COMMENTARIES ON THE NATURE OF MORAL THEOLOGY, ON CONSCIENCE AND PROBABILISM, ON THE FOURTH PRECEPT, AND ON THE SIXTH AND NINTH PRECEPTS OF THE DECALOGUE (COMMENTARII)

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Title Page and Approbation

Ianuarius Bucceroni
of the Society of Jesus

Commentaries

On the Nature of Moral Theology

On Conscience and on Probabilism - On the Fourth Precept of the Decalogue

On the Sixth and Ninth Precepts of the Decalogue

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Approval of the Work

Since certain theologians of the Society have reviewed the work whose title is *Commentaries on the Nature of Moral Theology*, etc., by Fr. Ianuarius Bucceroni, S.J., and have approved that it can be published, we grant permission that it be committed to type, if it shall so seem good to those to whom it pertains.

At Bologna, on the 13th day of July, 1909.

Aloisius Caterini
Provincial Superior of the Roman Province, S.J.

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Fr. Albertus Lepidi, O.P., Master of the Sacred Apostolic Palace

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Joseph Ceppetelli, Patriarch of Constantinople, Vicegerent

First Commentary: On the Nature of Moral Theology

1. Every treatment and question, in order that it may be rightly instituted, unfolded, and at length resolved, begins from the definition of the thing to be treated and investigated, from its division, and from the way to be followed in it, which is to be established beforehand. Concerning these matters, therefore, we shall speak briefly at the beginning of these Commentaries on the whole of Moral Theology.

2. Theology, in general, is defined: the science concerning God, acquired from divine revelation. Wherefore its material object is: all divine things demonstrable from divine revelation; its formal object is: truth demonstrable from the same divine revelation; its subject: God; its end: both, chiefly, the contemplation of divine truth, and also the sanctification of human life.

3. For indeed Theology, simply so called, is taken antonomastically for sacred or supernatural Theology; and here it is defined by a nominal and real definition. God can be known in two ways: first, from creatures, according to a certain imperfect likeness; second, from Himself, according to His proper nature and proper mode of being. The first knowledge of God is natural, for it is had by natural reason; and it constitutes natural Theology. The other knowledge of God is natural to God alone; exceeding every created intellect, it is wholly supernatural to it. We are made participants in this knowledge through the virtue of faith divinely infused into us. For through it we adhere to God, the First Truth, as to the principle of knowing, believing those things to be true which are revealed by God, because of the authority of God Himself revealing. Hence another science concerning God arises, resting upon this divine and supernatural revelation, which is called Sacred Doctrine, Sacred Theology, and supernatural Theology; and consequently it is rightly defined: the science concerning God, acquired from divine revelation.

4. The material object, or the object which, is that which is proximately and directly attained by some faculty, as whiteness with respect to sight. But Theology proximately and directly attains all divine things demonstrable from divine revelation. These, therefore, are its material object.

5. Hence: 1. The material object of Theology is both those things which we gather by reasoning from faith, and those things which we hold by faith itself; for Theology also demonstrates these, although from the principles or sources of faith itself. - 2. Faith is distinguished from Theology, and precedes it. For faith supplies the first principles from which, by reasoning and demonstration, Theology proceeds to know other things. - 3. The same truth can be the object of faith and of Theology: of faith, insofar as it is immediately believed by divine revelation; of Theology, insofar as it is demonstrated from divine revelation. And in this case, although, speaking per se, faith in the thing which is demonstrated does not precede, nevertheless faith in the thing from which it is demonstrated does precede, that is, in divine revelation and authority, which are known and certain by faith itself. For we believe by divine faith not only the things which have been said by God, but the very word of God itself.

6. The formal object, or the object on account of which, or by which, is that aspect by which the material object is attained by a faculty, as color with respect to sight. But Theology investigates truth from divine revelation, and, as a science, assents to truth on account of this demonstration. Therefore its formal object is truth demonstrable from the word of God.

7. The subject, or object concerning which, of some faculty is that thing to which the material object and the formal object, considered concretely, pertain; as the body, of which there is whiteness and color, is the subject of sight. But all those things which Theology attains as demonstrable from divine revelation are either God Himself, or indeed other things from God, but insofar as they have order to God as to their principle and end, and insofar as they are referred to the greatest knowledge of God. Therefore God is the subject of this science.

8. Hence it is clear: 1. that in the definition of Theology handed down, its subject and formal object are set forth. - 2. Although Theology treats of many and various things, which therefore in some way are its subject, nevertheless properly God alone is its subject; for under the aspect of God it treats those many and various things, and the treatment of each thing is ordered to the manifestation of God. And thus Theology treats of the world, not as Physics or Astronomy does, which consider its various qualities of extension, motion, etc., but by manifesting that it was created by the Omnipotence of God, is governed by Wisdom, and that all things in it cooperate unto good for those who love God. - 3. A twofold formal aspect can be distinguished: of the object and of the subject. The formal aspect of the object, or by which or under which, is the aspect by which something can be demonstrated by Theology; and this is divine revelation. The formal aspect of the subject, or which, is the reason why something is considered by Theology; and this is divinity. - 4. Theology is one science both in object and especially in subject. In object, because it demonstrates all things by divine revelation. In subject, because it is God, who is one not by genus or species, but by singularity.

9. The end of Theology, that is, the end of the work, or that toward which its intrinsic nature tends, is God, the supreme truth to be contemplated; for it discusses the nature and properties of God, the Trinity of the divine Persons, and other mysteries which per se and directly are not ordered to directing human operations. From this side Theology is speculative. Yet the end also of the work, toward which it tends by its nature, is God, the supreme Good to be sought, to whom every human action is to be directed; for it treats of God as the last end, of laws, of grace, of virtues, and of other things which per se and directly are referred to the ordering of the whole of human life. From this side Theology is practical. Yet it is chiefly speculative, because those very things which are proximately referred to the ordering of human life ultimately regard the more perfect knowledge of God. Moreover, each thing is to be judged more from its ultimate end than from its proximate end, since the ultimate end is the final measure of all things which are in it.

10. Theology is the most excellent of all human sciences, both by the dignity of its matter, by the certainty of its conclusions, and by the end to which it orders human life. - By the dignity of its matter. - 1 Cor. 2:6, 10. We speak the wisdom of God in a mystery, which is hidden, which none of the princes of this world knew... but God has revealed it to us by the Holy Spirit. Therefore divine faith contains very many most sublime truths, hidden and altogether remote

from human reason. But Theology rests upon faith; every other human discipline rests upon natural reason. - By the certainty of its conclusions. - Other sciences have certainty from the natural light of human reason, which can err. For although the principles of human reason are most certain, nevertheless they are abstract. Wherefore, in order that we may arrive at knowledge of other things, we need the experience of the senses, and many things are obtained by the aid of human faith. But spiritual things do not fall under the senses, and are apprehended after the manner of sensible things. Hence there is danger, and manifold danger, of erring. But Theology has certainty from the light of divine science, which cannot be deceived. For the principles from which it proceeds are the very word of God; and it draws very many conclusions from the same word of God; and while it treats others by reasoning, it is directed by the infallible magisterium of the Church. - By its end. - Any natural science can dispose man only to natural happiness. But Theology, which is the science of faith, disposes and orders man to that supernatural happiness which is placed in eternal life.

11. Theology, as we have already indicated, is divided into theoretical or dogmatic, and practical or moral. For if the matter which Theology treats is considered, it either proximately rests in the contemplation of divine things, or in directing and ordering operation and human life. If the first, Theoretical or Dogmatic Theology is had; if the second, Practical or Moral Theology is had. Therefore moral Theology can be taken in a broader and in a less strict signification. In the broader signification it is confounded with practical Theology; in the stricter signification, on the contrary, it is distinguished from it, as will soon be explained.

12. If the method by which Theology proceeds is considered, either it merely dwells upon dogmas from the written and handed-down Word of God to confirm them, or it proceeds further to the understanding and reason of the same dogmas, insofar as this can be done by human reason, declaring what is contained in them, searching out their connection and relation, and by reasoning from them also arriving at other things; and thus it tends from faith to understanding. In the first case there is Positive Theology, which lays down the principles and foundations of the science, and which rests upon positive arguments. In the second case there is Scholastic Theology, so called because more common in the Schools. For those ancient masters of Theology, who handed down Theological Institutions in the public Schools, thought that labor should be given rather to the understanding of dogmas than to their demonstration.

