. *super eo, de usuris,* where it is said, *By the precept of the divine word it is forbidden that anyone lie, even to save the life of another,* as Vasquez also notes, *prim. 2. d. 182. cap. 4. n. 30.* Tanner, *d. 6, question 2, d. 1.* Fagundez, *in 8. praecept. c. 5. n. 3.* where he refers to this also Aristotle, 4. *Eth.*

EADEM sententia definita videtur ab Innocentio III. cap. super eo, de usuris *ubi dicitur,* Divini verbi praecepto prohiberi, ne quis, etiam pro alterius vita servanda, mentiatur, *ut notant etiam Vasquez* prim. 2. d. 182. cap. 4. n. 30. *Tanner.* d. 6. quaest. 2. d. 1. *Fagund.* in 8. praecept. c. 5. n. 3. *ubi refert ad id etiam Aristot. 4.* Eth.

7 IT IS PROVED second from the Holy Doctor, *Phar. lib. 3. c. 3. §. De mendacio,* and the Holy Fathers.

PROBATUR secundo a S. Doctore Phar. lib. 3. c. 3. §. De mendacio, *et Sanctis Patribus.*

8 From Augustine in the *Enchiridion, cap. 22. and against lying, cap. 1, 2. and de vera Relig. cap. 33. and lib. 1. de Doctrina Christiana, cap. 36.*

Ex Augustino in Enchir. cap. 22. et contra mendacium cap. 1. 2. et de vera Relig. cap. 33. et lib. 1. de Doctrina Christiana, cap. 36.

9 HE ALSO ADDUCES St. Gregory, *l. 11. moral. cap. 13. and lib. 26. cap. 3.* Isidore, *in the Synonyms, lib. 11. and de bono, lib. 3. cap. 59.* The same is the mind of St. Basil, *reg. 76. from the briefer ones.*

AFFERT etiam D. Gregorium l. 11. moral. cap. 13. et lib. 26. cap. 3. *Isidor.* in synonimis, lib. 11. et de bono, lib. 3. cap. 59. *Idem sentit D. Basil.* reg. 76. ex brevioribus.

10 IT IS PROVED also by illustrious reasons taken from St. Bonaventure out of the Holy Fathers.

PROBATUR etiam praeclaris rationibus a D. Bonavent. sumptis e Sanctis Patribus.

11 THE FIRST reason is. That which is intrinsically evil cannot be rectified; such is a lie: Therefore. The minor is proved. That which in its formal element includes malice is altogether intrinsically evil; but a lie is such according to St. Augustine above; for it has its falsity in the perverse intention of deceiving, or of not speaking the truth, but the false; without which it would not be a lie: Therefore, this evil will standing, which gives form to the lie, there can be no dispensation.

PRIMA ratio est. Id, quod intrinsece est malum, non potest rectificari; tale est mendacium: Ergo. Minor probatur. Id, quod in suo formali includit malitiam, est omnino intrinsece malum; sed mendacium est tale ex D. Augustino supra; habet enim suam falsitatem in prava intentione fallendi, seu non dicendi veritatem, sed falsum; sine qua non esset mendacium: Ergo stante hac mala voluntate, quae dat mendacio formam, non potest esse dispensatio.

12 THE SECOND reason is taken from St. Augustine, *in the places lately first cited, especially in the Enchiridion.* That which destroys nature is intrinsically perverse; such is a lie: Therefore. The major is certain, because the first and principal law is the law of nature, which is always right in itself, since it is from God, nor can it be perverse, as nature. The minor is proved, because words are signs instituted by nature for human communication and society, and while we abuse the signs instituted to express the mind, we destroy society; for no one would wish to contract with others by whom he knows he is deceived. But this is to destroy the nature of man, which is a sociable animal.

SECUNDA ratio sumitur ex D. Augustino locis nuper primo allegatis, praecipue in Enchir. *Id, quod destruit naturam intrinsece, est intrinsece pravum, tale est mendacium: Ergo. Maior est certa, quia prima, et princeps lex est naturae, quae semper est recta in se, cum sit a Deo, nec potest esse prava, ut natura est. Minor probatur, quia verba sunt signa a natura instituta ad humanam communicationem, et societatem, et dum abutimur signis institutis ad exprimendam mentem, destruimus societatem; nullus enim volet cum aliis contractare, a quibus decipi novit. Hoc autem est naturam hominis destruere, quae est animal sociabile.*

13 THE THIRD reason is taken from St. Augustine, *lately cited from the De Doctrina Christiana.* To violate faith is intrinsically evil; but a liar violates the faith, and the tacit pact between himself and the hearer, which is that, because he speaks the truth, he is to be believed.

TERTIA ratio sumitur ex D. Augustino nuper allato de Doctrina Christiana. *Fidem violare, intrinsece malum est; at mendax fidem violat, et tacitam pactionem inter se, et audientem, quae est, ut, quia verum dicit, sibi credendum sit.*

14 THE FIRST reason is CONFIRMED, *in the body,* because the essence of a lie, since it stands formally in the perverse intention, can never be rectified, and thus, although it may not be mortal in its genus, it nevertheless has a malice more inseparable than theft and homicide, which were dispensed in the Israelites for carrying off the treasures of the Egyptians, for killing the Chanaanites, and are dispensed even now in Judges for putting the guilty to death; in those unjustly invaded, for defense, and in the wretched suffering famine at the last extremity. From this you have the solution to the argument which is urged, that if these are dispensed, a lie also can be dispensed, which is a lesser sin.

CONFIRMATUR ratio prima, in corpore*, quia essentia mendacii, cum stet formaliter in prava intentione, non potest unquam rectificari, et ita, licet in genere mortale non sit, tamen habet malitiam magis inseparabilem, quam furtum; et homicidium, quae fuere dispensata in Israëlitis ad auferendos thesauros AEgyptiorum, ad necandos Chananaeos, et dispensantur etiam modo in Iudicibus ad occidendos reos; in invasis iniuste ad defensionem, et in miseris fame laborantibus ad extremum. Ex quo habes solutionem ad argumentum, quod urgetur, si dispensantur haec, dispensari posse etiam mendacium, quod est minus peccatum.*

15 YOU OBJECT first, *Genesis* 22. Abraham told his servants that he would return with his son, when nevertheless he intended to kill him on the mountain and sacrifice him to God.

OBIICIES primo, Genes. 22. *Abraham dixit servis se cum filio reversurum, cum tamen intenderet eum in monte occidere, et immolare Deo.*

16 THE HOLY DOCTOR ANSWERS that Abraham, even if he intended to sacrifice his son, nevertheless believed that his son was to be raised by God; for he firmly held that God stands by his promise: *In Isaac shall thy seed be called to thee,* as we have in *Heb. 11.*

RESPONDET S. Doctor, Abraham, etsi intenderet filium immolare, attamen credidisse filium a Deo suscitandum, firmiter enim tenebat, Deum stare suae promissioni: In Isaac vocabitur tibi semen*, ut habetur* Heb. 11.

17 YOU OBJECT second, *Genesis 26.* Isaac called Rebecca his sister; whereas she was his wife, not his sister.

OBIICIES secundo, Genes. 26. *Isaac dicebat Rebeccam sororem suam; cum esset uxor, non soror.*

18 THE HOLY DOCTOR ANSWERS that Rebecca was his cousin-sister, and therefore he spoke the truth, although he concealed that she was his wife.

RSSPONDET S. Doctor, Rebeccam fuisse sororem consobrinam, et ideo verum dixit, etsi tacuerit esse uxorem.

19 YOU OBJECT third. Joseph said, *Genesis 42 and 44,* that his brothers were spies, knowing this to be false. Likewise he said that he was skilled in auguries, when nevertheless it was not true.

OBIICIES tertio. Ioseph dixit Genes. 42. et 44. *Fratres suos exploratores esse, sciens id esse falsum. Similiter dixit, se peritum in auguriis, cum tamen non esset verum.*

20 THE HOLY DOCTOR ANSWERS that he spoke those words not by affirming, but by testing. Whence they are rather to be understood interrogatively than assertively. But when he said that he was skilled in the science of auguring, he takes augury for the prediction of things to come. Then too he said it while expressing the hunger of the people.

RESPONDET S. Doctor, cum verba illa dixisse non affirmando, sed tentando. Unde potius intelligenda sunt interrogative, quam assertive. Quando autem dixit, se peritum in augurandi scientia, sumit augurium pro futurorum praedictione. Deinde id dixit exprimens famem populi.

21 YOU OBJECT fourth, Jacob, *Genesis 27.* feigned himself Esau, and to his blind father asserted that he was Esau his firstborn, and this with the intention of deceiving his father.

OBIICIES quarto, Iacob Genes. 27. *finxit se Esau, et patri caecutienti asseruit, se esse Esau primogenitum eius, et haec, intentione decipiendi patrem.*

22 THE HOLY DOCTOR ANSWERS, *dub. 4. litt. d. 38.* that Jacob did not lie; for he feigned himself Esau with respect to the mystery, as St. Ambrose teaches, *de Iacob et Esau,* and St. Augustine, *against lying, cap. 10.*

RESPONDET S. Doctor dub. 4. litt. d. 38. *Iacob non esse mentitum; nam finxit se Esau ad mysterium, ut docent D. Ambrosius* de Iacob et Esau*, et D. Augustinus* contra mendacium, cap. 10.

23 But that he said he was Esau the firstborn, he spoke the truth in the sense intended by God, because such he was with regard to the right of primogeniture from the revelation made by God to his mother. Nor did he wish to deceive, but to express the truth.

QUOD vero dixerit, se esse Esau primogenitum, verum dixit in sensu a Deo intento, quia talis erat quoad ius primogeniturae ex Dei revelatione facta matri. Neque volebat decipere, sed verum exprimere.

24 YOU OBJECT fifth. In Scripture many things are said, according to the intention of the letter, that are false, as *Judges 9: The trees went, to create a king for themselves,* and many false things are proposed there by the disputants; but Scripture is to us the rule of morals: Therefore a lie is not intrinsically a sin.

OBIICIES quinto. In scriptura multa dicuntur, secundum intentionem litterae, falsa, ut Iudicum 9. Ierunt ligna, ut crearent Regem*, et multa a disputantibus ibi proponuntur falsa; at scriptura est nobis regula morum: Ergo mendacium non est intrinsece peccatum.*

25 THE HOLY DOCTOR ANSWERS that the things which are expressed transumptively by figures and tropes are to be understood tropically; as is that apologue of the Council of the trees for creating a King, and thus they are true in that sense.

RESPONDET S. Doctor, ea quae transumptive figuris, et tropis exprimuntur, esse intelligenda tropice; ut est Apologus ille Concilii arborum ad Regem creandum, et ita eo sensu vera sunt.

26 HENCE St. Augustine, *against lying, cap. 5 and 10,* says that whatever is said or done figuratively is not a lie; otherwise all Metaphors and figures would be banished. But in disputes it is not a lie to propose false things in order to lead out or examine the truth. For in disputes the propositions are more interrogations and dubitations than assertions, unless perhaps in doctrinal disputes, in which the learner must believe, where only true things are proposed or preached, according to Aristotle, *primo Elenchorum, c. 2.*

> *HINC D. Augustinus* contra mendacium cap. 5. et 10. *ait, Quidquid figurate dicitur, vel fit, non esse mendacium, alioqui exulent omnes Metaphorae, atque figurae. In disputationibus vero non est mendacium proponere falsa ad verum deducendum, vel discutiendum. In disputationibus enim propositiones magis sunt interrogationes, et dubiae, quam assertiones, nisi forte in doctrinalibus disputationibus, in quibus oportet discentem credere, ubi sola vera proponuntur, aut praedicantur, ex Aristotele.* primo Elenchorum, c. 2.

27 YOU OBJECT sixth, the simulations, which are lies; for even actions done to deceive are lies, because they are falsified signs. Thus Joshua, *cap. 8.* deceived the citizens of Hai. David deceived King Achish, feigning himself mad, *1. Reg. 27.* Jehu simulated himself a worshipper of Baal, in order to deceive the worshippers of Baal, *4. Reg. 10.* And these did not sin, nay, they are commended. Thus also Christ, *at the end of Luke,* feigned to go farther.

> *OBIICIES sexto simulationes, quae sunt mendacia, nam etiam actiones factae ad decipiendum, mendacia sunt, quia sunt signa falsificata. Sic autem Iosue* cap 8. *decepit cives Hai. Dauid decepit Regem Achis, fingens se stultum* 1. Reg. 27. *Iehu simulavit se cultorem Baal, ut deciperet Aciolos* 4. Reg. 10. *Hi vero non peccarunt, imo commendantur. Sic et Christus,* Lucae ultimo, *finxit longius ire.*

28 THE HOLY DOCTOR ANSWERS that the caution of Jehu in deceiving is praised; but not the lie itself uttered by him, as I said in the *Tract. de fide, disp. 1. quaest. 16.*

> *RESPONDET S. Doctor, Iehu cautelam laudari in decipiendo; non vero ipsum mendacium prolatum ab eo, ut dixi* Tract. de fide, disp. 1. quaest. 16.