13. The Church has not only permitted, and permits, Theology to be cultivated and handed down according to the principles and method of the Scholastic Doctors, but has always commended and does commend it. Now the principles by which the Scholastic Doctors handed down Theology were not, indeed, certain natural principles of reason, from which supernatural truths could not be deduced; rather they were principles of the supernatural order, employed by the Fathers themselves: divine revelation and the divine authority of the Church. The method, however, was not investigative of truth, which in Theology cannot be found by natural reason, since it is of the supernatural order; rather, it is acquired by God's revelation, so that it is held most certainly by faith, and one may not doubt concerning it. Wherefore the method of the Scholastics was only demonstrative and declarative of truth. If, therefore, Theology, as it always accords with the necessities of all times and the progress of the sciences, so also

Scholastic Theology accords with these same things, the same certainly must be said of this our time, since sciences are not changed by time in their intrinsic nature. Indeed this must be said especially of this our time, since now on every side naturalism and rationalism attempt to pervade human minds. Wherefore proposition 13 was deservedly condemned in the Syllabus: "The method and principles by which the ancient Scholastic Doctors cultivated Theology are in no way suited to the necessities of our times and to the progress of the sciences."

14. The subjective principle of knowing Theology is not only the human intellect instructed by the natural light of reason, but also adorned by the supernatural light of divine faith. - Theology proceeds from faith, by demonstrating the object of faith, explaining it, and by the knowledge of it arriving at other cognitions. But a progress of this kind presupposes an intellect not only adorned with its native power, but also imbued with the supernatural light of faith.

15. The objective principles, or sources or loci, from which theological cognitions are drawn, are counted as four: Sacred Scripture, divine Tradition, the Church, human reason. The other loci can be referred to these, of which the principal are the Holy Fathers and Theologians. - Divine revelation is contained only in Sacred Scripture and Tradition. The Church is the guardian and interpreter of both; excluding a new revelation, but with the Holy Spirit assisting, she infallibly proposes to us the revelation once divinely made. Therefore Scripture and Tradition are, as they say, the quasi-constitutive principles of Theology; the Church is the directive principle. Since, however, Theology proceeds by reasoning and demonstrating, there is another principle of it, namely human reason and natural science, whose value and use are determined by the principles of faith. - Now all cognition is drawn either from the light of faith or from the light of reason. If the first, the sources of such cognition will be Scripture, Tradition, the Church; if the second, the source will be human reason. The Holy Fathers and Theologians, however, are referred to Tradition.

16. But in order that the object of Theology may be fully unfolded, Theology is aided by subsidiary disciplines, of which the chief are: Exegesis or Exposition of the Sacred Books, Ecclesiastical History, Sacred Archaeology, to which all the rest can easily be referred.

17. Just as Philosophy not only investigates its proper object, asking what body is, what spirit is, what the world is, etc., but also considers the very principles of natural cognition, treating of intellect, of reason, of sense, of conscience; similarly Theology not only treats revealed truths, but also treats of revelation itself, of the Word of God Written and Handed Down, and of the other sources of supernatural cognitions. Now this treatment can be instituted in two ways. For either, proceeding by human reason alone, we show by historical and philosophical arguments the fact and value of revelation, of the institution of the Church, etc.; or, setting out from faith, we inquire what revelation itself teaches concerning these principles. The former manner of proceeding supplies the Evangelical Demonstration, which is also called Apologetics. It is not a part of Theology, but a certain propaedeutic or preamble of Theology. For since Theology is the science of faith, it must receive its principles of demonstration through faith itself.

18. The supreme objective principle of demonstration, from which namely other truths are derived by reasoning, is contained in the notion of God received by revelation. - For the supreme principle of any science is situated in the definition of its subject. And thus in man, for example, all properties are deduced from his definition or nature. Those very things which in man are done freely and are known through history are understood and judged according to his nature. In like manner, those things which follow upon the divine nature are deduced from its revealed notion; but things freely done by God are not indeed demonstrated from the same notion of God as having been done, but are understood and judged according to that notion.

19. Concerning the value of the theological sources or loci, these few things suffice. - On Sacred Scripture. 1. Although in Sacred Scripture some things which directly and per se order us to eternal life are proposed for their own sake, while other things are proposed not for their own sake but for the manifestation of these, nevertheless all things are to be believed by divine faith, for all are supported by the same authority of God speaking. The books of Scripture are therefore held to be sacred and divine because, having been written with God inspiring, they have God as their author, and truly and properly are the word of God. Cf. St. Thomas, II-II, q. 1, a. 6, ad 1. - 2. The Council of Trent declared that, from the various versions, "the old and Vulgate edition, which by the long use of so many centuries has been approved in the Church itself, is to be held as authentic in public readings, disputations, preachings, and expositions," Sess. 4. Wherefore it can and must be called a true and genuine source of revelation. From such a decree, however, as is clear from its whole tenor, end, and circumstances, it does not follow that it is forbidden for the original texts and other ancient versions to be used, and that intrinsic certainty also be had from them. Although their authenticity is declared by no solemn decree, it is proved both by long use and by critical and hermeneutical arguments. - 3. The genuine sense of Scripture is had: 1. from the declaration of the Church; 2. from the consent of the Fathers, against whom, although Scripture cannot be expounded, nevertheless it is not forbidden to bring forward an exposition adding something else to the common exposition; 3. if at times different Fathers expound a certain place differently, it does not on that account follow that a firm argument cannot be drawn thence. For the genuine sense can be determined by hermeneutical rules. The principal rules are: without an evident reason to the contrary, one must adhere to the proper and obvious sense. - Likewise one must adhere to the literal and historical sense, unless it is certainly established concerning the mystical sense.

20. On Tradition. The Council of Trent, Sess. 4, declares the nature of Tradition when it says that "saving doctrine is contained in written books and in unwritten traditions, which, received by the Apostles from the mouth of Christ Himself, or from the Apostles themselves at the dictation of the Holy Spirit, have come down even to us, handed on as it were from hand to hand." - The rule for distinguishing tradition, as regards the doctrine of faith, is this: if anything in the universal Church, at any time, is taught and believed as a dogma of faith, that thing, even if it is not written, is certainly contained in divine tradition. And the reason is that the universal Church can never defect from the true faith. - But as regards tradition which concerns the discipline or rites of the Church, the words of St. Augustine are well known, Ep. 54 to Januarius: "Those things which, not written, but handed down, we keep, which indeed are observed throughout the whole world, are understood to have been retained as

commended and established either by the Apostles themselves, or by plenary Councils, whose authority in the Church is most salutary." But since those things which are established by Councils are recorded in their acts and in other documents of history, those things which are observed throughout the whole world, of whose beginning no trace is had in history, are deservedly referred to apostolic tradition. And if these are such that they exceed human power, as are rites concerning the substance of the sacraments, and other things which are intimately connected with dogma, such as the baptism of infants, they are with the best right referred to divine tradition transmitted through the Apostles.

21. On the Church. The Church is strong with an ordinary and perpetual magisterium, which is a continuous and ever-living Tradition expounding and completing the Sacred Scriptures. But since infallibility has been granted not to any part whatever of the Church, but only to the universal Church and to its Head, the Roman Pontiff, it follows that only those things enjoy the firmest certainty which are strengthened either by the universal consent and judgment of the Pastors, or by the judgment of the Supreme Pontiff. - And here it must be noted that the form of expressing a judgment of this kind matters little, provided that the mind of the Fathers or of the Pontiff to define is manifestly established, that is, to declare by proper and full authority what is the sentence to be held by all the faithful. - Since the magisterium of the Church exists for instructing the faithful, just as the universal Church cannot defect from the truth in teaching, so also neither can she defect in believing. Hence the common sense of the faithful furnishes a most firm argument.

22. On the Holy Fathers. The Fathers of the Church are those Ecclesiastical Writers who, besides antiquity, have singular doctrine and sanctity. Now although the authority of individuals is great, nevertheless full authority is had only when by unanimous consent they hand down a doctrine of faith; for then it is certain that it is taught and believed by the Church herself, which venerates them as Fathers. - As the Church not only guards the deposit of faith, but also explains it, so the Fathers are not only faithful witnesses of dogmas, but also doctors declaring them. Therefore those things which the Fathers hand down by unanimous consent for expounding the doctrine of faith are truly to be believed to pertain to the understanding of faith. Likewise, those things which, although known by the natural light, the Fathers hand down as connected with faith, are to be held as such; and in these matters their authority prevails over reason. - In order that there be unanimous consent of the Fathers, by which divine tradition is demonstrated, it is not necessary to find or recite the testimonies of all. From the sayings of some, the consent of others can be deduced from several heads. If at any time one or another seems to contradict all the rest, their sayings are to be explained benignly: from the context; from the end, because, while opposing an error, and being perhaps little concerned about an opposite error not yet arisen, they spoke more securely; finally from the time, because when errors have arisen and matters have been better discussed, formulas of speaking are more determined by use and by ecclesiastical judgment. But if this benign explanation cannot be made, the unanimous consent does not on that account fail, because a morally, not arithmetically, universal consent suffices.

23. On Theologians. In the first centuries of the Church, the Fathers were succeeded, in later time, by Theologians, who are those ecclesiastical Writers who are distinguished both by entire orthodoxy and by excellent doctrine. Their concordant sentence produces certainty. For this concord can be sufficiently explained only from the truth of the matter. What they hand down by unanimous consent in the schools, the pastors preach in the Churches, and the faithful believe. Hence it must not be doubted that those things which they hand down by a concordant, firm, and stable sentence are approved by the Church.

24. On human reason. Human reason is understood here both as the natural faculty of reasoning and as every natural science. Its use in Theology is manifold: 1. to show the foundations and credibility of Faith, Council of the Vatican, De Fide, chs. 3, 4; 2. to deduce the several heads of faith from the principles of Faith; 3. so that those things which are known by divine revelation may either be confirmed by natural arguments, or at least be declared and illustrated, insofar as this can be done; 4. so that errors, which are drawn especially from the natural sciences, may be refuted from those same sciences.

25. Finally, concerning dogma, theological opinions, and censures, a few things also suffice. Dogma here is properly called a sentence proposed by the Church to be believed with divine and catholic faith, or manifestly contained in Scripture or Tradition. And thus the Council of the Vatican, De Fide, ch. 3, says: "All those things are to be believed with divine and catholic faith which are contained in the word of God written and handed down, and which are proposed by the Church, whether by solemn judgment or by the ordinary and universal magisterium (by which Scripture and Tradition are attested to be the word of God), as divinely revealed and to be believed."

26. A theological sentence is here properly called one which, although it is not revealed or is not handed down as revealed in the common magisterium of the Church from an express definition of hers, nevertheless has an evident connection with revealed things and is deduced from them. If this deduction is imperfect, there will be a scholastic opinion or a theologically probable sentence. But if the deduction is perfect, then it is called a theological sentence simply, or theologically certain; and likewise it is said that it cannot be denied without error and rashness, since it cannot be denied except by one who has cast aside either faith or reason, or both.

27. A theological censure is called that note by which some depraved doctrine is reproved from the principles of faith, whether by the public magisterium of the Church or only by the authority of theologians. There are three principal censures: heretical, erroneous, rash. A sentence is called heretical when it is evidently and directly opposed to an evident dogma of faith. If a dogma of faith is indeed certain, but is not evident as a dogma of faith, then the sentence is called proximate to heresy. But if the dogma of faith is certain and evident, yet it is not certainly and evidently established that there is direct opposition, then it is called suspected of heresy, savoring of heresy, favoring heresy.

28. Error is called an assertion directly opposed to a theological conclusion, or to a theologically certain sentence. Therefore error is opposed to a sentence which is not of faith or dogma, but

which is certain from faith, or which is deduced from dogma by an evident inference. Since there are various grades of connection with dogma, if the connection is not proximate but remote, the opposite opinion is not called error, but proximate to error.

29. Rash is the name given to an opinion which is destitute of every sufficient reason and is directly opposed to a sentence commonly received in the Church. For rashness, according to the doctrine of the Angelic Doctor, II-II, q. 53, a. 3, ad 2, is not only to act without reason, but also to act from contempt of the directing rule.

30. After the nature of Theology, considered universally, has been declared, the intimate nature of Moral Theology is now easily understood. Moral Theology is a part of it, and consequently those things pertain to Moral Theology which pertain to Theology generally, and which consequently are common to speculative and practical Theology.

31. Moral Theology, strictly taken, if the name is considered, is the same as discourse concerning morals in order to God. This nominal definition, since the names of things and sciences are not without reason, is proved and explained from the real definition itself. - But if the thing itself is considered, it can be defined: that part of Theology which, resting upon divine law manifested through revelation, inquires what good and evil there is in human acts, what licit and illicit is found in them, in order that it may direct them in order to eternal life.

32. It is called Moral Theology, a part of Theology according to the matter which it treats. For Theology which contemplates divine things is called Dogmatic Theology; but Theology which considers human operations is called Moral. The former is speculative, for it rests in contemplating the truth of things. The latter is practical, for it proceeds to directing operations to man's ultimate end. Yet both attain their proper object by the same formal aspect, since the formal object of Theology is nothing other than truth demonstrable from the revealed word of God. Hence "Sacred Doctrine, being one, extends to those things which belong to diverse philosophical sciences, on account of the aspect which it considers in diverse things, namely insofar as they are knowable by the divine light: whence, although in the philosophical sciences one is speculative and another practical, nevertheless Sacred Doctrine comprehends both under itself, just as God by the same science knows Himself and the things which He makes." St. Thomas, I, q. 1, a. 4. Therefore Moral Theology is not distinguished from Dogmatic Theology as science from science, but as one and the same science according to one part and another part of its proper material object; since the unity of a science is taken not from the material object but from the formal object. Hence a diverse aspect of the knowable induces a diversity of sciences. St. Thomas, I, q. 1, a. 1 ad 2; aa. 3, 7. But if, from the fact that "Sacred Doctrine does not determine concerning God and concerning creatures equally, but concerning God principally and concerning creatures according as they are referred to God as to principle or end... the unity of the science is not impeded," St. Thomas, loc. cit., a. 3 ad 1, this is especially true of Moral Theology. For if this Theology does not treat immediately of God Himself, but of human acts, it certainly treats of these according as through them man is ordered to the perfect knowledge of God, in which eternal beatitude consists. St. Thomas, loc. cit., a. 4.

33. It is said further that Moral Theology rests upon divine law manifested through revelation, so that at the same time both the formal object and the proper source of this science may be indicated: divine law manifested through revelation. For the good and evil, the licit and illicit, which Moral Theology inquires into in human actions, is proximately derived from law. And if Moral Theology, as Sacred Doctrine, proceeds by reasoning from divine revelation, it properly rests upon divine law manifested through revelation in Sacred Scripture and Tradition, and proposed and explained through the magisterium of the Church. Hence Moral Theology does not proceed from principles known by the light of the natural intellect, whether of human Jurisprudence, or of natural Ethics, or of moral philosophy; but from principles known by the light of a higher science, which is the science of God and of the Blessed. Hence it believes those revealed principles from God. St. Thomas, I, q. 1, a. 2. If it also receives something from other human and philosophical disciplines, it does not receive it as from superiors, but uses them only as inferiors and handmaids. Nor indeed does it do this because it needs them of necessity, but for the greater manifestation of those things which are handed down in this science, on account of the defect of our intellect, which, from those things that are known by natural reason, from which the other human sciences proceed, is more easily led by the hand into those things which are above reason and are handed down in this science. St. Thomas, I, q. 1, a. 5 ad 2.

34. Therefore moral Theology does not exclude moral philosophy from itself, but on the contrary contains it within itself; for the supernatural end does not exclude the natural end, but on the contrary presupposes and contains it, since it elevates it to the supernatural order of grace and glory, by which "He has given us the greatest and precious promises, that through these we may be made partakers of the divine nature." 2 Pet. 1:4. Hence it is that what is evil and turns us away from God as natural end also turns us away from God as supernatural end, as is certain by reason and faith. On the contrary, that which leads us to God as natural end cannot lead us to God as supernatural end without supernatural grace, as likewise is certain by reason and faith.

35. And from these things it is clear that the subjective principles of knowing are the same in Moral Theology and in dogmatic Theology: faith of divine revelation and human reason. For in order to attain man's supernatural end it is necessary to observe the laws and precepts of both orders, supernatural and natural. We know the former by divine revelation; the latter also by natural reason. But as divine revelation confirms even natural precepts, so human reason illustrates revealed divine precepts. And we learn the same precepts, whether of the supernatural order or of the natural order, from the infallible magisterium of the Church, which is also the directive principle of moral Theology, as it is the directive principle of dogmatic Theology.

36. But the fundamental and universal objective principle of demonstration, pervading and governing the whole of moral Theology, is that God is the ultimate end of man, and accordingly that man is bound by obligation to tend to God by acts proportioned to the aforesaid end, morally good, and moreover supernatural, since God is the ultimate end of man not merely naturally but supernaturally. For the beatitude to which man is destined in the

present order of divine providence consists in the intuitive vision of God and in the fruitful love of God; this end is wholly supernatural, exceeding all the powers and all the exigencies of created nature. Indeed, the reason by which God is moved to create the world and man is His own divine goodness and infinite perfection itself, namely love of His own infinite goodness and perfection. The world exists and we exist because God is good. But since divine goodness and perfection are infinite and cannot in any way be increased in themselves, God, creating the world and man, can intend nothing other than to communicate outwardly His good and His perfections, which consequently all creatures may manifest, and rational creatures may know, and thus may tend to God and glorify Him. The Lord has wrought all things for Himself, Prov. 16:4. Therefore man was founded by God in order that he may know and love Him; and in this knowledge and love of God consists both the glory of God and at the same time the beatitude of man. But, showing the riches of His divine goodness and infinite perfection, God made man a sharer in the divine nature, by destining man to see Him as He is, not through a mirror in an enigma, but face to face. Therefore after this mortal life man enjoys the divine essence, by whose knowledge and love he possesses eternal beatitude. But this immediate and intuitive vision of God, and enjoyment of God from love of the divine goodness immediately known, is a participation in the divine life itself: when He shall appear, we shall be like Him, 1 John 3:2; and consequently it exceeds all natural exigencies and powers, and is wholly supernatural. Eye has not seen, nor ear heard, nor has it ascended into the heart of man, what things God has prepared for those who love Him. 1 Cor. 2:3.