29 But DAVID acted cautiously and rightly, in order to escape death; for he did not say he was mad, for actions are not principally instituted to signify the internal concept, as words are instituted. Thus also Joshua prudently feigned flight, that he might reduce the citizens of Hai to straits and take them out of the midst, for he was fighting at God's command: But Christ feigned to go farther for the sake of doctrine, that he might teach hospitality. These simulations indeed are not evil; but the simulation of hypocrisy and duplicity, which by a sign show themselves to be good, are lies.

> *DAVID autem caute, et recte egit, ut mortem effugeret; non enim dixit se esse stultum, actiones enim non sunt principaliter institutae ad significandum internum conceptum, sicuti institutae sunt verba. Sic et prudenter Iosue finxit fugere, ut cives Hai ad angustias redigeret, et de medio tolleret, nam Deo praecipiente pugnabat: Christus vero ad doctrinam finxit longius ire, ut hospitalitatem doceret. Hae sane simulationes non sunt malae; at simulatio hypocrisis, et duplicitatis, quae in signo ostendunt bonos esse, sunt mendacia.*

30 YOU OBJECT seventh. Theft and homicide are a greater sin than a lie: But in these a dispensation is granted, as is clear in the Judges, who put the guilty to death, and in the Hebrew people, dispensed in order to kill the Chanaanites and to carry off the treasures of the Egyptians: Therefore.

> *OBIICIES septimo. Maius peccatum est furtum, et homicidium, quam mendacium: Sed in his dispensatur, ut constat in Iudicibus, reos occidentibus, et in populo Hebraeo ad occidendos Chananeos, et ad auferendos AEgyptiorum thesauros dispensato: Ergo.*

31 THE HOLY DOCTOR ANSWERS that these graver things were done with an evil will and an evil end; but because they can be separated from the evil end, therefore they can be well done: not so, however, in a lie, because it intrinsically denotes an evil deceiving will.

> *RESPONDET S. Doctor, graviora haec esse facta mala voluntate, et malo fine; at quia possunt a malo fine separari, ideo possunt benefieri: non sic autem in mendacio, quia intrinsece dicit malam voluntatem deceptricem.*

32 YOU OBJECT eighth. A dispensation can be granted in the precepts of the second table, as St. Bernard says, *de praecepto, et dispensatione*: But a lie is against the second table: Therefore.

> *OBIICIES octavo. In praeceptis secundae tabulae potest dispensari, ut ait D. Bernardus* de praecepto, et dispensatione*: At mendacium est contra secundam tabulam: Ergo.*

33 THE HOLY DOCTOR ANSWERS that a dispensation cannot be granted in the disordination of the will, which is intrinsic to a lie, even though it could be granted in the acts, the disordination of the will removed, and the matter changed.

> *RESPONDET S. Doctor, non posse dispensari in deordinatione voluntatis, quae intrinseca est mendacio, esto dispensari queat in actibus, remota inordinatione voluntatis, et mutata materia.*

34 YOU OBJECT ninth. It can be that someone lie in order to preserve the chastity of another, as that soldier who, that he might deliver that holy Virgin from violation, exchanged clothes with her and taught her to flee from prison. Therefore it can be done out of Charity, which does not act perversely.

> *OBIICIES nono. Potest esse, ut aliquis mentiatur ad castitatem alterius servandam, sicuti miles ille, qui, ut S. Virginem illam a stupro liberaret, mutavit cum ea vestes, eamque aufugere a carceribus docuit. Igitur potest id ex Charitate fieri, quae non agit perperam.*

35 *The Holy Doctor answers* that Charity does not move to that which is evil, as it is the will of deceiving by words; whence Bernard says of dispensation, *For a laudable work truth is required in the election, and Charity in the intention,* and because truth is not preserved in the utterance of a lie, hence a lie cannot be said to be done out of Charity. For as out of Charity evil cannot be knowingly chosen so that it remain evil; so neither can the false be chosen. For as the operative power serves the affective; so the interpretative power serves the intellective, and as the end of the affective is the good; so the end of the intellective is the true. Therefore as no work can be done out of Charity unless one intend the good, and that work be ordainable to the good; so also no speech can be uttered out of Charity unless in the utterance of that speech the true be intended. And because a lie is ordered to the false by the intention of the one uttering it, therefore it cannot be done out of Charity.

> Respondet *S. Doctor, Charitatem non movere ad id, quod malum est, ut est voluntas decipiendi verbis, unde ait Bernardus de dispens.* Ad opus laudabile requiritur veritas in electione, et Charitas in intentione*, et quia veritas non servatur in prolatione mendacii, hinc mendacium ex Charitate non potest dici. Sicut enim ex Charitate non potest scienter eligi malum, ut maneat malum; ita nec eligi falsum. Sicut enim vis operativa deseruit affectivae; sic vis interpretativa deseruit intellectivae, et sicuti finis affectivae est bonum; ita finis intellectivae est verum. Sicuti ergo nullum opus potest ex Charitate fieri, nisi quis intendat bonum, et illud opus sit ordinabile ad bonum, sic etiam nullus sermo potest ex Charitate proferri, nisi in illius sermonis prolatione intendatur verum. Et quia mendacium est ordinatum ad falsum ex intentione proferentis, ideo nequit ex Charitate fieri.*

36 But that *soldier* only exchanged clothes as a precaution, nor is it a lie, because clothes are not principally ordained to signify the concept of the mind.

> Miles *autem ille solum mutavit vestes ad cautionem, neque est mendacium, quia vestes non sunt principaliter ordinatae ad conceptum mentis signandum.*

Doubt IV: Whether a lie is mortal of its kind

1 I assert that a lie, by its genus, is not mortal. So the unanimous consensus of the Theologians.

> *Assero, mendacium ex genere suo non esse mortale. Ita unanimis consensus Theologorum.*

2 *It is proved* first from St. Bonaventure from the Gloss; second from St. Gregory, book 18 of the *Morals*, chapter 2, where, speaking of the lie of the Egyptian midwives, he says: *We easily believe this kind of sin to be relaxed.*

> Probatur *primo a D. Bonavent. ex Glossa secundo ex D. Gregorio lib. 18. moral. cap. 2. ubi loquens de mendacio obstetricum AEgyptiarum, ait:* Hoc peccati genus de facili credimus relaxari.

3 *Third*, because there is no intrinsic lust, or contempt, involved in it.

> Tertio, *quia ibi non intervenit intrinsece libido, vel contemptus.*

4 *Fourth*, because *I knew not sin, but by the law*, as the Apostle says; yet no law condemns under mortal sin the jesting lie, by which a falsehood is told in the telling of a fable.

> Quarto, *quia* non novi peccatum, nisi per legem, *ut ait Apostolus; at nulla lex sub mortali damnat mendacium iocosum, quo falsum dicitur fabulando.*

5 *Fifth*, because the tongue is far too unsteady, and it seems far too severe to condemn to hell every defect of the tongue, with the removal of which man is perfect, as is said in *James* 3.

> Quinto, *quia lingua labilis est nimis, et videtur nimis severum omnem defectum linguae gehennae damnare, quo remoto perfectus est vir, ut dicitur* Iacobi *3.*

6 St. Bonaventure *adds* that it can become mortal by reason of the harm it inflicts on someone through lying, or by reason of contempt, or by reason of a lust ready for every lie, even one pernicious to one's neighbor, etc.

> Addit *S. Bonavent. fieri mortale ratione damni, quod infert alicui quis mentiendo, vel ratione contemptus, vel ratione libidinis promptae ad omne mendacium etiam perniciosum proximo, etc.*

7 He *objects* first from Psalm 5: *Thou wilt destroy all that speak a lie*, where the Gloss says: *To destroy is more than to hate*. But God hates no one except one sinning mortally: Therefore.

> Obiicies *primo Psal. 5.* Perdes omnes, qui loquuntur mendacium, *ubi Glossa:* Plus est perdere, quam odisse. *At Deus neminem odit, nisi mortaliter delinquentem: Ergo.*

8 St. Bonaventure *answers* that the Gloss is speaking of all who tell pernicious lies. Hence the universal particle is referred to persons lying perniciously, not to lies. Therefore the argument is fallacious in consequence, according to the figure of speech.

> Respondet *S. Bonavent. loqui Glossam de omnibus loquentibus mendacia perniciosa. Unde particula universalis fertur super personas mentientes perniciose, non super mendacia. Ideo argumentum est fallax in consequentia, secundum figuram dictionis.*

9 He *objects* second from *Wisdom* 1, where it is said: *The mouth that lieth killeth the soul.* Treating this passage, St. Augustine, in the book on the conflict of virtues and vices, says: *Neither by an officious lie, nor by a simple word, ought anyone to be deceived, because in whatever way one lies, he kills his soul.*

> Obiicies *secundo* Sap. *1. dicitur:* Os, quod mentitur, occidit animam. *Quem locum tractans D. Augustinus lib. de conflictu virtutum, et vitiorum, ait:* Nec officioso mendacio, nec simplici verbo oportet quemquam decipere, quia quomodolibet mentiatur quis, occidit animam.

10 St. Bonaventure *answers* that the discourse there is about a pernicious lie: And if you say that it is expounded by St. Augustine of every lie, chapter 5 of *On Lying*, the holy Doctor answers that he is speaking of every lie pernicious in matters of religion, as is gathered from what immediately follows.

> Respondet *S. Bonavent. ibi sermonem esse de mendacio perniciosio: Et si dicas de omni mendacio exponi a D. Augustino de mendacio, cap. 5. Respondet S. Doctor, loqui de omni mendacio pernicioso in materia religionis, ut ex ipso mox colligitur.*

11 He *objects* third the Gloss of Augustine on the same Psalm 5: *Thou wilt destroy all that speak a lie*, where he says: *If anyone does not wish to betray a man to death, let him keep silent about the truth, but let him not utter a falsehood, lest, for the body of another, he kill his own soul.* If, therefore, the soul is killed by an officious lie, which is the least of all, much more by the others.

> Obiicies *tertio Glossam Augustini ad id Psal. 5.* Perdes omnes, qui loquuntur mendacium*, ait:* Si quis non vult hominem ad mortem prodere, verum taceat, sed non falsum dicat, ne, pro corpore alterius, animam suam occidat. *Si igitur anima occiditur per mendacium officiosum, quod est omnium minimum, multo magis per alia.*

12 The holy Doctor *answers* first, that that saying tends only to the perfect, who lose perfection gradually even through venial sins. He answers second, that it speaks of abstaining from lies advisedly, because they dispose to mortal sins, which are the death of the soul.

> Respondet *S. Doctor primo, verbum illud solum ad perfectos tendere, qui perfectionem pedetentim etiam venialibus amittunt. Respondet secundo, loqui consultive abstinendum a mendaciis, quia disponunt ad mortalia, quae sunt animae mors.*

13 He *objects* fourth. That which is a peremptory act against truth is mortal: Such is a lie, which is repugnant to truth as fornication is to chastity.

> Obiicies *quarto. Quod est peremptorium veritatis, est mortale: Tale est mendacium, quod repugnat veritati, sicut fornicatio castitati.*

14 The holy Doctor *answers* that not every lie is contrary to the habit of truth, which is rather a will to speak the truth as expedient than the actual utterance of every truth; and although every lie is repugnant to the act of speaking the truth, it is not therefore repugnant to the habit of truth, which shrinks from the pernicious lie; nor is it the same with fornication, which is opposed to a gravely preceptual virtue and mortally defiles it.

> Respondet *S. Doctor, non omne mendacium esse contrarium habitui veritatis, qui potius est voluntas dicendi verum, ut expedit, quam prolatio actualis cuiusque veri; etsi autem omne mendacium repugnet actui dicendi verum, non tamen repugnat habitui veritatis, refugientis mendacium perniciosum; nec est simile de fornicatione, quae opponitur virtuti praeceptae graviter, eamque mortaliter conspurcat.*

15 He *objects* fifth. Whoever acts against conscience builds hell for himself; such is a liar: Therefore.

Obiicies *quinto. Omnis, qui agit contra conscientiam, aedificat sibi gehennam; talis est mendax: Ergo.*

16 The holy Doctor *answers* that the major is true of one acting against a conscience dictating that the thing is grave.

Respondet *S. Doctor, maiorem veram esse de agente contra conscientiam, dictantem, illud esse grave.*

17 He *objects* sixth. Where there is full consensus, there the thing is lethal; such is the case in lying: Therefore.

Obiicies *sexto. Ubi est plenus consensus, ibi est lethale; talis est in mendacio: Ergo.*

18 The holy Doctor *answers* that the major is true where the object is gravely depraved, or in acts simply forbidden, as in the sin of the flesh. From these words I gather that the holy Doctor does not admit parvity of matter in the sin of the flesh, which today is the common opinion, as at Diana, part 5, tract. 5, resol. 5, where it is related that Clement VIII defined it, and Claudius Aquaviva ordered his Society to teach the same. Diana relates the authors at part 3, tract. 5, resol. 1, where he concludes that the opposite opinion is dangerous. He defines the same especially about kisses, part 4, tract. 4, *miscell.* resol. 136, and tract. 5, resol. 4, where he concludes that a soliciting confessor, even in a light touch, is to be denounced. So Alexander VII defines concerning kisses. But the general rule for knowing when parvity of matter is granted is taken from St. Bonaventure here against the arguments, which Baldellus uses, Tom. 1, lib. 3, disp. 14, num. 13, Diana, part 5, tract. 5, resol. 1. For acts are specified by their objects according to book 2 *of the Soul, text. 33*; if, therefore, from the very reason of the object in the first order per se there arises a notable opposition to virtue, and the gravity of malice, there cannot be in that object parvity of matter and lightness of fault. But if the notable opposition and gravity of fault arise from the reason of the object in the second order per se, and not from the reason per se first, it will be granted entirely. So, because theft is forbidden by reason of the thing, as another's; therefore unless the damage to another is grave, the fault will not be grave; on the contrary, because infidelity is forbidden as denying the Divine truth, therefore every infidelity is grave. See also Sanchez, *sum.*, tract. 1, lib. 1, cap. 4; Suarez, *de leg.*, lib. 2, cap. 18, num. 68. But Castropalao holds that from the common consensus of the Church the gravity of things is to be determined. And this consensus is indeed founded on the natures of things: for some things are so ordered that they are reckoned most grave, such as any idolatry, Simony, Infidelity, Despair, any perjury, hatred of God and any contempt of him, any mockery of the Sacraments, any pollution, fornication, etc.; these constitute a grave judgment, and do not vary in any matter; on the contrary, however, the holy Doctor infers against the arguments, because a lie in jesting and pernicious matter gravely varies in judgment, therefore it can be light and grave.

Respondet *S. Doctor, maiorem esse veram, ubi obiectum est graviter pravum, seu in actibus simpliciter vetitis, ut in peccato carnis. Ex quibus verbis colligo, S. Doctorem non admittere levitatem materiae in peccato carnis, quae hodie est sententia communis apud Dianam part. 5. tract. 5. resol. 5. ubi refertur Clem. VIII. id definisse, et Claudius Aquaviva praecepit suae Societati, ut idem doceant. Authores refert Diana part. 3. Tract. 5. resol. 1. ubi concludit, oppositam sententiam esse periculosam. Idem definit praecipue de osculis part. 4. Tract. 4. miscell. resol. 136. et Tract. 5. resol. 4. ubi concludit sollicitantem confessarium, etiam in tactu levi, esse denunciandum. Sic definit de osculis Alexand. VII. Regulam autem generalem ad cognoscendum, quandonam datur parvitas materiae, sumitur ex D. Bonavent. hic ad argumenta, qua utuntur Baldellus Tom. 1. lib. 3. disp. 14. num. 13. Diana 5. part. Tract. 5. resol. 1. actus enim specificantur per obiecta ex lib.* 2. de anima, text. 33. *si igitur ex ratione ipsa obiecti per se primo oriatur notabilis*

oppositio virtuti, et malitiae gravitas, non poterit in illo obiecto dari parvitas materiae, et levitas culpae. Si vero oppositio notabilis, et gravitas culpae oriatur ex ratione obiecti per se secunda, non autem ex ratione per se prima, omnino dabitur. Ita quia furtum vetitum est ratione rei, ut alienae; ideo nisi alienum damnum grave sit, non erit gravis culpa; e contra, quia infidelitas vetita est, ut negatur veritas Divina. Ideo omnis infidelitas est gravis. Vide etiam Sanchez sum. tract. 1. lib. 1. cap. 4. Suarez de leg. lib. 2. cap. 18. num. 68. At Castrus Palaus existimat e communi consensu Ecclesiae eruendam gravitatem rerum. Fundatur vero consensus hic in naturis rerum : aliqua enim ita ordinata sunt , ut reputentur gravissima, sic quaelibet idolatria, Simonia, Infidelitas, Desperatio, quodlibet periurium, odium Dei, et quilibet contemptus eius, quaevis irritatio Sacramentorum, quaecunque pollutio, fornicatio, etc. graviter iudicium constituunt, nec variant in quavis materia; e contra vero infert S. Doctor ad argumenta, quia mendacium in materia iocosa, et perniciosa graviter variat iudicium, ideo potest esse leve, et grave.

19 Let us grant at last that a lie gravely pernicious is lethal, because it is opposed to Charity; So St. Bonaventure here, and St. Thomas, *question 110, article 4*.

Fateamur tandem, mendacium, graviter perniciosum, esse lethale, quia opponitur Charitati; Sic D. Bonavent. hic, D. Thom. quaest. 110. art. 4.

Doubt V: Whether every lie is mortal for perfect men

1 St. Bonaventure reviews three opinions on this matter, which see in him, *in the place cited*.

An omne Mendacium viris perfectis sit mortale.

Tres opiniones hac de re S. Bonaventura recenset, quas vide in eo, loco citato.

2 He indeed asserts that a lie can be mortal by reason of the public person, who in this sense is said, and ought to be, perfect, insofar as it be a scandal and a contempt of truth; whence those persons are no longer believed, to the grave harm of the Republic; yet it is not mortal by the genus, or nature, of the act. He proves the first from St. Augustine in the *Gloss on Psalm 5* and *On Lying, chapters 6 and 18*.

Asserit vero, mendacium posse esse mortale ratione personae publicae, quae hoc sensu dicitur, et esse debet, perfecta, quatenus scandalo sit, et veritatis contemptui; unde non amplius eis personis creditur in damnum grave Reipublicae; non tamen est ex genere, seu natura actus mortale. Primum probat ex D. Augustino in Glossa ad Psalm. 5. *et* de mendacio, cap. 6. et 18.

3 The reason is, because a grave harm is inflicted if no one is believed, and faith perish from the earth. St. Thomas holds the same, *ad 5*. The second part consists of what was said in *dub. 3*.

Ratio est, quia grave damnum infertur, si nulli credatur, et fides in terra pereat. Idem sentit D. Thom. ad 5. *Secunda pars constat ex dictis* dub. 3.

4 He *objects* first. The circumstance of person does not aggravate sin infinitely; but mortal sin infinitely exceeds venial: Therefore.

Obiicies primo. Circumstantia personae non gravat peccatum in infinitum; at mortale in infinitum excedit venialia: Ergo.

5 The holy Doctor *answers* that the circumstance of person does not aggravate per se in this way, but indeed where grave harm and scandal intervene.

Respondet *S. Doctor, circumstantiam personae per se non ita gravare, sed bene ubi intervenit grave damnum, et scandalum.*

6 He *objects* second. Either not to lie is a precept, or a counsel; If the latter: Therefore it is not mortal for anyone. If a precept: Therefore every lie is mortal for everyone.

> *Obiicies secundo. Vel non mentiri, est praeceptum, vel consilium; Si hoc: Ergo non est mortale cuicunque. Si praeceptum: Ergo omne mendacium, cuique est mortale.*

7 The holy Doctor *answers* that some lies are simply forbidden, while others are not simply prohibited, but restrained.

> Respondet *S. Doctor, quaedam mendacia esse simpliciter vetita, quaedam vero non esse prohibita simpliciter, sed cohibita.*

8 He *objects* third. Lying is either simply repugnant to Charity, or to perfect Charity. If the first: Therefore every lie is mortal. If the second: Therefore the perfect man does not fall from Charity through a lie.

> *Obiicies tertio. Mentiri vel repugnat Charitati simpliciter, vel perfectae. Si primum: Ergo omne mendaaium est mortale. Si secundum: Ergo vir perfectus non cadit per mendacium a Charitate.*

9 The holy Doctor *answers* that it is repugnant to perfection as such; but to Charity simply, as it is gravely pernicious by scandal.

> Respondet *S. Doctor, repugnare perfectioni, ut sic; at Charitati simpliciter, ut est graviter perniciosum in scandalum.*

10 He *objects* fourth. The perfect man does not sin lethally in other sins venial by genus, as in an idle word, a first motion of anger, or of the flesh: Therefore.

> *Obiicies quarto. Vir perfectus, in aliis ex genere venialibus non peccat lethaliter; ut in verbo otioso, primo motu irae, vel carnis: Ergo.*

11 The holy Doctor *answers* by denying the parity, because from those no scandal arises, etc. He concludes, however, that the proposition of St. Augustine, that a lie is venial to others but mortal to the perfect, can be universally sustained in this manner: that to the perfect it is more a disposition to mortal sin than in others, through the mark of an ungrateful soul, repaying so many Divine gifts.

> Respondet *S. Doctor, negando paritatem, quia ex illis non oritur scandalum, etc. Concludit vero, propositionem D. Augustini, quod mendacium aliis veniale sit, perfectis vero mortale, posse universaliter hoc pacto sustineri, ut perfectis sit dispositivum ad mortale magis, quam in caeteris ex ingrati animi nota, tot Divinis Charismatibus repensa.*

Doubt VI: Whether among the degrees of lying there is a gravest and a lightest

1 The holy Doctor asserts, with St. Augustine (*On Lying*, chapter 21), that the degrees of lies follow the order of things, so that there is a greatest and a least, because, as the Philosopher says (*3 Topics*, cap. 4), if the maximum in one genus exceeds the maximum in another genus, this genus simply exceeds that one. Hence, for one genus to exceed another, it is not necessary that each member of that genus exceed each member of the other genus, but that the highest in that genus be greater than all absolutely of the other genus. Since, therefore, among all lies that is the greatest in which one intends to harm another in the way of truth and salvation, because it inflicts on him an uncompensatable spiritual harm with respect to the greatest goods; hence a lie in the doctrine of religion is the greatest among the others. On the contrary, because one cannot be moved to lie by a more urgent cause than to preserve a spiritual good, or one attached to the spiritual: hence that lie is

the lightest which is committed to preserve chastity, or a similar thing, and thus one ascends and descends by degrees, so that the closer it approaches the first, the graver it is; and the closer to the least, the less it is; and the holy Doctor proves this also in the *Pharetra*, lib. 3, cap. 3, *De mendacio*, from St. Gregory, lib. 8 of the *Morals*, cap. 4.

> ***An in gradibus Mendacii detur gravissimum, et levissimum.***
>
> *Asserit S. Doctor cum D. Augustino* de mendacio, cap. 21. *gradus mendaciorum sequi ordinem, ut detur magnum, et minimum, quia ut ait Philosophus* 3. Top. cap. 4. *si maximum in uno genere excedit maximum in alio genere, simpliciter hoc genus excedit illud. Unde ad hoc, quod aliquod genus excedat alterum, non est necesse, ut singula illius generis excedant singula alterius generis, sed quod summum in eo genere, sit maius omnibus absolute alterius generis. Quoniam ergo inter omnia mendacia illud est maximum, in quo intendit quis alteri nocere in via veritatis, et salutis, quia infert ei damnum spirituale incompensabile quoad maxima bona; hinc mendacium in doctrina religionis est inter caetera maximum. E contra, quia non potest quis urgentiori causa ad mentiendum moveri, quam pro servando bono spirituali, vel adnexo spirituali: hinc est, ut mendacium illud levissimum sit, quod pro servanda castitate, vel re simili patratur, et sic gradatim ascenditur, et descenditur, ut quanto accedit ad primum, tanto sit gravius; et quanto ad minimum accedit, tanto sit minus, et hoc probat S. Doctor etiam in* Pharetra, lib. 3. cap. 3. De mendacio, *ex D. Gregorio* lib. 8. moralium, cap. 4.

2 He *objects* first against these degrees. Let one say that Christ did not ride upon the ass out of a certain jesting wit; he sins in the first genus of lie. Let another, by a lie, impose a false crime on his neighbor, so that he be killed; he sins in an inferior genus of lie, and yet this is graver: Therefore the degrees of lies are badly ordered.

> *Obiicit primo contra hos gradus. Sit unus dicens, Christum non ascendisse super asellum ex quadam urbanitate, hic peccat primo genere mendacii. Sit alter mendacio imponens proximo falsum crimen, unde interficiatur, peccat inferiori genere mendacii, et tamen hoc gravius est: Ergo male ordinantur gradus mendaciorum.*

3 The holy Doctor *answers* that the most grave lie is that which asserts a falsehood out of malice for the subversion of religion; but such is not he who says for that reason that Christ did not ride upon the ass.

> Respondet *S. Doctor, mendacium gravissimum esse, quod non solum falsum asserit ex malitia in subversionem religionis; talis autem non est, qui ideo dicit, Christum non ascendisse super asellum.*

4 He *objects* second. He who tells a lie sowing schisms sins more gravely than he who sows false doctrines in religion; and yet the latter sins in the first genus of lie.

> *Obiicit secundo. Qui dicit mendacium, schismata seminans, gravius peccat, quam qui seminat doctrinas falsas in religione; et tamen hic peccat primo genere mendacii.*

5 The holy Doctor *answers* that the former is graver; for if the falsity of doctrine induces schisms and other evils.

> Respondet *S. Doctor, hoc esse gravius; si nam falsitas doctrinae inducit schismata, et alia mala.*

6 He *objects* third. One can lie in the first genus out of infirmity, and in the second genus out of malice; then this latter will sin gravely, because he sins against the Holy Spirit.

> *Obiicit tertio. Potest quis primo genere mentiri ex infirmitate, et secundo genere ex malitia, tunc graviter peccabit iste, quia hic peccat in Spiritum Sanctum.*

7 The holy Doctor *answers* that he who lies against the truth of religion is not supposed to err out of infirmity.

> Respondet *S. Doctor, eum, qui mentitur contra veritatem religionis, non supponi ex infirmitate errare.*

8 He *objects* fourth, that the supreme genus of lie is against faith; but the inferior one, pernicious to one's neighbor, is against Charity, which is the greater virtue.