37. Since therefore man is destined to a supernatural end, he must tend to it by his own free acts. But since he cannot attain it by his own natural acts, supernatural virtues are therefore infused into man, which supply power to the intellect and will for connaturally producing supernatural acts. And, as in the natural order there is first the nature itself of the soul, and then its natural powers and acts, so in the supernatural order there is sanctifying grace, which inheres in the substance of the soul and elevates man to a supernatural nature; there are infused virtues, which inhere stably in the powers of the soul, namely the intellect and the will, to which they give force and power for eliciting supernatural acts; and finally there are actual graces, by which God actually concurs with each supernatural act of man, to prevent and excite, aid and perfect them. Wherefore an act at once vital and supernatural proceeds from a twofold proximate intrinsic principle, that is, from natural power and from the supernatural habit of infused virtue. This infused virtue is distinguished in two ways, theological and moral. The former has God Himself for its primary material object and some divine perfection for its formal object; the latter generally has for its formal object the very honesty of the human act. And as virtues are infused for the ordinary acts of supernatural life, so also the gifts of the Holy Spirit are conferred for extraordinary and more sublime acts of the supernatural life. To the former man is moved from the illumination and inspiration of the Holy Spirit and from the judgment of reason; to the latter he is moved by the instinct of the Holy Spirit alone. Through the infused virtues man is disposed to be made promptly movable according to the common aspect of Christian virtues, or according to their common rule; through the gifts man is disposed to be made promptly movable by divine inspiration. St. Thomas, I-II, qq. 63, 68.

The relation of man to God in human acts constitutes the moral order. Wherefore if human acts are fitting to that end, they will lead man through to God. Now some of these acts order man immediately to God, naturally by natural knowledge and love, supernaturally by faith, hope, and charity. Other acts immediately order man either in himself, so that the higher powers rule the lower and the lower are subjected to the higher; or to other creatures, so that he may use them only insofar as they are useful to him for attaining his end, and so that he may constitute a fitting society with other men, destined to the same end as himself. Wherefore all these other acts also, by preserving the order of nature established by God, although mediately, consequently order and lead man to God as ultimate end; and in this attainment and eternal possession of the ultimate end there is beatitude. Indeed, by destining man to this beatitude of eternal life and supplying him with the means for attaining it, God evidently imposes upon man by His will the necessity of applying the aforesaid means suitable for attaining the aforesaid end. This necessity constitutes moral obligation, which moral Theology attends to and considers in human acts. - Therefore God as the ultimate end of man is the supreme principle of the whole of moral Theology, by which namely all things which must be performed by man are understood and determined, so that he may act licitly and at last attain eternal life.

38. Moreover, Moral Theology inquires what good and evil there is in human acts, what licit and illicit is found in them. For its material object is not contained in human acts insofar as they are beings of nature, but insofar as they are moral being. Hence the Angelic Doctor, I-II, q. 7, a. 2, says: "First, the theologian considers human acts according as through them man is ordered to beatitude.... Second, the theologian considers human acts according as in them there is found good and evil, better and worse.... Third, the theologian considers human acts according as they are meritorious or demeritorious." And in the same place, ad 3: "The theologian has considerations concerning virtuous and vicious acts... and considers acts according as they merit punishment or reward."

39. If the material object of Moral Theology is considered thus generally and indiscriminately in its whole breadth, it is certainly not distinguished from Practical Theology, and it extends as broadly as the latter extends. But if moral Theology is taken in a certain stricter sense, and according to the common acceptance at present, then Moral Theology is distinguished from Practical Theology as a part from the whole. For Moral Theology is now usually taken in a certain restricted signification, namely insofar as it is confined to the mere consideration of the licit and illicit, or of sins, in human acts. And thus Ascetical and Mystical Theology are usually distinguished from Moral Theology, all of which Practical Theology embraces, and into which it is consequently divided. Ascetical Theology hands down not so much the doctrine of good and evil as the way and manner by which we can free ourselves from vices and attain virtues. Hence, as Moral Theology treats rather of determining sins, Ascetical Theology treats of explaining virtues. But Mystical Theology treats not of the common sanctity of morals, which Ascetical Theology does, but of that special union with God through more sublime contemplation and more intimate love, to which not all can tend and arrive, but those who are heaped by God with special gifts of grace.

40. Pastoral Theology also is usually distinguished. In reality it is only a certain part, or a special treatise of Moral Theology, which discusses the duties of all men. Yet a special and fuller treatment concerning the duties of those who exercise the care of souls - Bishops, pastors, Confessors, priests - supplies Pastoral Theology. Wherefore Pastoral Theology explains in particular the duties of pastors, so that they may rightly exercise the care of souls, and the faithful may be led through their work to eternal life.

41. It is added, that it may direct human acts in order to eternal life. For Moral Theology directs them, not as Moral Philosophy does, insofar as they agree with right reason, but in order to God and as ordered to God. For God is the subject of Sacred Doctrine or Theology, namely the object which is considered by it per se first, and in order to which all other things are treated; whence Sacred Doctrine is called Theology, that is, discourse or doctrine concerning God. "All things are treated in Sacred Doctrine under the aspect of God, either because they are God Himself, or because they have order to God as to principle and end. Whence it follows that God truly is the subject of this science.... All other things which are determined in Sacred Doctrine are comprehended under God, not as parts or species or accidents, but as ordered to Him." St. Thomas, I, q. 1, a. 7, corp. and ad 2. For indeed, as God is the supreme intelligible to be contemplated, which pertains to speculative Theology, so God is the supreme good to be sought, to which every action and our whole life is to be referred, which pertains to practical Theology. But although Theology is therefore both speculative and practical, "nevertheless it is more speculative than practical, because it treats more principally of divine things than of human acts, of which it treats according as through them man is ordered to the perfect knowledge of God, in which eternal beatitude consists." St. Thomas, I, q. 1, a. 4. Wherefore Theology orders human life and operation itself to the perfect knowledge of the supreme truth, that is, to the vision by which the mind possesses God as ultimate end. Therefore the ultimate end of the work, or of practical Theology itself, is the aforesaid knowledge or vision of God; but the proximate end is the sanctity of life and the worship of God.

42. The sources or loci of Moral Theology, in which moral truths are contained and from which they are drawn, are the same as the theological sources or loci of dogmatic Theology, namely: Sacred Scripture, Tradition, the Church, the Holy Fathers, Theologians, human reason. As regards Sacred Scripture, both the Old and New Testament contain moral truths, but chiefly the New Testament, which contains the precepts, counsels, and most perfect examples of Our Lord Jesus Christ. - Moral truths, both speculative and practical, are also contained in Tradition, as in Sacred Scripture. The same must be said of the Church, which, whether by general and particular Councils, or by Decrees of the Supreme Pontiffs and of the Sacred Congregations, declares and defines moral precepts divinely given, and adds new laws and precepts for the common good of ecclesiastical society and for the right and ordered manner of acting of the faithful. The Church's moral doctrine is contained also in her use and practice, in her sacred liturgy. - Likewise the Holy Fathers often propose moral truths, sometimes as witnesses of tradition, sometimes as doctors of truth. To the Holy Fathers, however, theologians are to be added, especially moral theologians, who discuss moral matters expressly. Their common authority, regularly, cannot be abandoned without grave rashness. But if against them a new and grave reason is brought forward, not yet considered or not

sufficiently examined by them, then some sentence can be rendered probable even against a common opinion. - Hence human reason also is counted among the loci of moral Theology. For there are many things in Moral Theology which are neither defined nor clearly contained in revelation. Therefore for these there is need of reason, which may inquire and conclude from certain principles. Nor indeed does Moral Theology consider only divine, natural, and canonical laws, but also civil laws, since these too must be observed and cannot be violated without sin. It is certain from the very doctrine of faith that every soul is subject to higher powers, that obedience is owed to them, and that the things due to them must be rendered to them. Rom. 13:1 ff.

43. From the given definition of Moral Theology, the excellence, utility, and necessity of this science are easily drawn out. It is most excellent, for it participates in the supreme excellence of Theology itself, or Sacred Doctrine, of which it is a part. Moreover, as the Angelic Doctor says, I, q. 1, a. 5: "Of practical sciences, that one is more worthy which is not ordered to a further end, as civil science is more worthy than military. For the good of the army is ordered to the good of the city. But the end of this doctrine, insofar as it is practical, is eternal beatitude, to which, as to the ultimate end, all other ends of practical sciences are ordered. Whence it is manifest that it is more worthy than the others."