> *Obiicit quarto, Supremum genus mendacii est contra fidem; at inferius perniciosum proximo, est contra Charitatem, quae est virtus maior.*

9 The holy Doctor *answers* first, that it does not follow from the fact that Charity is a greater good than faith, that every lack of Charity is a greater evil, for there can be a very small privation of Charity and a maximal privation of faith. The holy Doctor adds that a lie against the truth of religion harms not only faith, but also good works and Charity: e.g. if you say that fornication is not to be avoided, that parents are not to be honored; for in matters of religion not only what is to be believed is taught, but also what is to be done according to each virtue.

> Respondet *S. Doctor primo, non sequi ex eo, quod maius bonum sit Charitas, quam fides, omnem carentiam Charitatis esse maius mulum, quia potest esse privatio tantilla Charitatis, et maxima fidei privatio. Addit S. Doctor, mendacium contra veritatem religionis non solum fidem laedere, sed etiam opera bona, et Charitatem: v. g. si dicas, fornicationem non vitandam, parentes non honorandos; in materia enim religionis non docetur tantum quid credendum, sed etiam quid secundum singulas virtutes operandum.*

10 He *objects* fifth against the lowest lie, which is officious for saving chastity, for this has more the character of a lie, since it is serious: Therefore it is graver than the jocose one.

> Obiicit *quinto contra infimum mendacium, quod officiosum est ad salvandam castitatem, nam hoc habet magis rationem mendacii, cum sit serium: Ergo gravius est iocoso.*

11 He *answers* by denying that this officious lie is graver than the jocose one, because in neither does one intend to deceive another; yet in each he intends to utter a falsehood, that he may delight in one case and profit in the other; but less disordered is the intention that wishes to profit than that which wishes to delight, and this is done even in earnest things for the sake of delighting.

> Respondet, *negando, gravius esse officiosum hoc, quam iocosum, quia in neutro intendit quis decipere alium; intendit tamen dicere falsum in altero, ut delectet in altero, et ut prosit; minus autem inordinata est intentio, quae vult prodesse, quam quae vult delectari, et hoc etiam serio fit ad delectandum.*

12 He *objects* sixth, that he who succors in greater necessity sins less by lying: but he who succors in danger of life succors in greater necessity than he who does in danger of chastity, because this cannot be wrested away against one's will, as that can.

> Obiicit *sexto, succurrens in maiori necessitate, minus peccat mentiendo: at qui succurrit in discrimine vitae, succurrit in maiori necessitate, quam qui in periculo castitatis, quia haec non potest invito eripi, sicut illa.*

13 The holy Doctor *answers* that the greater necessity is then for preserving chastity, because this is a spiritual good, and a greater good, which, although it cannot formally be taken away against one's will, is nevertheless taken away as regards bodily purity, joined with the danger of consent and of spiritual ruin. Therefore, although natural piety inclines more to saving life, gratuitous piety inclines more to saving the life of grace.

Respondet *S. Doctor, maiorem esse necessitatem ad servandam tunc castitatem, quia hoc est bonum spirituale, et maius bonum, quod licet non possit invito formaliter auferri, tamen aufertur quoad puritatem corporalem, adnexam cum periculo consensus, et ruinae spiritualis. Ideo, licet pietas naturalis magis inclinet ad salvandam vitam; tamen pietas gratuita magis inclinat ad salvandam vitam gratiae.*

14 He *objects* seventh; he who takes away life takes away the space for penance, not so he who takes away chastity: Therefore the former is the greater evil, and therefore it will be a lesser sin to lie for such a salvation.

Obiicit *septimo; qui aufert vitam, aufert spatium poenitentiae, non sic qui aufert castitatem: Ergo illud est maius malum, atque ideo minus peccatum erit mentiri pro tali salute.*

15 The holy Doctor *answers*; one deprived of life also lacks the space for sinning, and it is not known whether he would have spent his life in sins.

Respondet *S. Doctor; privatum vita, carere etiam spatio peccandi, et nescitur, an esset vitam in peccatis insumpturus.*

16 At the end the holy Doctor *asks* whether, in danger of chastity, one ought to choose to be corrupted, or rather to lie.

Quaerit *in calce S. Doctor, utrum eligere quis debeat in discrimine castitatis, an corrumpi, an vero mentiri.*

17 The holy Doctor *answers* that if one can know probably that he will not consent in his will, he ought to suffer corruption rather than lie, because corruption is doubled into a crown, as Blessed Lucy used to say; but if he be imperfect, and fears lest he succumb, then the lesser evil, that of lying, can be chosen to avoid it, and this also to redeem another's.

Respondet *S. Doctor, si probabiliter scire potest, se non assensurum voluntate, debere pati corruptionem potius, quam mentiri, quia corruptio duplicabitur ad coronam, ut B. Lucia dicebat; sed si imperfectus sit, et timet ne succumbat, tunc minus malum eligi potest mendacii ad declinandum, et hoc etiam ad alienam redimendam.*

18 He *asks* also: whether it is lawful to lie, so that we may bring another back to the way of salvation.

Quaerit *etiam: an liceat mentiri, ut in viam salutis alium reducamus.*

19 He *answers*, negatively, because evil must not be done that good may come, nor does God need our lie to save others; for man is not directed by a lie, but by the inspiration of the Holy Spirit, who is the Spirit of Truth, without whom we preach in vain.

Respondet, *negative, quia non sunt facienda mala, ut eveniant bona, neque Deus nostro eget mendacio, ut alios salvet; neque enim mendacio dirigitur homo, sed Spiritus sancti inspiratio-ne, qui est Spiritus Veritatis, sine quo frustra praedicamus.*

Doubt VII: On the other things that are reduced to lying

1 To lying are reduced simulation, Hypocrisy, Boasting, and Irony. Simulation is defined by St. Bonaventure, lib. 3 of the *Pharetra, cap. 25*, from the holy Fathers: *It is a showing, in deed alien from the things that truly are.*

De aliis, quae ad Mendacium reducuntur.

Ad mendacium reducuntur simulatio, Hypocrisis, Iactantia, et Ironia. Simulatio definitur a S. Bonavent. lib. 3. Pharetrae, cap. 25. *ex sanctis Patribus:* Est ostensio, aliena in facto ab his, quae vere sunt.

2 *Hypocrisy*, however, is defined by the holy Doctor there, and in the *Centil., sect. 18*: *It is the will simulating itself fallaciously under the species of sanctity in the open, and acting vilely in secret*. Therefore hypocrisy is simulation in a certain matter, namely virtue. See St. Bonaventure, *in the cited place of the Pharetra*, discoursing most excellently with the Fathers.

> Hypocrisis *vero definitur a S. Doctore ibi, et p. p.* Centil. sect. 18. Est voluntas per speciem sanctitatis, se simulans fallaciter in aperto, et viliter agens in occulto. *Itaque hypocrisis est simulatio in certa materia, nempe virtutis. Vide S. Bonavent.* loco cit. Pharetrae*, praeclare cum Patribus disserentem.*

3 *Irony* is defined by St. Bonaventure in the *Mirror of the Soul, cap. 1*: *It is a detestation of another by way of the contrary*; but this is reduced to pride.

> Ironia *definitur a D. Bonavent. in* speculo animae, cap. 1. Est alterius detestatio per contrarium*, sed haec ad superbiam reducitur.*

4 *Boasting*, however, is said of that by which one enumerates his own goods, that he may appear praiseworthy, as St. Bonaventure says, *in the cited place of the Centil. and lib. 3 of the Compend. of Theological Truth, cap. 15*. Wherefore it is reduced rather to pride, although when it exalts itself above what is, it has a certain injustice.

> Iactantia *vero dicitur, qua quis enumerat bona sua, ut laudabilis appareat, ut ait S. Bonavent.* loco cit. Centil. et lib. 3. Compend. Theol. verit. cap. 15. *Quare ad superbiam potius reducitur, tametsi, quando effert super id, quod est, iniustitiam quandam habeat.*

5 These vices are opposed to truth, and have the character of a lie, and accordingly can be both mortal and venial.

> *Haec vitia opponuntur veritati, et habent rationem mendacii, atque adeo possunt esse et mortalia, et venialia.*

6 From the end, however, as St. Bonaventure says (*question above on man*), and with him Tannerus (*disp. 6, quaest. 2, dub. 1, num. 18*), it is gathered when they are grave; for if the end be gravely contrary to Charity, or justice, etc., they will be mortal; if, for example, someone feign sanctity in order to deceive in faith, or chastity, or to steal. But if the end is not opposed to Charity, etc., they will be venial, for instance the mere pleasure in the fiction, of which Aristotle speaks, *4 Ethics, cap. 7*.

> *Ex fine autem, ut ait S. Bonavent.* quaest. superius viri*, et cum eo Tannerus* disp. 6. quaest. 2. dub. 1. num. 18. *colligitur quando sint gravia; si enim finis sit graviter contrarius Charitati, aut iustitiae, etc. Erunt mortalia; si aliquis exempli causa fingat sanctitatem, ut decipiat in fide, vel castitate, vel furetur. Si vero finis non opponatur Charitati, etc. erunt venialia, puta sola libidine in fictione, de quibus Aristoteles* 4. Eth. cap. 7.

7 For to deceive someone precisely is not grave, unless either a bad end, or a grave harm, follows.

> *Decipere enim aliquem praecise non est grave, nisi aut finis malus, aut damnum sequatur grave.*

8 So also Boasting from the root of pride is mortal, if it be born of mortal pride, for instance gravely exalting oneself, as is said of the King of Tyre, *Ezech. 28: Thy heart was lifted up, and thou saidst: I am God.* Or if, in boasting himself, he bursts into the insults of others, like that Pharisee, *Luke 18: I am not as the rest of men, rapacious, etc., even as this one.*

> *Sic etiam Iactantia ex radice superbiae est mortalis, si ex mortali superbia nascatur, puta efferendi se graviter, sicuti dicitur de Rege Tyri* Ezech. 28. Elevatum est cor tuum, et dixisti: Deus ego sum. *Vel si iactando se, erumpit in*

aliorum contumelias, veluti Pharisaeus ille, Lucae 18. Non sum, sicuti caeteri homines, raptores, etc. velut etiam hic.

9 *Irony*, by which one preaches lesser things of himself against the truth, is a lie, yet lighter than Boasting, as St. Thomas teaches, *quaest. 113, art. 1 and 2*, after Aristotle, lib. 4 of the *Ethics, cap. 7*.

Ironia, *qua quis de se ipso contra veritatem minora praedicat, est mendacium, leuius tamen quam Iactantia, ut docet D. Thom.* quaest. 113. art. 1. et 2. *post Aristotelem* lib. 4. Eth. cap. 7.

10 The *reason* is, because Boasting arises, for the most part, from a baser motive, namely from the appetite of gain, or honor; but Irony from the fact that one shuns, though inordinately, being burdensome to others by self-exaltation; yet if one humbles himself in order to deceive deceitfully, it can be grave, of which *Eccl. 19: There is one that humbleth himself wickedly, and his interior is full of deceit.*

Ratio *est, quia Iactantia oritur, ut plurimum, e turpiori motiuo, scilicet ex appetitu lucri, vel honoris; Ironia vero ex eo, quod refugit, licet inordinate, aliis per elationem gravis esse; si tamen ad dolose decipiendum se humiliet, potest esse gravis, de quo* Eccl 19. Est qui nequiter se humiliat, et interiora eius plena sunt dolo.

11 *Boasting and irony can also* concur in the same act, if one casts himself down with false humility, that he may be esteemed, as Christ says, *Matth. 6: For they disfigure their faces, that they may appear unto men to fast*, as the holy Doctor observes in the *Diaeta, tit. 2, cap. 6*, where he assails them, saying that these feed a double adversary.

Potest etiam *in eodem actu concurrere iactantia, et ironia, si quis falsa humilitate se deiiciat, ut aestimetur, ut ait Christus,* Matth. 6. Exterminant enim facies suas, ut appareant hominibus ieiunantes*, ut observat S. Doctor in Diaeta* tit. 2. cap. 6. *ubi eos carpit dicens, hos pascere duplicem adversarium.*

12 *It is also usually doubted* concerning figurative words. It is answered that these are free of lying, as St. Augustine teaches, *On Lying, cap. 2, and lib. against Lying, cap. 10*. For they have truth in their own genus, according to the institutions of the Rhetoricians.

Dubitari *solet etiam de verbis figuratis. Respondetur, haec carere mendacio, ut docet D. Augustinus* de mendacio, cap. 2. et lib. cont. mendacium, cap. 10. *Habent enim in suo genere veritatem, iuxta Rhetorum instituta.*

13 *Likewise* amphibological enunciations are without the note of a lie, if the speaker does not intend to deceive, as Tannerus notes, *disput. 6, quaest. 2, number 25*.

Itidem *enunciationes amphibologicae sunt absque nota mendacii, si loquens fallere non intendat, ut notat Tannerus* disput. 6. quaest. 2. numero 25.

14 *It is also doubted* concerning mixed speeches, namely those which have their sense partly in the voice, partly in the mind, as when to one asking 100 florins you say: I will give them to you; but understanding, if I owe them.