43. Concerning the utility and necessity of Moral Theology, however, there is nothing for us to say, since the thing itself speaks for itself. For the right operation of free will, nothing certainly can contribute more, besides divine grace, than right knowledge of good and evil, of licit and illicit. This knowledge, which Moral Theology supplies, is most certain, insofar as it is derived from the proper source of divine revelation. Moreover, moral Theology receives very many and chief cognitions from divine revelation, to which very often the infallible magisterium of the Church also accedes. Many things indeed are controverted in Moral Theology; but these regard neither the principal nor the common and ordinary duties of man.

44. Those things which the Angelic Doctor has universally in article 1 concerning the necessity of Sacred Doctrine serve to expound the utility and necessity of Moral Theology. "It must be said," he says, "that it was necessary for human salvation that there be a certain doctrine according to divine revelation, besides the philosophical disciplines which are investigated by human reason. First indeed, because man is ordered to God as to a certain end which exceeds the comprehension of reason, according to that saying of Isa. 64:4: Eye has not seen, O God, besides You, what things You have prepared for those who love You. But the end must be foreknown by men who ought to order their intentions and actions to the end. Whence it was necessary for man's salvation that certain things which exceed human reason be made known to him through divine revelation. Even as regards those things which can be investigated by human reason, it was necessary for man to be instructed by divine revelation, because the truth concerning God investigated by reason would come to few men, and after a long time, and with an admixture of many errors; yet upon the knowledge of this truth depends the whole salvation of man, which is in God. Therefore, in order that salvation might come to men more fittingly and more certainly, it was necessary that they be instructed concerning divine things through divine revelation. Therefore it was necessary, besides the philosophical

disciplines which are investigated by reason, that Sacred Doctrine be had through revelation." Cf. Contra Gentiles, I, cc. 4 and 6; De Veritate, q. 14, a. 11.

45. Deservedly, therefore, Tullius, speaking of the science of morals, says that Socrates among Westerners called it down from heaven. Certainly morality must be sought from heaven; hence it is that none deny it except those who deny God, whether explicitly or implicitly, as atheists and rationalists do, and all those who say evil is good and good evil, putting darkness as light and light as darkness. And hence it is that this morality, first well known and then informing human actions, is truly that by which all things at last are to be restored in Christ. For a restoration of this kind consists in restoring and confirming the right order of things. But all things will be well ordered if the duties are rightly observed by which man is bound toward God, by which he is bound toward himself, by which he is bound toward other men and toward human society, both religious or ecclesiastical and also civil, of which he is a part. Jesus Christ Our Lord, who came not to loose the law but to fulfill it, came to manifest again this order of things by His doctrine, that by the work of His more abundant grace it might be fulfilled.

Moreover, the restoration of all things is had if all operate fittingly according to their proper nature. The nature of man is right reason. If therefore he operates according to right reason, his restoration is had. Now right reason requires this: that just as man himself, because he is a creature of God, owes obedience to God, so also in man himself, since the soul is superior to the body, the lower faculties must be subject to the higher. And since that which is subordinated to another ought to be a help and not an impediment to it, man ought so to use the lower faculties that from them he suffer no impediment to his fitting operation and the attainment of his perfection. But man also needs external things for his nature; therefore he must so use them according to the measure of moderation imposed by the necessity of nature itself, that their use be not harmful but useful to the same nature, as appears in disordered or temperate taking of foods. Thus rectitude will at once shine forth in man by its splendor, its comeliness, its beauty, and all things in him will be restored. Finally, it is natural for man to be social; for one man alone does not suffice for all things which are necessary to human life. Therefore those things without which human society cannot be preserved are naturally fitting to man according to right reason. Such are: that subjects render reverence and obedience to superiors, that each one preserve what is his own, that he abstain from injuries, and other things of this kind. What doubt can there be that if all these things are observed, peace will reign in human society, and with peace prosperity and happiness will flourish? Piety and Religion also will reign and flourish. Blessed is the people whose Lord is their God. And this will be the true restoration of society, if God rules over society and His most holy law is observed. - The Supreme Pontiff happily reigning, Pius X, has greatly and already often commended Catholic action to Catholics. Catholic action of this kind is not effectively promoted unless right moral doctrine is promoted and propagated, and effectively led into practice. For behold whence all Catholic action begins, whither it is directed, and in what it consists: "Going, teach all nations... teaching them to observe all things whatsoever I have commanded you." Matt. 28:19-20.

46. It must now be said concerning the partition of moral Theology, while remaining in that stricter and more limited signification in which it is now usually taken. Now all questions of

moral theology are reduced to certain principal treatises, which can be enumerated in order thus: 1. concerning human acts, which are as it were the proper subject of honesty and sin; 2. concerning conscience, which proximately rules human actions; 3. concerning laws in general, which remotely rule the same actions; 4. concerning virtues, from which the honesty of human acts is from conformity with them, and concerning sins, which, being dissimilar to virtues, arise from the deformity of human actions with respect to the rule, whether proximate or remote; 5. concerning laws specifically, by which the licit or illicit regarding human actions is determined in particular. These laws proceed in this order: 1. concerning the properly evangelical precepts, resting upon divine law or revelation, namely concerning the precepts of the Theological virtues, Faith, Hope, Charity, by which man immediately tends to his end; 2. concerning the precepts of the Decalogue, constituted by natural law, but also positively confirmed by divine law; 3. concerning the general precepts of the Church, which depend upon human law; 4. proceeding from more general things to more particular things, concerning the obligations of various states; and by observance of these precepts man mediately tends to his end, cf. Theol. Wirceburg., De Virtut. Theol., n. 32 ff.; De Virt. Relig., nn. 9, 10; 5. concerning the precepts of the sacraments, which contain a law at once commanding and helping; for through them sanctifying grace is infused, and other helps of grace are given, by which man can observe the whole law, so that he may thus be preserved in God's friendship, or restored to it, if by transgressing the law he has gravely sinned against God; 6. concerning censures, which are ecclesiastical penalties consequent upon the transgression of certain special laws, and concerning irregularities, which are partly penalties, partly impediments to receiving sacred orders; and therefore many reckon them to the treatise on orders; 7. concerning indulgences, through which, sins having been remitted from another source, the temporal punishment still due for the same sins is remitted; and thus man is proximately disposed to eternal life. Many add indulgences to the treatise on penance, as its complement.

47. The first four Treatises are general and fundamental, and constitute general or fundamental Moral Theology. For they contain the general and fundamental principles of the whole of Moral Theology. Wherefore they are to be placed before the rest, and in fact, already very commonly in the schools, they are usually placed before all the remaining treatises. The Angelic Doctor places questions concerning the same matters before the remaining moral Questions in I-II, where, although he does not treat expressly and diffusely of Conscience, nevertheless he treats in order of human acts, of sins, and of laws. The other particular Treatises constitute special Moral Theology; and from the nature of the matter they can be ordered in two ways. For since the licit and illicit, which moral Theology inquires into, depend on particular laws and on particular virtues, they can be ordered both according to the former and according to the latter.

48. The Angelic Doctor followed this latter order in II-II. And this in truth is the more correct order of the science. For, as St. Thomas says in the Prologue to II-II, "vices and sins are diversified in species according to matter or object," and accordingly according to the virtue to which they are opposed. Hence the Angelic Doctor treats at the same time in II-II of the virtues and of the opposed vices. First he discusses the theological virtues, and then the cardinal virtues. "All other moral virtues are in some way reduced to the cardinal virtues." Prologue. Hence, in the consideration of some cardinal virtue, St. Thomas also considers all virtues

pertaining to it in any way and the opposed vices. Furthermore, St. Thomas followed this order because, as other old theologians did, so he himself also did not distinguish between dogmatic and moral theology, and he himself instituted a perfect treatment of virtues and vices as a part of the whole of Sacred Doctrine, whose golden Compendium he presents in his work, namely in the Summa of all Theology. But since Moral Theology, as it is now handed down in the schools, is explained separately and apart from Dogmatic Theology; and since it rests rather in determining sins than in explaining the nature, properties, and perfections of virtues, so that priests and confessors may chiefly be instructed in fulfilling their proper office, hence it has come about that, after Busembaum and St. Alphonsus, moral treatises are explained in the schools rather according to the order of the precepts than according to the order of the virtues. And since this order has now been proved by experience, and is easier and plainer, it seems to be chosen before the other. Attention must be given chiefly not to doctors, but to beginners. And thus the Angelic Doctor says in the Prologue of the Summa Theologiae: "Because the doctor of catholic truth ought not only to instruct the advanced, but it also pertains to him to educate beginners, according to that saying of the Apostle in 1 Cor. 3:1, As to little ones in Christ, I gave you milk to drink, not meat, the proposed intention in this work is to hand down those things which pertain to the Christian religion in that manner according as it befits the instruction of beginners." But concerning the Sacraments St. Thomas treats in the last place in III, and for the reason already indicated it seems they should be discussed in the last place, as nearly all now do.

49. Moral Theology, taken in the stricter sense, of which we are treating and as it is distinguished from Ascetical and Mystical Theology, can be treated by a threefold method: positive, casuistic, and scholastic. The first proves and sets forth in order the precepts and dogmas of morals from properly theological sources. The second insists upon resolving practical cases, by applying general principles to particular cases determined by various circumstances. The third, finally, proceeds by the discourse of reason rather than by authority. For moral precepts and dogmas already positively proved by properly theological arguments it confirms and illustrates by philosophical principles and reasons, and declares their intimate connections, relations, and consequences. This threefold method can easily be joined and employed together, and from this threefold method, mixed together, there is had a perfect and excellent treatment of Morals.

50. The scholastic method is of itself brief in the treatment of questions. But since many of the old scholastics often instituted a long and learned examination of the opposed opinions of others, in order directly to refute them, or to approve and accept them, and their volumes grew into an immense mass, hence it happened, especially as regards Moral Theology, that their most learned works were handled only by the hands of a few. Wherefore, for handing down the true doctrine of Moral Theology and for the greater utility of students, it seems best to proceed in it by the scholastic method, omitting that long discussion of other opinions; and we observe that this was also done by the Angelic Doctor in the Summa Theologica.

51. One must insist more, however, on the reasons of things. For, as the same St. Thomas teaches, Quodl. 4, q. 9, a. 18: "Every act is to be executed according as it befits its end. But disputation can be ordered to a twofold end. For one disputation is ordered to removing doubt whether it

is so; and in such a theological disputation one must especially use authorities which are received by those with whom the dispute is held.... But another disputation is magisterial in the schools, not for removing error, but for instructing the hearers, so that they may be led to the understanding of the truth which he intends; and then one must rely upon reasons investigating the root of truth and making known how what is said is true; otherwise, if the master determines a question by bare authorities, the hearer will indeed be certified that it is so, but he will acquire nothing of science or understanding, and will go away empty." And indeed it must not be denied that there are not lacking more recent theologians who are led by the number of doctors rather than by the firmness of reasons, and who proceed by affirmation rather than demonstration; whence novices in this doctrine are very greatly impeded. St. Alphonsus himself teaches that attention must be given principally to the intrinsic force of reasons: "for extrinsic authority effects nothing other than to offer a presumption of intrinsic force," I, n. 79, p. 59, ed. P. Gaude.

52. Finally, as regards the various vicissitudes of Moral Theology: in the first centuries of the Church down to the thirteenth century, it is contained in many writings concerning the right institution of morals and the right administration of the sacrament of penance, which were published either by private doctors or by the authority of the Church. Moral truths, not yet collected and ordered into one body of doctrine, are found chiefly and everywhere in the works of the Holy Fathers. - But in the thirteenth century, together with dogmatic theology, Moral Theology began to be handed down in scientific and scholastic form, especially by the work of St. Thomas, St. Bonaventure, and Scotus. Many little Summas of moral matters were published in this second age, which extends to the fifteenth century and to the Council of Trent. - After the Council of Trent, in the sixteenth and seventeenth centuries, innumerable men wrote concerning the theology of morals. Some wrote Commentaries on the I-II and II-II of St. Thomas; others illustrated the whole of moral theology or at least a great part of it. The Spaniards are eminent in this period: some treated special matters, some collected cases of conscience, others rather cultivated pastoral theology. Among others, Eusebius Amort, a German, is celebrated; St. Alphonsus held him in great esteem. Among all, the most celebrated are Thomas Sanchez, S.J.; L. Molina, S.J.; Francis Suarez, S.J.; Cardinal De Lugo, S.J., Spaniards; Leonard Lessius, S.J., a Belgian; Paulus Laymann, S.J., a German. In this third age, which extends to St. Alphonsus M. de Liguori, sharp controversies were stirred up by the works of the Jansenists; defending an exaggerated and intolerable rigorism, they held catholic doctors, whom in contempt they called casuists, as corrupters of Christian moral doctrine. Many fought against them, especially from the Society of Jesus, among whom are reckoned Ven. Paulus Segneri, Bl. Francolinus, La Croix, and many others. In this same age controversies concerning probabilism were begun, and many of them were settled by Apostolic Authority. - The fourth and last age, the eighteenth and nineteenth centuries, takes its beginning from St. Alphonsus down to our times. He himself is the leader and master of all probabilists, who afterward, in no small number, all followed him down to our times. Rejecting both laxism and rigorism, the Holy Doctor defends true probabilism. According to the Holy Doctor, where the honesty of a human act is at issue, it is licit to follow a truly probable opinion, by forming for oneself a practically certain conscience through reflex principles; and indeed it is licit to follow this truly probable sentence in favor of liberty, even when the opposed more probable one has been left

aside. And this doctrine of his, which St. Alphonsus expressly handed down and invincibly proved in the Dissertation for the moderate use of a probable opinion in concurrence with a more probable one, he always most constantly defended and never retracted.

53. A catalogue of various Authors is had in Franc. Ant. Zacharia, De Locis Moralis Theologiae, the introductory book of the work of La-Croix, and in the various Compendia of Moral Theology of Fr. Gury. Also to be consulted are the Literary Nomenclator of Fr. H. Hurter, the Enchiridion adapted for cultivators of the sacred disciplines by Zeph. Zitelli-Natali, Scavini, Tr. 1, nn. 100, 101, 132, 133, 136, 147, 12th ed., Milan, 1874, and the Supplement to the Library of Lucius Ferraris, s.v. Author.

Second Commentary: On Conscience and on Probabilism

I. On the Nature of Conscience

1. Conscience can be taken in two ways, physically and morally. Conscience considered physically pertains to Psychology and Logic, according as it is considered either precisely insofar as it is a cognitive faculty of returning upon its own acts, or precisely insofar as it is an instrument for attaining truth. But conscience taken morally pertains both to Moral Theology and to Moral Philosophy. Wherefore here the discussion will be only about conscience considered morally. We shall speak first about the intrinsic nature of this moral conscience, and then about its various divisions.

2. Law regulates human actions in order to their moral honesty or turpitude by the aid of conscience. For in order to regulate them, it must be applied to the action to be done here and now, so that it may be seen whether such an action is commanded, forbidden, permitted by the law, or counseled; and from this application a judgment is then formed concerning this or that action to be done or omitted here and now, and this practical judgment is conscience. Wherefore conscience is nothing other than a practical judgment by which we pronounce a thing to be done or omitted here and now as good or evil; and this by way of precept, or counsel, or simple permission. A practical judgment, that is, a practical-practical or proximately practical judgment. For a judgment regarding not an action concretely to be placed here and now, but the licitness of an action in the abstract, is also a practical judgment, but speculative-practical or remotely practical. - Therefore, as law is the objective and external rule of human acts, so conscience is the subjective and internal rule of those same acts; the former remote, the latter proximate. Hence human acts derive their moral, formal goodness or malice from conscience and not from law. For the object of the will is that which is proposed by reason. Whence it follows that, from the fact that something is proposed by reason as good or as evil, the will, while it is borne toward it, receives the aspect of good or evil. St. Thomas, I-II, q. 19, aa. 5, 6.

3. In order that we may form this conscience, we make a syllogism. In this syllogism the major proposition states the law generally. The minor proposition of the same syllogism compares the action which we wish to do here and now with the law. Finally, the consequent, from the conformity or deformity affirmed in the premises of this or that action with the law, pronounces that this or that action is to be done here and now as good, or to be omitted as evil; and this is called the judgment or dictate of conscience. Dictate, because to dictate is to command, to order; and conscience is, as it were, an interior law which binds man. Judgment, since just as a dictate concerns only those things which ought to be done or omitted, judgment also concerns those things which can be done or omitted. Wherefore conscience differs altogether from synderesis, which is the natural habit of the first principles of things to be done, which are the natural principles of natural law. - St. Thomas, I, q. 79, aa. 12, 13; I-II, q. 76, a. 1; De Veritate, q. 16, a. 1; q. 17, a. 1; 5, 2 d. 24, q. 1, a. 4; q. 2, a. 4; Suarez, tr. 3, d. 12, s. 1; L. I, n. 1, 2 (ed. Neap., 1819, unless another is expressly cited).

4. "And according to this mode it is clear how synderesis, natural law, and conscience differ: because natural law names the universal principles of law themselves; synderesis names the habit of them, or the power with the habit; but conscience names a certain application of natural law to something to be done, by way of a certain conclusion." St. Thomas, 2 Sent., d. 24, q. 24, a. 4. But from universal principles speculatively applied to particular matters, moral science is had, which deduces determinate conclusions, but in the abstract.

5. The Angelic Doctor, I, q. 79, a. 9, distinguishes higher and lower reason. It belongs to the former to judge according to the motives of wisdom; to the latter, according to the motives of science, according as reason intends, as St. Augustine says, in its judgment, eternal or temporal things. Hence the aforesaid comparison of the action which we wish to do here and now with the law can be made in two ways: in one way according to higher reason, or according to the knowledge of eternal things and of the divinely revealed law; in another way according to lower reason, or according to the rational knowledge of temporal things.