Dubitatur *etiam de orationibus mixtis, quae scilicet habent partim in voce, partim in mente sensum, ut dum petenti 100. florenos dicis: dabo eos tibi; sed intelligens, si debeo.*

15 The *first opinion* is that these are lies. So Sotus, lib. 8 *de Iust., quaest. 1, art. 7*; Cajetan, *quaest. 89, art. 7*; Azor, tract. 1, lib. 11, cap. 4, question 5; Aragon there, and others. The reason is, because that speech, taken as a whole as uttered, is false.

Prima opinio *est, haec esse mendacia. Ita Sotus* lib. 8. de Iust. quaest. 1. art. 7. *Caietanus* quaest. 89. art. 7. *Azor tract. 1. lib. 11. cap. 4. quaestio 5. Aragon ibi, et alii. Ratio est, quia oratio illa ex toto prolata, est falsa.*

16 The OPPOSITE others teach; whom Valencia follows, disput. 5, quaest. 15, point 2, and disput. 6, quaest. 7, point 4; Toletus, lib. 4, cap. 21, and lib. 5, cap. 58.

OPPOSITUM docent alii; quos sequuntur Valentia disput. 5. quaest. 15. puncto 2. et disput. 6. quaest. 7. puncto 4. Toletus lib. 4. cap. 21. et lib. 5. cap. 58.

17 The TRUE opinion, therefore, admits equivocations in this sense, when we are illicitly asked to say something, as Tanner notes, num. 31. For thus Christ, Mark 13, according to the truer sense of the Fathers, says: *But of that day or hour no man knoweth, neither the Angels in heaven, neither the Son*, namely that he reveals it to others, or knows not, that is, makes not to know; or knows not so as to reveal, as St. Bonaventure teaches, in 4, dist. 48, quaest. 4, and with him Tanner, num. 31. So the holy Doctor expounds it with Chrysostom, homil. 47, on John 7: *Go you up to this festival day, but I go not up*, understanding, not now with you; for afterwards he went up. Similar is that of John 11: *Lazarus sleepeth*, when he was dead, and that of Luke 8: *The girl is not dead, but sleepeth*, as the holy Doctor observes in his commentaries, and with him Tannerus in the place cited.

VERA igitur sententia hoc sensu admittit aequivoca, cum illicite rogamur ad aliquid dicendum, ut notat Tanner. num. 31. Sic enim Christus Marc. 13. iuxta veriorem Patrum sensum ait: De die autem illo, vel hora, nemo scit, neque Angeli in caelo, neque Filius*, nempe ut aliis revelet, vel nescit, hoc est nescire facit; vel nescit ad revelandum, ut docet D. Bonavent. in 4. dist. 48. quaest. 4. et cum eo Tanner. num. 31. Sic explicat S. Doctor cum Chrysostomo homil. 47. ad Ioannis 7.* Vos ascendite ad diem festum hunc, ego autem non ascendam*, intelligens nunc vobiscum; nam postea ascendit. Simile est id Ioan. 11.* Lazarus dormit*, cum esset mortuus, et id Lucae 8.* Non est mortua puella, sed dormit*, ut observat S. Doctor in commentariis, et cum eo Tannerus loco cit.*

18 We HAVE also the example of the holy Father Francis, at Navarrus, cap. Humanae aures, Tanner, num. 32; for being asked whether a certain man had passed that way, the holy Father, holding his hand in his sleeve, said: *He did not pass this way*. And although Sotus, on concealing a secret, memb. 3, quaest. 3, says that St. Francis was deceived in that opinion, yet he is to be esteemed of more worth than Sotus, as Tanner warns, num. 32.

HABEMUS etiam exemplum S. P. Francisci apud Navar. cap. Humanae aures, Tanner. num. 32. nam quaesitus, an quidam illuc transiisset, tenens S. Pater manum in manica ait: Huc non transiit. *et quamvis Soto de secreto tegendo, memb. 3. quaest. 3. dicat, S. Franciscum fuisse deceptum in ea opinione, tamen pluris est aestimandus, quam Sotus, ut monet Tanner. num. 32.*

19 So also Samuel, 1 Kings 16, said: *I am come to sacrifice to the Lord*, when he had come to anoint David king. Which equivocations St. Gregory praises there, for warding off the violence of the tyrant.

Sic et Samuel primo Reg. 16. dixit: Ad immolandum Domino veni*, cum venisset ad regem ungendum Davidem. Quae aequivoca laudat D. Gregorius ibi ad Tyranni vim declinandam.*

20 EXCLUDING, however, a grave cause, it is not lawful to use equivocations; for by the remaining truth we are bound, otherwise all human society would be done away, as St. Thomas argues, quaest. 114, art. 2, ad 1, and St. Bonaventure, lib. 3 of the Pharetra, cap. 3, § De mendacio. Therefore the holy Fathers there alleged assail it gravely. So St. Isidore in the *Synonyma*, cap. 11: *Beware of a lie in all things, for by a lie faith is taken away*; and St. Augustine in the *Enchiridion*, cap. 22: *Assuredly words were*

instituted not that men might deceive one another by them; but that each one might by them convey his thoughts into another's knowledge; and lib. 1 *of Christian Doctrine*, cap. 36: *No one lying keeps faith in that wherein he lies. For this he assuredly wishes, that he to whom he lies should believe him, which faith he nevertheless does not keep by lying to him.* Tanner, in the *Mirror of the Soul*, cap. 2. St. Bonaventure condemns suspect and equivocal locutions in contracts. On these, with an oath added, I treated in disp. on Oaths, quaest. 10.

> *SECLUSA tamen gravi causa, non licet aequivocis uti; sic enim tenemur reliqua veritate, alioqui omnis societas humana tolleretur, ut arguit S. Thom. quaest. 114. art. 2. ad 1. et D. Bonavent. lib. 3. Pharetrae, cap. 3. §. De mendacio. Ideo SS. Patres, ibi allegati, graviter carpunt. Sic D. Isidorus in Synon. cap. 11.* Cave mendacium in omnibus, mendacio enim fides tollitur, *et D. Augustinus in Enchir. cap. 22.* Utique verba propterea sunt instituta, non per quae invicem se homines fallant; sed per quae in alterius quisque notitiam cogitationes suas perferat, *et lib. primo de doctrina Christi, cap. 36.* Nemo mentiens, in eo quod mentitur, servat fidem. Nam hoc vult utique, ut cui mentitur, sibi fidem adhibeat, quam tamen ei mentiendo non servat. *Tanner in speculo animae, cap. 2. S. Bonavent. suspectas, et aequivocas locutiones in contractibus vituperat. De his, addito iuramento, egi disp. de Iuram. quaest. 10.*

Question III: On friendship

1 FRIENDSHIP, which is also called affability, is a special virtue, by which one is rightly ordered toward other men in ordinary social intercourse, so that in deeds as well as in words one conducts oneself toward each person as is fitting. Thus St. Thomas, article 1. Hence St. Bonaventure, 3rd part, Centil. sect. 44, defines it thus: *It is a good will toward someone, for the sake of the one who is loved, with a like intention on the part of the one who loves.* The same is found in the opusc. Declaratorio terminorum Theol. St. Doctor includes it in Grace, lib. 5, Compend. Theol. cap. 37, namely because by it human fellowship is preserved and becomes pleasant.

> ***De Amicitia.***
>
> *AMICITIA, quae et affabilitas dicitur, est virtus specialis, qua quis erga caeteros homines secundum communem conversationem recte ordinatur, ita ut tam in factis, quam in dictis ad unumquemque se habeat, ut decet. Ita D. Thom. art. 1. Ideo S. Bonavent. 3. part. Centil. sect. 44. eam sic definit:* Est voluntas bona erga aliquem, causa illius, qui diligitur, cum eius pari intentione, a quo diligitur. *Idem habet in opusc. Declaratorio terminorum Theol. Eam in Gratia includit S. Doctor lib. 5. Compend. Theol. cap. 37. nempe quia per eam conservatur humana conversatio, et grata evadit.*

2 NOTE here that we are not speaking of perfect friendship, which rests on Charity. Of that I have treated in the Tract. de Charitate: nor of another kind, based on the motive of perfect natural goodness, which consists in a special love and communication toward another; but of a certain imperfect friendship, by which one behaves agreeably and decently toward others in ordinary association and living together, lest anything harsh, peevish, inhuman, or rude be shown in words or manners; which is why St. Bonaventure calls it *Grace*, and St. Thomas *Affability*.

> *ADVERTE hic, non esse, sermonem de amicitia perfecta, quae Charitate nititur. De hac enim egi Tract. de Charitate: Neque de alia, nixa motivo naturalis bonitatis perfectae, quae consistit in speciali amore, et communicatione erga alterum; sed de quadam imperfecta, qua in ordinatio convictu se gerit erga alios iocunde, et decenter convivendo, ne quid verbis, vel moribus asperum, morosum, inhumanum, vel agreste exhibeatur, quam proinde S. Bonavent.* Gratiam, *et S. Thom.* Affabilitatem, *vocant.*

[3] Now friendship is a potential part of justice, as D. Bonav. teaches in the places cited, and D. Thomas, quaest. 114, art. 2. For it is directed to another, but falls short of the perfect reason of a debt.

> *EST autem amicitia pars potentialis iustitiae, ut docet D. Bonav. locis allatis, et D. Thom. quaest. 114. art. 2. Est enim ad alterum, sed deficit a debiti perfecta ratione.*

[4] There are two contrary vices of Friendship, namely Flattery and Quarrelsomeness. The former exceeds in giving pleasure; the latter holds back, and makes social intercourse bitter.

> *DUO sunt vitia Amicitiae contraria, nempe, Adulatio, et Litigium. Illa excedens in delectando: hoc vero consistat, atque conversationem amaram reddit.*

[5] St. Doctor defines FLATTERY, p. p. Centil. sect. 13: *It is speech of praise offered about another, with the intention of pleasing; it is twofold: one kind attributes a good not possessed; another kind extols a good possessed; another nourishes evil by praising evil. Hence Psalm 9: The sinner is praised in the desires of his soul.* There is also a kind by which one wishes to please others, though not for God's sake, yet with true praise, of which Galatians 1: *If I yet pleased men — that is, wished to please them — not for God's sake, I should not be the servant of Christ.* The same is taught in the little work Declaratorio terminorum Theologiae.

> *ADULATIONEM definit S. Doctor p. p. Centil. sect. 13.* Est sermo laudis alieni exhibitus, intentione placendi; est autem duplex, altera, quae bonum non habitum attribuit: quaedam, quae habitum extollit; quaedam, quae malum nutrit, laudando malum. Unde dicitur Psalm. 9. Laudatur peccator in desideriis animae suae. *Quaedam, qua vult aliis placere, non tamen propter Deum, laude tamen vera, de qua Galat. 1.* Si adhuc hominibus placerem, idest, placere vellem, non propter Deum, Christi servus non essem. *Idem docet opusculo declaratorio terminorum Theologiae.*

[6] QUARRELSOMENESS, indeed, makes social intercourse harsh; therefore St. Francis in his rule, cap. 3, rejects it as an enemy of peace and friendship, as St. Doctor observes there.

> *LITIGIUM vero asperam reddit conversationem, ideo eam tanquam pacis, et amicitiae hostem repellit S. Franciscus in regula, cap. 3. ut observat ibi S. Doctor.*

[7] Either of these vices can be mortal. Flattery, indeed, by praising another's sin — of these Isaiah 5: *Woe to you who call evil good, and good evil.* Second, by reason of intention, as if one flatters someone in order to harm him. Third, by reason of effect, when the flatterer's praise is an occasion of sinning for the other, as D. Bonavent. teaches in speculo animae, cap. 1. Many examples of flattery from the Scriptures are brought forward by St. Doctor in the Bibliis pauperum, cap. 69. There Chore and his accomplices are condemned mortally, flattering the people so as to stir them up against Moses, saying: *It is enough for you that the whole multitude are holy*, Numbers 16. So Absalom, who flattered in order to lead David's subjects into an unjust war, 2 Reg. 15. See other things there.

> *POTEST utrumque hoc vitium esse mortale. Adulatio quidem laudando alterius peccatum, de his Isa. 5.* Vae qui dicitis malum bonum, et bonum malum. *Secundo, ratione intentionis, ut si quis alicui aduletur, ut noceat. Tertio ratione effectus, cum laus adulatoris est alteri occasio peccandi, ut docet D. Bonavent. in speculo animae, cap. 1. multa adulationum exempla affert S. Doctor e scripturis in Bibliis pauperum, cap. 69. Ibi mortaliter damnantur Chore, et eius Complices, adulantes populo, ut eum concitarent in Moysem, dicentes:* sufficiat vobis, quod omnis multitudo sanctorum est, *Numer. 16. Sic Absalom, qui adulabatur, ut ad bellum iniquum induceret subditos Davidis 2. Reg. 15. Vide alia ibi.*

8 You have many things from the Holy Fathers on Flattery in D. Bonavent. lib. 3, Pharetrae, cap. 3, §. De adulatione.

> *MULTA a SS. Patribus de Adulatione habes in D. Bonavent. lib. 3. Pharetrae, cap. 3. §. De adulatione.*

9 But if you flatter out of mere complacency in praising, or even to avoid some evil, it is not mortal. Thus D. Bonavent. in speculo animae, cited place, and D. Thom. quaest. 115, art. 2.