6. The Angelic Doctor himself illustrates by the following example the aforesaid syllogism by which we form conscience for ourselves, and the comparison of an action to be done with the law, by the judgment of higher and lower reason. "Synderesis," he says, "in this syllogism supplies, as it were, the major, the consideration of which is the act of synderesis; but higher or lower reason supplies the minor, the consideration of which is its own act; but the consideration of the elicited conclusion is the consideration of conscience. For example, synderesis proposes this: Every evil is to be avoided. Higher reason assumes this: Adultery is evil, because prohibited by the law of God; or lower reason would assume it because it is evil, because unjust, or dishonorable. But the conclusion, which is that this adultery is to be avoided, pertains to conscience." 2 Sent., d. 24, q. 2, a. 4.

7. Moral conscience, whose nature we have now described and of which we are speaking at present, is called antecedent conscience, so that it may be distinguished from another moral conscience, which is called consequent; and this is the conscience which refers to an action already done and to whether it was morally good or evil. Hence three things are attributed to conscience: to testify, to bind, to accuse, or to excuse. To testify, that is, to recognize that we have done or not done something; to bind, that is, to judge that something is to be done or not to be done; to accuse or excuse, that is, to judge that something which has been done was not well done or was well done. - But to avoid cavils concerning that prior conscience, namely that it should not be called conscience, since it bears judgment about a thing not done but to be done, for conscience refers to internal facts, we briefly note that usage has already obtained that it be so called. Usage, however, in this matter is a sufficient reason. But the very force of the name is in no way foreign to such a signification. For "conscience, according to the propriety of the word, imports an ordering of knowledge to something; for conscience is said as with other knowledge," that is, an application of knowledge to something, which is not done except through some act. Wherefore that act of the mind or intellect is rightly called conscience, by which a human act is directed in the concrete, or as to be placed here and now. And thence it is that synderesis, or the natural habit of the principles of things to be done, is also accustomed to be called conscience; for a habit is a principle of act, and "it is customary

for causes and effects to be named from one another." St. Thomas, I, q. 79, a. 13; Laymann, l. 1, c. 2, n. 1; Sanchez, De Praec. Decal., l. 1, c. 9, n. 1.

8. Now the formal goodness or malice of human acts is to be taken not from consequent conscience, but from antecedent conscience. Hence those who study moral theology are sometimes deceived, because they think after acquiring the science that they sinned in many things; since they lacked that science when they acted, and then were acting in good faith. The same is to be said of the unlearned and of all others who, after hearing a sermon or after reading a pious book, begin to be troubled with anxiety about past operations. - St. Thomas, I, q. 79, a. 13; De Veritate, q. 17, aa. 1, 2.

9. If in that syllogism which is to be formed so that conscience may be had, the major proposition, or law, were always established with evident certainty, and the minor proposition, or that this or that action is contained in the law, were also always established with evident certainty, there would be given only one conscience: certain and right conscience. But since both the law and the application of the law often must be gathered by the force of difficult reasoning, hence there are various species of conscience. Nevertheless error, as is clear, can never happen by force of synderesis, but only by force of erring reason. "It happens," says St. Thomas, "that conscience errs, not because of an error of synderesis, but because of an error of reason; as is clear in the heretic whose conscience dictates to him that he should rather allow himself to be burned than swear, because higher reason is perverse in this, that it believes an oath to be simply prohibited." 2 Sent., d. 24, q. 2, a. 4.

10. Therefore conscience is divided: 1. Into right and erroneous conscience. Right conscience is that which dictates what is true; erroneous conscience is that which dictates as true what is false. Erroneous conscience is either vincibly or invincibly such, according as the error morally could and should have been avoided, or morally could not have been avoided. 2. Into certain, probable, doubtful, strict, lax, scrupulous conscience, according as it is founded on a certain, probable, doubtful, stricter, laxer, or wholly vain motive. Conscience that is only subjectively certain, that is, which is thought to be such, and therefore with certainty taken more broadly, and likewise probable and doubtful conscience, can be objectively right or erroneous. Scrupulous, strict, and lax conscience are referred to erroneous conscience. For without sufficient reason, the scrupulous conscience fears sin where there is no sin; the lax conscience bends judgment in favor of liberty, either to avoiding the law simply, or to lessening its obligation; but the strict conscience affirms either an obligation which is not present, or a graver obligation than is really present.

11. There are several degrees of lax conscience. It is Pharisaical if someone, making much of certain small observances, makes little of grave precepts; it is cauterized if, from a contracted habit of sinning, it makes light of grave sins. - Lax conscience is often not taken for conscience, which is an act of the mind and not a habit, but for a habitual disposition of the soul toward laxity; and similarly scrupulous conscience is not rarely taken not for conscience itself properly, but for a habitual disposition of the soul inclined to scruples. - Suarez, tr. 3, d. 12, s. 2; St. Thomas, I-II, q. 19, a. 3, a. 6 ad 2; Quodl. 3, a. 26.

II. On Certain Conscience

12. Certain conscience properly is that conscience which rests upon a certain motive; and consequently judges concerning the honesty or turpitude of an action to be done without fear of erring. Less properly, it is that which simply judges concerning the honesty or turpitude of an action without any fear of erring. The latter is certain only subjectively; the former is also certain objectively. Likewise, certain conscience can be certain strictly and broadly, or morally. Strictly certain conscience excludes every doubt, both prudent and imprudent. Broadly or morally certain conscience excludes only every prudent doubt. Its directive force as regards the licitness or illicitness of human acts, commanded or prohibited, is declared in the following propositions.

13. Only certain conscience is proximately directive of human acts. - Proof. "The command of one who governs has itself for binding in voluntary matters in that mode of binding which can befall the will, as bodily action has itself for binding bodily things by the necessity of coercion. But the bodily action of an agent never induces necessity in another thing except through the contact of its coercion with the thing upon which it acts. Hence neither is anyone bound by the command of some king or lord unless the command touches the one to whom it is commanded; but it touches him through knowledge. Hence no one is bound by any precept except through the mediation of knowledge of that precept. And therefore he who is not capable of knowledge is not bound by a precept. Nor is someone ignorant of a precept of God bound to doing the precept, except insofar as he is bound to know the precept. But if he is not bound to know, and does not know, he is in no way bound by the precept. As in bodily things, a bodily agent does not act except through contact, so also in spiritual things a precept does not bind except through knowledge." St. Thomas, De Veritate, q. 17, a. 3.

14. Therefore man is bound through knowledge, or certain knowledge, of the precept by which, however, he is properly bound. Hence the Holy Doctor goes on to say: "And therefore, just as the force by which touch acts and by which the power of the agent acts is the same, since touch does not act except by the power of the agent, and the power of the agent acts only through the mediation of touch; so it is the same power by which the precept binds and by which conscience binds, since the precept does not bind except through the power of knowledge, nor does knowledge bind except through the power of the precept. Hence, since conscience is nothing other than the application of knowledge to an act, it is clear that conscience is said to bind by the force of the divine precept. Therefore it must be said that man does not make a law for himself, but through the act of his cognition, by which he knows the law made by another, he is bound to fulfilling the law." But this act of cognition, according to St. Thomas, is nothing other than knowledge of the law, or certain cognition of the law. Any other uncertain cognition manifests not the law, but a doubt about the law, by which certainly the will cannot be bound.

15. According to the same Angelic Doctor, someone is bound by a precept in two ways: either because he has knowledge of it, or because he is bound to know it. But when, with moral diligence applied, the precept is not established, then neither is knowledge of the precept lacking, nor is he bound further to know it, since by hypothesis the diligence necessary for

knowing it has already been applied, and it could not be known. Wherefore then knowledge of the law is lacking, and no obligation of the will can be had.

16. It is unlawful to act without conscience subjectively certain concerning the honesty of an action. - Proof. He who acts without this conscience wills an action concerning whose honesty or turpitude he is uncertain. But to will an action concerning whose honesty or turpitude one is uncertain is nothing other than to will it whether it be good or evil. But again, to will an action whether it be good or evil is illicit, for this is a will consenting to evil. Therefore. Moreover, the saying of the Apostle to the Romans is well known, 14:23: All that is not of faith is sin. That is, what is not from a certain persuasion that it is licit is sin. - St. Thomas, I-II, q. 19, aa. 3, 5; Quodl. 3, a. 27, ad 2; Quodl. 8, a. 13; L. I, n. 3; Suarez, tr. 3, d. 12, s. 3.

17. Sin does not have a special malice precisely from this, that it is against conscience, unless it is done in order that conscience may be overcome. The first reason is that this is intrinsic and common to every sin, that it be against conscience. The second reason is that there is then a directly willed contempt of the rule of every good operation, and thus one exposes himself to the danger of all crimes, which, as is clear, is a special and indeed most grave disordering of the will, against the natural inclination of the will toward good. - Lessius on q. 19, a. 6, d. 3; St. Thomas, II-II, q. 14, aa. 1, 4.