> *QUOD si ex mera complacentia in laudando, vel etiam ad evitandum aliquod malum aduleris, non est mortale. Ita D. Bonavent. in speculo animae, loco cit. et D. Thom. quaest. 115. art. 2.*

Question IV: On liberality

1 LIBERALITY is a special virtue, by which one conducts oneself rightly regarding gifts and expenses, and therefore regarding the use of Money and of other things that are measured by money. Thus D. Thom. art. 1, 2, and 3, from Aristotle 4 Eth. cap. 1. It is defined by D. Bonavent. 3. part. Centil. sect. 44: *It is the virtue dispensing benefits, which is called benignity as regards the affection, but beneficence as regards the effect.* The same is found in the *Declaratorio terminorum Theologiae*, from which definition you have that it consists in the ordination of the passion, or affection, regarding money, lest it impede one from those things that ought fittingly to be expended. So also D. Thom. art. 3, ad 3.

> *LIBERALITAS est virtus specialis, qua recte quis se habet circa dationes, et sumptus, adeoque circa usum Pecuniae, rerumque aliarum, quae pecunia mensurantur. Ita D. Thom. art. 1. 2. et 3. ex Aristotele 4. Eth. cap. 1. Definitur a D. Bonavent. 3. part. Centil. sect. 44.* Est virtus beneficiorum erogatrix, quae pro affectu benignitas, pro effectu vero beneficentia vocatur. *Idem habet in* Declaratorio terminorum Theologiae*, ex qua definitione habes, eam consistere in ordinatione passionis, seu affectionis circa pecuniam, ne impediat ab his, quae convenienter sunt expendenda. Ita etiam D. Thom. art. 3. ad 3.*

2 It is placed among the potential parts of justice for the reasons often given. Thus S. Bonavent. in the places adduced, and D. Thom. quaest. 117, art. 5 and 6. It approaches justice, because it is directed to another; it declines from justice, because it gives what is one's own, not what is another's; Justice, indeed, gives what is another's.

> *PONITUR pars potentialis iustitiae ob rationes saepius latas. Ita S. Bonavent. locis adductis, et D. Thom. quaest. 117. art. 5. et 6. Accedit ad iustitiam, quia est ad alterum; declinat, quia dat quod suum est, non id, quod est alterius; Iustitia vero dat, quod est alterius.*

Doubt I: On avarice

1 TWO are the vices opposed to Liberality, namely, Avarice, and Prodigality.

> *DVo sunt vitia Liberalitati opposita, scilicet, Avaritia, et Prodigalitas.*

2 AVARICE consists in an immoderate appetite for having, even if it injures no one. Thus St. Doctor defines it in the Diaeta, tit. 1. cap. 6: *Avarice is an immoderate love of money to be sought, or retained.* There he sets forth splendid similitudes of avarice and reviews its harms.

> *AVARITIA consistit in immoderato appetitu habendi, etiamsi nulli iniuriam inferat. Sic igitur eam definit S. Doctor in Diaeta, tit. 1. cap. 6.* Avaritia est immoderatus amor pecuniae requirendae, vel retinendae. *Ubi praeclaras avaritiae similitudines exprimit, et damna recenset.*

3 He there enumerates the twelve daughters of Avarice, and these are they. Usury, Rapine, Robbery, Unjust Tallies, The fraud of traders, The deception of Advocates, The acceptance of gifts, Simony in the promotion of relatives, The sins of Anchorets, that is, of those who are promoted by favor and the power of Princes, The fraud of merchants, Avarice for knowledge, The iniquity of Gamblers. This is roughly what he has in the places cited, and they are rather material species, as also those referred to in 4 Eth. cap. 1.

> *FILIAS duodecim Avaritiae ibi recenset, et hae sunt. Usura, Rapina, Latrocinium, Talliae iniustae, Fraus negotiatorum, Deceptio Advocatorum, Acceptio munerum, Simonia promotione consanguineorum, Peccata Anachoritarum, idest eorum, qui promoventur favore, et potentia Principium, Fraus mercatorum, Avaritia scientiae, Iniquitas Lusorum. Haec fere habet locis citandis, et sunt potius species materiales, sicuti et quae referuntur 4. Eth. cap. 1.*

4 In Compend. Theolog. verit. lib. 3. cap. 19. he defines Avarice thus from D. Bernardo, epist. 42: *Avarice is an insatiable and dishonorable desire for things of any kind.* Or from Tullio: *It is an immoderate love of having.*

> *IN Compend. Theolog. verit. lib. 3. cap. 19. Sic definit Avaritiam ex D. Bernardo, epist. 42.* Avaritia est quarumlibet rerum insatiabilis, et inhonesta cupido. *Vel ex Tullio:* Est immoderatus amor habendi.

5 That this is a grave sin he proves from the Apostle Ephes. 5, where it is called: *the service of idols*, because it renders to money what is owed to God; for it hopes in money, places in it its ultimate end, and loves it supremely. Hence Eccles. 10 says: *Nothing is more wicked than the avaricious man*; but avarice does not have this precisely in itself, but because it — covetousness — is the root of all vices, on account of which many have erred from the faith; for all crimes are wrought through avarice: thefts, perjuries, homicides, debaucheries, adulteries. Second, because it is against the law of nature, Luke 6: *Whatever you wish that men do to you, etc.* Third, because it is against the written Law, Luke 6: *Be merciful, etc.* Fourth, because it is against the law of universal communication; for the avaricious man holds goods captive so that they may not be shared.

> *GRAVE hoc esse peccatum probat ex Apostolo Ephes. 5. ut dicitur:* Idolorum servitus*, quia exhibet pecuniae id, quod debetur Deo, in eam enim sperat, in ea ultimum finem ponit, summeque amat. Ideo Eccles. 10. dicitur:* Avaro nil scelestius*, hoc autem non in se praecise habet avaritia, sed quia est radix omnium vitiorum cupiditas, ob quam multi erraverunt a fide; omnia enim scelera per avaritiam patrantur, furta, periuria, homicidia, stupra, adulteria. Secundo quia est contra legem naturae, Lucae 6.* Quaecunque vultis, ut faciant vobis homines, etc. *Tertio quia est contra Legem scriptam, Lucae 6.* Estote misericordes, etc. *Quarto, quia est contra legem universalis communicationis; avarus enim captivas res detinet, ne se communicent.*

6 He asks, indeed: whether it is lawful to heap up treasures. And he answers that it is not lawful with the affect of avarice, without one's own or another's necessity; but it is lawful from consideration of necessity; thus it is lawful for parents, for raising children and endowing daughters, but not for enriching them; and this with the manner or state of the person preserved.

> *QUAERIT vero: an liceat thesauros congerere. Et respondet, non licere affectu avaritiae absque necessitate sua, vel aliena: Licere autem ex consideratione necessitatis; sic licet patentibus ad filios educandos, filiasque dotandas, non autem ditandas; sed servato modo, vel statu personae.*

7 It is lawful also for Princes and Kings to heap up treasure for the preservation of the Kingdom. But Ecclesiastical persons, he says, may not, because the Church has money not to keep it, but to spend

it, as St. Ambrose says, lib. 2. offic. cap. 28. He there enumerates the seven daughters of Avarice. See him.

> *LICET etiam ad conservandum Regnum, Principibus, et Regibus thesaurizare. Personis vero Ecclesiasticis ait non licere, quia pecuniam habet Ecclesia, non ut servet, sed ut eroget, ut ait S. Ambrosius lib. 2. offic. cap. 28. Septem filias Avaritiae recenset ibi. Eum vide.*

8 In p. p. Centil. sect. 22. he hands down many definitions of avarice, and besides those enumerated above he brings another from D. Augustino, lib. 14. de civit. cap. 15: *Avarice is the lust of having money*; he soon brings the reason why it is called: *the service of idols, Eph. 5*: because the worshiper of God is compared to him in three ways, by honoring, by hoping, by loving; and the avaricious man renders these to money.

> *IN p. p. Centil. sect. 22. multas tradit definitiones avaritiae, et praeter supra enumeratas, aliam affert e D. Augustino, lib. 14. de civit. cap. 15.* Avaritia est libido habendi pecuniam*, mox adducit rationem, ob quam dicitur:* Idolorum servitus, Eph. 5. *quia cultor Dei tripliciter ad eum comparatur, honorando, sperando, amando; haec autem avarus pecuniae exhibet.*

9 But St. Doctor observes that Avarice is opposed to liberality, and to Charity, and insofar as it is against liberality, it is an immoderate appetite for money, and thus it is not a mortal sin, if it stops there, so that it does not prefer its love to the Divine love or the love of neighbor, so that one is not willing to do anything against what is owed to God or neighbor. So also D. Thom. q. 118. art. 4, and commonly, as Tanner says, num. 45.

> *OBSERVAT autem S. Doctor, Avaritiam opponi liberalitati, et Charitati, et quatenus est contra liberalitatem, est appetitus immoderatus pecuniae, et sic non est peccatum mortale, si in hoc sistat, ut non praeferat eius amorem amori Divino, vel proximi, ut non velit aliquid agere contra debitum Deo, vel proximo. Ita etiam D. Thom. q. 118. art. 4. et communiter, ut ait Tanner. num. 45.*

10 But as it is opposed to Charity, it is mortal; for he loves money, preferring it to the commandments of God, to almsgiving, to restitution, etc.; he does not shun frauds, betrayals, perjuries, violences, mercilessness, and the like.

> *UT autem opponitur Charitati, est mortale; amat enim pecunias, eas praeferendo praeceptis Dei, eleemosynae, restitutioni, etc. non refugit fraudes, proditiones, periuria, violentias, immisericordiam, et similia.*

11 He treats all these things more exactly in *speculo animae, cap. 2.*

> *EXACTIUS haec omnia tradit in* speculo animae, cap. 2.

12 But he notes there that this is the concupiscence of the eyes, of which John speaks in epist. 1. He says that three branches arise from this stock: namely, the Inordinate appetite for having, Inordinate acquisition, and inordinate possession. From inordinate love arise inordinate desire of having, inordinate love of what one has, and inordinate grief over what is lost. From inordinate desire of having arise solicitude in the mind, and injustice in deed. This solicitude can be mortal, if on account of it the commandments are omitted, for instance of sanctifying the Feast, or hearing Mass.

> *ADVERTIT autem ibi, hanc esse concupiscentiam oculorum, de qua Ioannes epist. 1. Tres autem ramos ex hoc stipite oriri ait; Inordinatum scilicet appetitum habendi, Inordinatam acquisitionem, et inordinatam possessionem. Ex inordinato amore oriuntur inordinatum desiderium habendi, inordinatus habentis amor, et inordinatus amissi dolor. Ex*

inordinato desiderio habendi oriuntur sollicitudo in mente, et iniustitia in opere. Haec sollicitudo potest esse mortalis, si ob eam omittantur praecepta, puta sanctificandi Festum, vel audiendi Sacrum.

13 Injustice in deed is either open or hidden, and the latter is called fraud: the open is divided into Theft, Rapine, Usury, An unjust sentence, Unjust advocacy, Unjust tolls, Extortions, the acceptance of gifts, the use of forbidden games.

INIUSTITIA in opere vel est aperta, vel occulta, quae fraus dicitur: Aperta vero diramatur in Furtum, Rapinam, Usuram, Iniquam sententiam, Advocationem iniustam, Vectigalia iniqua, Extorsiones, acceptionem munerum, Ludorum vetitorum usum.

14 Hidden injustice contains frauds in contracts, not only about temporal things, but also spiritual ones, as about benefices, judgments, sentences, counsels, etc.

OCCULTA vero iniustitia continet fraudes in contractibus, non solum circa temporalia, sed etiam spiritualia, ut circa beneficia, iudicia, sententias, consilia, etc.

15 Inordinate love of having causes Mercilessness toward the poor, delay of restitution, non-recompense, illiberality, etc. All these have been discussed in the preceding Tractates.

INORDINATUS amor habendi causat Immisericordiam in pauperes, dilationem restitutionis, irrecompensationem, illiberalitatem, etc. Haec omnia in Tractatibus praecedentibus discussa sunt.

16 In Compend. Theol. verit. lib. 3. cap. 26. he gives rules for knowing when avarice is mortal or venial. He presupposes, however, the definition of avarice from Cicero above: *It is an immoderate love of having*.

IN Compend. Theol. verit. lib. 3. cap. 26. dat regulas cognoscendi, quando nam avaritia sit mortalis, aut venialis. Supponit autem definitionem avaritiae e Cicerone supra: Est immoderatus amor habendi.

17 This desire consists either in appetizing, or in acquiring, or in retaining. As to desire in acquiring, he assigns five modes.

Haec autem cupiditas consistit, vel in appetendo, vel in acquirendo, vel in retinendo. Quoad cupiditatem in acquirendo quinque modos assignat.

18 The FIRST is, if one appetizes efficaciously, and would proceed to the act if the faculty were present; and it is a lethal sin.

PRIMUS est, si appetat efficaciter, et prodiret ad opus, si adesset facultas; et est peccatum lethale.

19 The SECOND, if one appetizes with an incomplete illicit will, namely insofar as one procures, but simoniacally, so as to obtain an Ecclesiastical benefice undeservedly.

SECUNDUS, si appetat illicita voluntate incompleta, quatenus scilicet procurat, sed simoniace, ut consequatur beneficium Ecclesiasticum immerito.

20 The THIRD, if one appetizes simply to have superfluous things, with an appetite that suffocates the mind from care for oneself and consideration of divine things, so that on this account one falls away from God, wishing rather to be enriched than to observe the commandments; and this is lethal.

TERTIUS, si appetit simpliciter habere superflua appetitu suffocante mentem a cura sui, et consideratione divinorum, ita ut propterea deficiat a Deo, volendo potius ditari, quam praecepta observare, et hoc lethale est.

21 The FOURTH, if with a superfluous love one clings to temporal things, yet beneath God, not on that account wishing to be wanting to God's commandments; and this is venial.

> *QUARTUS, si superfluo amore inhaeret temporalibus, sed tamen infra Deum, volens propterea Dei mandatis deesse, et hoc est veniale.*

22 The FIFTH, which he records in the third place, is of one who appetizes such things, whether illicit or another's, with a conditional will, namely, if one could have them without offense to God or injury to neighbor. And then it is either no sin, or venial, if one actually or habitually adds such a condition.

> *QUINTUS, quem tertio loco recenset, est, qui appetit talia, sive sint illicita, sive aliena cum voluntate conditionata, scilicet, si posset ea habere sine offensa Dei, vel iniuria proximi. Et tunc, vel nullum, vel veniale est, si talem conditionem actu, vel habitualiter apponat.*

23 This being said, that great question is resolved: Whether a conditional consent, by which one wills something under that condition — if it were lawful for me, or if it were not a sin — excuses, when the act is mortal.

> *Hoc dicto resolvitur magna illa quaestio: An consensus conditionalis, quo quis vult aliquid sub ea conditione, si mihi liceret, vel si non esset peccatum, excuset, quando illud est mortale.*

24 Many respond thus categorically. When the added condition takes away all malice, it excuses from fault, as, if it were not a sin, I would kill Peter; but not when the condition does not take away the malice, as by saying, if there were no infamy, I would steal. Thus Gerson 2. part. in reg. moral. alphab. 24. littera G, where he has the same words which I reported from D. Bonavent. Caietanus summa, verb. *Cogitatio*, Armilla num. 1. Sà verb. *Peccatum*, num. 2. And they speak also of sins against the law of nature. Alcozer follows them, sum. cap. 6. doctrina 2. Manuel citing others, tom. 2. sum. in 2. edit. cap. 112. Vasquez prima 2. quaest. 74. art. 8. dub. 116. cap. 2. num. 4. Sayrus in clav. reg. lib. 8. cap. 7. num. 28. and 29. This is the opinion of D. Bonavent. in the place cited, and it is true.

> *MULTI sic resolute respondent. Quando conditio addita omnem malitiam aufert, excusat a culpa, ut, si non esset peccatum, occiderem Petrum; non autem quando conditio non aufert malitiam, veluti dicens, si non esset infamia, furarer. Ita Gerson 2. part. in reg. moral. alphab. 24. littera G. ubi eadem verba habet, quae ex D. Bonavent. retuli. Caietanus summa, verb.* Cogitatio*, Armilla num. 1. Sà verb.* Peccatum*, num. 2. Et loquuntur etiam de peccatis contra legem naturae. Sequuntur Alcozer sum. cap. 6. doctrina 2. Manuel alios referens tom. 2. sum. in 2. edit. cap. 112. Vasquez prima 2. quaest. 74. art. 8. dub. 116. cap. 2. num. 4. Sayrus in clav. reg. lib. 8. cap. 7. num. 28. et 29. Haec sententia est D. Bonavent. loco cit. et vera.*

25 The OPPOSITE indeed others hold, distinguishing: for if that thing be intrinsically evil, as if it is against the law of nature, they say the malice is never purged by a condition, because, being essentially evil, it cannot be purged by any condition, and the condition added involves a contradiction. Thus Adrianus quodl. 10. art. 2. Azor tract. 1. Instit. moral. lib. 4. cap. 6. quaestio 10. Sanchez Tom. 1. in Decal. lib. 1. cap. 2. num. 23, citing others.

> *OPPOSITUM quidem censent alii distinguentes; Si enim illa res sit mala intrinsece, ut si est contra ius naturae; dicunt, nunquam conditione expurgari malitiam, quia, cum sit essentialiter mala, nequit ulla conditione purgari, et conditio apposita involvit contradictionem. Ita Adrianus quodl. 10. art. 2. Azor tract. 1. Instit. moral. lib. 4. cap. 6. quaestio 10. Sanchez Tom. 1. in Decal. lib. 1. cap. 2. num. 23. alios referens.*

26 I ASSERT with the former opinion that a condition wholly purging whatever malice there is in the act excuses from sin.

> *ASSERO cum priori sententia, conditionem omnino purgantem quicquid malitiae sit in actu, a peccato excusare.*

27 It is PROVED, because whenever the malice is taken away from the act, there is no sin; but in this case it is taken away: Therefore. The minor is proved, because the will is borne in the manner in which it represents the object to itself under the condition; but this is, not to will the object efficaciously unless it is purged of malice; for it is not borne efficaciously absolutely into the object, but efficaciously conditionally. Here Sanchez was deceived, urging that the will is borne efficaciously into that object. For I say it is borne efficaciously, therefore not with mere complacency; but not efficaciously absolutely, rather conditionally, if it were lawful; and it has no act of not willing the thing, but it would have one, if it were lawful; whence, just as it implies that the object is purged of malice, because it is intrinsically evil, so it implies that the will is not borne absolutely into that object.

> *PROBATUR, quia quandocunque aufertur malitia ab actu, nullum est peccatum; sed in hoc casu aufertur: Ergo. Minor probatur, quia eo modo fertur voluntas, quo sibi repraesentat obiectum sub conditione; sed haec est, se non velle efficaciter obiectum, nisi expurgatum a malitia; non enim fertur efficaciter absolute in obiectum, sed efficaciter conditionaliter. In quo deceptus est Sanchez urgens, efficaciter voluntatem ferri in illud obiectum. Dico enim ferri efficaciter, ideo non simplici complacentia; at non efficaciter absolute, sed conditionaliter, si liceret, et non habet actum non volendi rem, sed haberet, si liceret, unde sicuti implicat expurgari obiectum a malitia, eo quod intrinsece malum sit; ita implicet voluntatem ferri absolute in illud obiectum.*

28 But let us now return to our opinion.

> *SED iam revertamur ad nostram sententiam.*

29 The SECOND branch of avarice consists in acquiring unjustly; and this in three ways: First, in any manner whatever. Second, by such a forbidden work, and these are lethal. Third, by a work venially evil, as in games, as those who teach dogs to dance — and it is venial, unless out of delight he conducts himself dissolutely in such things, altogether forgetful of all else. If, however, he should devote himself to such an art altogether out of necessity, because he has no other means of livelihood, St. Doctor says it is not mortal, even if he devotes himself wholly to it, provided he does not omit the commandments.

> *SECUNDUS ramus avaritiae consistit in acquirendo inique; et hoc tripliciter: Primo quocunque modo. Secundo per tale opus vetitum, et sunt lethifera. Tertio per operam venialiter malam, ut iocis, sicuti qui caniculum saltare docent, et est veniale, nisi ob delectationem talibus in rebus dissolute se gerat, omnino caeterarum rerum oblitus. Si tamen omnino ob necessitatem tali arti incumberet, quia alium non habet modum ad victum, dicit S. Doctor, non esse mortale, etiamsi totus incumbat, dummodo praecepta non omittat.*

30 The THIRD branch is unjust retention, and it is divided into three other branches. The first is to retain those things that must be restored, when one knows it and can restore them. Second, if one retains superfluous things, unwilling to spend what is his own in the extreme or grave necessity of a neighbor, when he can. Third, if one retains superfluous things out of the utmost covetousness, letting things rather rot than being willing to dispense them — and these are mortal. A fourth retains superfluous things out of an inordinate love of mere largesse, and this is venial.

TERTIUS ramus est iniusta detentio, et in tres alios ramos dividitur. Primus est detinere ea, quae restituenda sunt, cum ea sciat, et possit restituere. Secundus, si retinet superflua, sua nolens in extrema, vel gravi necessitate proximi erogare, cum possit. Tertius, si retinet ex summa cupiditate superflua, sinens potius res putrescere, quam velit dispensare eas, et haec sunt mortalia. Quartus retinens superflua ex inordinato amore largitatis tantum, et hoc est veniale.

31 SIMILAR things St. Doctor has *de profectu religiosi, lib. 1. cap. 34.*

SIMILIA habet S. Doctor de profectu religiosi, lib. 1. cap. 34.

32 VERY MANY examples of avarice from the Scriptures St. Doctor reports *in Bibliis pauperum, cap. 75.*

PLURIMA e Scripturis avaritiae exempla refert S. Doctor in Bibliis pauperum, cap. 75.

33 REMEDIES for avarice he enumerates *in the book cited, de profectu religiosi, cap. 35. and other places.*

REMEDIA avaritiae recenset lib. citato de profectu religiosi, cap. 35. et aliis locis.

34 The FIRST is, to leave all things for Christ, as the faithful did in the time of the primitive Church. *Act. 2. and 4. Hence Luke 14. Matth. 19.* Christ imposes on those wishing to be his disciples that they renounce all things.

PRIMUM est, omnia pro Christo relinquere, sicuti fecere fideles, primaevae Ecclesiae tempore. Act. 2. et 4. Ideo Lucae 14. Matth. 19. *volentibus esse discipulos suos iniungit Christus, ut omnibus renuncient.*

35 The SECOND remedy is to consider that riches are full of the dangers by which they are acquired, of the solicitudes by which they are preserved, etc. See the splendid things there.

SECUNDUM remedium est considerare plenas esse opes periculis, quibus acquiruntur; sollicitudinibus, quibus conservantur, etc. Vide ibi praeclara.

36 The THIRD is confidence in God, as is said Matth. 6: *Be not solicitous.* See St. Doctor. He teaches things not unlike *in Pugna spirituali, cap. 5.*

TERTIUM est confidentia in Deum, ut dicitur Matth. 6. Nolite solliciti esse. *Vide S. Doctorem. Non dissimilia docet* in Pugna spirituali, cap. 5.

37 HOW the confessor ought to interrogate about this vice. See *in Confessionali, cap. 2. particula 6.*

QUOMODO de hoc vitio confessarius interrogare debeat. Vide in Confessionali, cap. 2. particula 6.

38 You have SPLENDID things from the Fathers against this vice in *Pharetra, lib. 2. cap. 11.* for sermons. I do not enumerate them here, so as to remit the reader to the fountain of Siloe, where he will be able to draw the waters of wholesome doctrine for irrigating the dry hearts of the people.

PRAECLARA ex Patribus habes contra hoc vitium in Pharetra, lib. 2. cap. 11. *ad conciones. Ea hic non recenseo, ut lectorem ad fontem Siloe remittam, ubi salutaris doctrinae latices poterit haurire ad arida populi corda irriganda.*

39 The HARMS of avarice St. Doctor enumerates in great number *in Diaeta, salut. tit. 1. cap. 6. and 12. and Compend. Theolog. veritat. lib. 3. cap. 19.*, where he also brings similitudes of the avaricious man, which serve exceedingly well for sermons: The things pertaining to the species of this vice have their Tractates scattered through this work.

DAMNA avaritiae plurima recenset S. Doctor in Diaeta, salut. tit. 1. cap. 6. et 12. et Compend. Theolog. veritat. lib. 3. cap. 19. *ubi etiam similitudines affert avari, quae ad conciones apprime deservient: Ea, quae ad species huius vitii pertinent, sparsim habent suos Tractatus in hoc opere.*

Doubt II: On prodigality

1 It is defined by D. Bonavent. in the opusc. *Declaratorio terminorum Theologiae: Prodigality is superfluity, which gives what ought not to be given. Hence it recedes to the other extreme from the mean of Liberality, and is less opposed to it than avarice; for Liberality draws nearer to him who gives too much than to him who gives nothing, or less than is fitting. Second, because the prodigal helps others; but the avaricious man is harmful to all. Third, because prodigality is more easily cured.*

> De PRODIGALITATE.
>
> *Definitur a D. Bonavent. in opusc.* Declaratorio terminorum Theologiae: Prodigalitas est superfluitas, quae non danda dat. Itaque recedit ad alterum exitremum a medio Liberalitatis, et minus adversatur ei, quam avaritia; nam Liberalitas dat, cui magis accedit, dans nimis, quam dans nihil, vel minus, quam decet. Secundo, quia prodigus alios iuvat; sed avarus est omnibus noxius. Tertio, quia prodigalitas facilius curatur.

2 It is only a venial sin in its genus. Thus D. Thom. *art. 3.* But it can be mortal, if he consumes his resources to the ruin of his children, of the needy, of creditors, and of all those to whom he is bound to bring aid, as Tannerus noted *disp. 6. quaest. 2. dub. 2. num. 46.*

> *Est autem solum peccatum veniale ex genere suo. Ita D. Thom.* art. 3. *potest vero esse mortale, si facultates consumat in perniciem filiorum, egenorum; creditorum, et eorum omnium, quibus tenetur subsidium afferre, ut notavit Tannerus* disp. 6. quaest. 2. dub. 2. num. 46.

3 The detriments of Prodigality St. Doctor sets forth admirably on *Luke* 15, on the parable of the prodigal son.

> *Prodigalitatis detrimenta recenset S. Doctor egregie ad 15.* Lucae *ad parabolam filii prodigi.*

Question V: On epikeia

1 This is the virtue which, from natural reason, dictates something besides, or against, the law in a certain case, according to the mind of the legislator; from Aristotle 5 *Eth. cap. 10. and in Cod. de legibus, et Constit. Principium, leg. 5.* we have: *There is no doubt that he transgresses the law who, embracing the words of the law, strives against the will of the law. Hence Epikeia is praiseworthy, which, looking to the mind of the law, does not observe the words. Laws, moreover, decree what happens for the most part, and in some case they leave room for Epikeia.*

> De EPIKEIA.
>
> *Haec est virtus ex naturali ratione dictans aliquid praeter, vel contra legem in aliquo casu ad mentem legislatoris, ex Aristotele 5.* Eth. cap. 10. et in Cod. de legibus, et Constit. Principium, leg. 5. *habetur:* Non dubium est in legem committere, qui verba legis amplexus, contra legis nititur voluntatem. Ideo laudabilis est Epikeia, quae legis mentem aspiciens, verba non servat. Decernunt autem leges id, quod ut plurimum fit, et in aliquo casu Epikeiae locum relinquunt.

2 With D. Thom. this is a subjective part of Justice, not a potential one, and it ranges through all positive law and through all the acts of the virtues, insofar as they obey the laws.

> *Apud D. Thom. haec est pars subiectiva Iustitiae, non potentialis, et vagatur per omnia legis positivae, et per omnes actus virtutum, quatenus legibus obtemperant.*

3 Others, however, say that Epikeia is an accidental species of legal justice, and is not so much a special virtue, distinct extensively from legal justice. Thus Tanner. *num. 56*.

> *Alii vero dicunt, Epikeiam esse speciem accidentalem iustitiae legalis, nec esse adeo virtutem specialem, a iustitia legali extensive distinctam. Ita Tanner.* num. 56.

4 The interpretation of Epikeia in a case of doubt pertains to the Prince, as we have in *Cod. leg. 1. tit. 14. de legibus, et Constit. Principum, whose first law is: Between equity and right, the interpretation interposed must and may be inspected by us alone.* But where the matter is manifest, interpretation is not needed, but execution.

> *Interpretatio quidem Epikeiae in dubio ad Principem spectat, ut habetur in* Cod. leg. 1. tit. 14. de legibus, et Constit. Principum, cuius lex prima est: Inter aequitatem, iusque interpositam interpretationem nobis solis, et oportet, et licet inspicere. *Ubi vero res est manifesta, non est opus interpretatione, sed executione.*

Question VI: On the gift of piety

1 To Justice corresponds the Gift of Piety. On which see St. Doctor *de septem donis Spiritus sancti, De Dono Pietatis, cap. 2. et 3. Et 3. part. Centul. sect. 45. Et in Compend. Theol. verit. lib. 5. cap. 43*.

> De DONO PIETATIS.
>
> *Iustitiae respondet Donum Pietatis. De quo S. Doctor* de septem donis Spiritus sancti, De Dono Pietatis, cap. 2. et 3. Et 3. part. Centul. sect. 45. Et in Compend. Theol. verit. lib. 5. cap. 43.

2 D. Thom. explains *art. 1.* that this gift consists in the worship owed to God, exhibited to Him as Creator and Parent, just as the Virtue of Piety regards the worship of parents. And just as by the virtue of piety we worship not only parents but also relatives, so also by the gift of Piety we worship the saints and their relics.

> *Explicat autem D. Thom.* art. 1. *consistere donum hoc in cultu Deo debito, ut Creatori, et Parenti exhibendo, sicuti ad Virtutem Pietatis spectat parentes colere. Et sicuti virtute pietatis colimus non modo parentes, sed etiam consanguineos, ita etiam dono Pietatis colimus sanctos, eorumque reliquias.*

3 Yet this doctrine is not without difficulty. First, because if the reason of Father, considered in God, constitutes the special reason of a gift of the Holy Spirit, it will also constitute the special reason of a virtue; for the Gift and the virtue are not distinguished on the side of the object (*Quod*) but from the mode of tending, in that the former is borne to that object by a special motion of the Holy Spirit, rendering man apt to pursue it promptly; while the latter is borne by its own and innate reason. Whence it follows that if that reason of Paternity in God suffices to constitute the gift, it also suffices to constitute a virtue distinct from religion, which would render to God a special worship under this reason — and yet no such virtue is found.

> *Verum haec doctrina non caret difficultate. Primo quia, si ratio Patris, in Deo considerata, constituit specialem rationem doni Spiritus Sancti, etiam constituet specialem rationem virtutis; Donum enim et virtus non distinguuntur ex parte obiecti (*Quod*) sed ex modo tendendi, quod istud fertur in illud obiectum ex motione speciali Spiritus Sancti habilitando hominem ad eam prompte prosequendam: haec vero fertur ex propria, et innata ratione. Quo fit, ut si ratio illa Paternitatis in Deo sufficiat ad constituendum donum, etiam sufficiat ad constituendam virtutem, a religione distinctam, quae Deo cultum specialem sub hac ratione deferat, et tamen huiusmodi virtus non invenitur.*

4 Further, either the gift is borne to God as parent according to creation and as giver of being, or as giver of grace. If the first, this reason is included in the object of religion, which regards God as the first principle. If you say the second, since the reason of Paternity and Filiation according to grace is a certain special reason of friendship, it seems rather to pertain to Charity, as Tannerus argues *disp. 6. quaest. 2. dub. 3.*

> *Deinde aut donum fertur in Deum, ut parentem secundum creationem, dantemque esse, aut ut dantem gratiam. Si primum, haec ratio includitur in obiecto religionis, quae Deum respicit, ut primum principium. Si dicas secundum, cum ratio Paternitatis, et Filiationis secundum gratiam sit ratio quaedam specialis amicitiae, potius videtur spectare ad Charitatem, ut arguit Tannerus* disp. 6. quaest. 2. dub. 3.

5 Wherefore, following the Seraphic Doctor, he places the gift of Piety in this, that it render man easily mobile to the worship owed to God, both as to the first principle, and therefore to the Creator, and also as to the ultimate end, and therefore as to the Justifier, the Redeemer, and the Glorifier, to be worshiped — with this interim distinction, that the Gift moves by a special drawing of the Holy Spirit, while religion guides by the proper drawing of reason.

> *Quare secutus Seraphicum, ponit donum Pietatis in hoc, ut hominem facile mobilem reddat ad cultum Deo debitum, tum ut primo principio, atque adeo Creatori; tum etiam ut ultimo fini, adeoque ut Iustificatori, Redemptori, et Glorificatori deferendum, hoc interim discrimine, ut Donum speciali ductu Spiritus Sancti moveat; religio vero rationis ductu proprio ducat.*

6 By the Metaphor, however, of the Day, St. Doctor explains this *cap. 2. de septem Donis, cited.* For first there is, as it were, the Dawn and beginning of this gift, when man, looking upon his state and his necessities, irradiated by God, is moved by piety to seek his principle and end. The light grows to noon, while we, illumined by the Holy Spirit, rise in due worship toward God.

> *Sub Metaphora autem Diei hoc explicat S. Doctor* cap. 2. de septem Donis, citato. *Primo enim est veluti huius doni Aurora, et principium, cum respiciens homo, a Deo irradiatus, statum suum, suasque necessitates, pietate movetur ad quaerendum suum principium, et finem. Crescit lux ad meridiem, dum illustrati a Spiritu Sancto exurgimus cultu debito in Deum.*

7 St. Doctor places a twofold worship, §. *sed notandum.* Interior, and Exterior. Interior worship is that by which one offers himself to God as the principle of his creation and the end of his beatification, and of all things that he has received from Him. This reason dictates, because the inferior ought to be subject to the superior, on whom it depends and by whom it is lacking in many ways, and therefore it needs His influence.

> *Duplicem autem cultum ponit S. Doctor §.* sed notandum. *Interiorem, et Exteriorem. Interior cultus est, quo quis se offert Deo, tanquam principio suae creationis, et fini suae beatificationis, et omnium, quae ab eo recepit. Hoc autem ratio dictat, quia inferius debet subesse superiori, a quo dependet, et a quo multipliciter deficit, ideo indiget eius influentia.*

8 Nature also inclines to this, which rational nature sufficiently shows, since it does not rest fully except in God. Hence D. Augustinus lib. 1. *confess. cap. 1.* says: *Lord, my heart is unquiet until it comes to you.*

> *Natura etiam ad hoc inclinat, quod satis ostendit natura rationalis, quae non quiescit plene, nisi in Deo. Ideo D. Augustinus lib. 1.* confess. cap. 1. *ait:* Domine inquietum est cor meum, donec veniat ad te.

9 He ADDS, indeed, that although the supreme worship is to be exhibited to God, yet some worship, he says, is also to be exhibited to the Saints and their relics, as D. Damascenus teaches lib. 4. *de fide, cap. 12.*

> *ADDIT vero, tametsi cultus supremus sit Deo exhibendus, aliquem tamen ait etiam exhibendum Sanctis, eorumque reliquiis, ut docet D. Damascenus lib. 4.* de fide, cap. 12.

10 In the third chapter, indeed, he pursues the goods flowing from the Gift of Piety into the soul. See it.

> *CAPITE vero tertio bona prosequitur ex Dono Pietatis in animam redundantia. Ipsum vide.*

11 To the Gift of Piety are adapted the fourth and fifth beatitudes. *Blessed are they who hunger: Blessed are the merciful,* etc., if they are considered properly according to acts and objects: See D. Bonavent. 3. *part. Centil. sect. 46. et lib. 5. Compendii, Theol. cap. 47.*

> *DONO Pietatis adaptat quartam, et quintam beatitudinem.* Beati qui esuriunt: Beati misericordes, *etc. si considerentur proprie secundum actus, et obiecta: Vide D. Bonavent. 3.* part. Centil. sect. 46. et lib. 5. Compendii, Theol. cap. 47.

12 From the fruits, conjecture easily the benignity of this virtue. See St. Doctor *in the place cited of the Centiloquium.*

> *Ex fructibus benignitatem huius virtutis facile coniice. Vide Sanctum Doctorem* loco citato Centiloquii.

13 The GOODS flowing from piety into the soul are considered in the exercise of the virtues, whether toward God or toward neighbor; for this virtue begets in minds a pious sense and affection, so that whatever is hard or rigid found in the ministries of the virtues may be laid aside; and with serene and sweet countenance and conversation one compassionates and succors the ills of others: hence Hugo says lib. 3. *de claustro animae,* quoted by the Seraphic Doctor, cap. 3. *de 7. donis: Piety invites the desperate, Charity draws the unwilling, mercy pacifies the angry; cheerfulness renders one secure, affability familiar, etc.* Hence piety is said to be useful for all things; because it underlies the other virtues as a kind of spiritual seasoning, so that they are rumination in the palate of the mind with a savory taste; nor from this similitude of piety and mercy should these two Virtues be confused with one another. For, as the Seraphic Doctor says *loco cit. centil. cap. 45.*, mercy attends in neighbor to conformity in nature and necessity in misery, which it succors according to the rule of prudence; Piety, however, attends in neighbor to the divine image, with the prior dictate of divine law, according to the rule of the gift of knowledge; so that Piety inspires not only a benevolent affection toward Creatures marked with the Divine image, but also toward those which are as it were vestiges of divinity; whence St. P. Francis, most gentle toward the crueler beasts, because they were creatures of God, exercised toward them the offices of compassion, and by the example and benefit of piety compelled them to lay down their ferocity.

> *BONA autem ex pietate in animam redundantia considerantur in virtutum exercitio, sive erga Deum, sive erga proximum; ingenerat enim mentibus haec virtus pium sensum, et affectum, ita ut, quicquid durum, aut rigidum in virtutum ministeriis deprehenditur, exuatur; et sereno, ac suavi vultu, et colloquio alienis malis compati tur, et succurrit: unde ait Hugo lib. 3.* de claustro animae, *apud Seraphicum, cap. 3.* de 7. donis: Invitat Pietas desperatum, trahit Charitas invitum, misericordia pacificat iratum; hilaritas reddit securum, affabilitas familiarem, etc. *Hinc pietas dicitur ad omnia utilis; quia spirituale quoddam condimentum supponit caeteris virtutibus, unde in*

palato mentis sapido gustu ruminentur, nec ex hac similitudine pietatis, et misericordiae, inter se duae hae Virtutes confundantur. Nam ut ait Seraphicus Doctor loco cit. centil. cap. 45. *misericordia attendit in proximo conformitatem in natura, et necessitatem in miseria, cui ex regula prudentiae, subvenit; Pietas vero attendit in proximo divinam imaginem, praevio dictamine iuris divini, iuxta regulam doni scientiae; ita ut Pietas non solum inspiret benevolam affectionem erga Creaturas, Divina imagine insignitas, sed etiam erga illas, quae velut divinitatis vestigia sunt; unde S. P. Franciscus mansuetissimus erga crudeliores feras, eo quod Dei creaturae essent, compassionis officia erga illas exercebat, easque feritatem suam deponere pietatis exemplo, et beneficio cogebat.*