18. Likewise it is a special sin if someone sins from certain malice through contempt, casting away and removing that which could have impeded the choice of sin; and it is a sin against the Holy Spirit. Six species of this are enumerated: despair, presumption, impenitence or the purpose of not repenting, obstinacy or the purpose of adhering to sin, impugnment of acknowledged truth so that one may sin more licentiously, envy of fraternal grace, by which someone envies not only the person of his brother, but also the grace of God increasing in the world.

19. Only conscience subjectively certain is the rule of morals. But morally certain conscience suffices. - Proof of the first part. For, as is clear from the preceding proposition, nn. 13, 16, without this conscience one cannot act. Besides this conscience, no other subjectively more perfect conscience is given. Therefore one can act with this alone; and accordingly this conscience alone is the rule of morals. Proof of the second part. 1. From the common sentence of the doctors and universal practice. 2. Because very often another certainty cannot be had, and no one necessarily sins. 3. Because, with this moral certainty standing, one acts prudently; for moral certainty, although it does not exclude every doubt, both prudent and imprudent, nevertheless excludes every prudent doubt. Therefore. - Rom. 14:23; c. Litteras 13, De Restitutione Spoliatorum; St. Thomas, II-II, q. 47, a. 9 ad 2; q. 70, a. 2.

20. It is lawful to act according to certain conscience, even if it is invincibly erroneous. - Proof. He who acts thus wills, as far as lies in him, a good action, and consents only to a good action. But it is right to will this action. Therefore. Proof of the major: for nothing is willed unless it is first known. Therefore, with invincibly erroneous conscience standing, he who acts according to it wills, as far as lies in him, a good action, and consents only to a good action. - L. I, n. 5; Elbel 126.

21. Wherefore he who is persuaded in such a way that he ought to tell a lie in order to free his neighbor from a grave evil does not sin by lying; indeed, he places an act formally good. - Although erroneous conscience materially disagrees with the law, nevertheless one is bound by it, because erroneous conscience proposes error as law. Since obligation arises from law, in the aforesaid case of erroneous conscience, obligation does not arise directly from the law that one must lie, which does not exist; but it arises from the more general natural law of doing good and avoiding evil; and the evil to be avoided in the case is apprehended as a good to be done. St. Thomas, De Veritate, q. 17, a. 4 ad 3.

22. It is unlawful to act against certain conscience, even if it is invincibly erroneous. - Proof. He who would act thus would will an action which he judged prohibited; he would refuse one which he judged commanded. But it is unlawful to have this will, because it is a will consenting to evil. Therefore. "It must be said that, simply, every will disagreeing with reason, whether right or erring, is always evil." St. Thomas, I-II, q. 19, a. 5; 2 Sent., d. 39, q. 3, a. 3; Quodl. 3, a. 27; L. loc. cit.; Cajetan on I-II, q. 19, a. 5; Suarez, tr. 3, d. 12, s. 4.

23. Wherefore he who believes himself bound to tell a lie in order to free his neighbor from grave evil sins by not lying.

24. It is lawful to act according to certain conscience, although it is vincibly erroneous. - Proof. Because when an action is judged honest or base with certainty, the will acting according to this conscience pursues the honest and flees the base, which is wholly lawful. But that this conscience is vincibly erroneous does not make it that, when someone actually acts according to it, he sins; rather this makes it that the fault is only in the cause. Hence also the judgment concerning its gravity or lightness must be made not from the grave or light effect, but from the grave or light negligence in inquiring into the truth. Now when someone actually acts, if in no way does he attend to the erroneous conscience which he has, and has no suspicion concerning it, since by hypothesis there is here and now a certain conscience, he already acts not from a vincibly erroneous conscience, but from an invincible conscience. - La-Croix, l. 1, nn. 42, 43, 757, 760; Kenrick, 2nd ed., Mechlin, 1860, n. 36.

25. Wherefore he who here and now judges himself bound to commit theft in order to help a poor person does not sin by stealing. But those who are habitually of lax conscience ordinarily sin gravely by transgressing a grave precept, because ordinarily speaking they have at least some confused knowledge of it.

26. It is unlawful to act against certain conscience, even if it is vincibly erroneous. - Proof. Because then one would act against a certain judgment; and he would will the action which he judges prohibited, and would refuse the action which he judges commanded; which will is evil, for it is affected toward evil. Therefore. St. Thomas, I-II, q. 19, aa. 5, 6; Suarez, tr. 3, d. 12, s. 4; Elbel 122, 137, 138; L. I, n. 4; La-Croix, l. 1, nn. 42, 43, 757. - "And therefore it must be said that every conscience, whether right or erroneous, whether concerning things evil in themselves or concerning indifferent things, is obligatory, so that he who acts against conscience sins." St. Thomas, Quodl. 3, a. 27; Quodl. 8, a. 15.

27. "A sin committed against conscience has its species from the particular matter in which it is thought to be concerned, or from order to the particular precept to which it is thought to be opposed. For example, if you think a thing which you take is not yours, although in reality it is yours, it will be the sin of theft; if you think it is against the obligation of a vow, it will be the sin of sacrilege. The reason is that sins receive their species from the object either of the external action or of the will. Nor does it matter whether this object is really evil, but whether it is apprehended as evil; because the will is borne toward it as it is proposed by reason." Lessius on q. 19, a. 6, d. 3; St. Thomas, I-II, q. 19, a. 5 ad 3.

28. It is no sin to act against certain erroneous conscience if liberty of acting is lacking. - The reason is clear, because where there is no freedom, there is no sin. And thus he does not sin who believes that he sins, while having base thoughts or suffering base movements, which, although he detests them, he nevertheless cannot impede.

29. Can someone labor under an invincibly erroneous conscience concerning depraved desires and other merely internal acts, if no external action follows? - Speaking explicitly and generally about desire, Elbel has this, n. 127: "That many, at least among the more unlearned and less educated, can inculpably persuade themselves that desires of this kind are not evil unless they are completed by deed, seems sufficiently certain, and Sanchez, Stoz, and La-Croix expressly teach it." St. Alphonsus says concerning this opinion, I, n. 9: "I could never consider it probable.... With other learned recent authors I consider it little probable." The reason for this sentence is that if someone certainly knows the malice of the external action, and nevertheless wills to execute it, he already knows that he wills evil. How, therefore, will he be excused from sin? But as regards simple delectation, invincible ignorance can more easily be present; for the tendency of the will into evil is not so evident as in a desire that is of itself efficacious. And the same also seems to be said of an inefficacious desire.

30. Can there be an invincibly erroneous conscience concerning precepts of natural law? - "It is certain that in the first principles of natural law principles, as also in proximate conclusions and in the certain obligations of one's proper state, invincible ignorance is not given, because by the very light of nature such things are known to all, except to those who close their eyes lest they see them. But on the contrary the unanimous sentence of theologians is... that in conclusions which are mediate and obscure, or remote from the principles, invincible ignorance certainly is given and must be admitted," L. I, n. 8, 170 seqq.; Struggl, tr. 3, q. 1, n. 10-13; St. Thomas, Quodl. 3, q. 36; De Veritate, q. 15, a. 2; ad Rom. 2, 14-18.

31. The eternal law, existing in the divine mind, most perfectly exhibits the order of things. The natural law, which is an application of the eternal law, exists in the human mind. Wherefore the natural law, by the very fact that it is manifested through human reason, falls short of the supreme perfection of the eternal law. Hence it happens that what we think and judge, in more difficult matters, does not always answer to the rules of the divine mind, and remains obscure and unknown to us. Hence that thing, although materially and in itself it pertains to natural law, nevertheless does not pertain to it formally and as regards us, since it has not been sufficiently promulgated to us by the natural light.

32. Can boys invincibly be ignorant of the malice of pollution? - Reply. Affirmatively, speaking absolutely, at least in some rare case, and at the beginning of a depraved custom. The reason is that the fact that an immodest look or touch, or the seeking of pleasure from pollution procured, or even naturally arisen, etc., is morally evil and illicit, is not made known so evidently from the very comprehension of the first principles; rather, reasoning is needed in order to detect their malice. Therefore their malice can, at least for some time, be inculpably unknown. From this the prudent confessor will easily conclude that, in such a contingency of fact, one must proceed cautiously and prudently; and this caution and prudence, if it is to be observed with all especially in the matter of chastity, is to be observed most of all with boys and girls. - Elbel 128; Struggl, loc. cit., n. 13.

III. On Probable Conscience and on Probabilism

33. "Probable conscience is that by which someone, relying upon a probable opinion, forms for himself a practical dictate of reason from certain reflex or concomitant principles, for acting licitly." L. I, n. 40. Thus, for example, Titius the confessor, relying upon a probable opinion, judges that he probably has jurisdiction. Then indeed he says, and this is the reflex principle: But, with jurisdiction truly probable standing, the Church certainly supplies it. Therefore, he concludes, and this is the practical dictate of conscience, I can validly and licitly absolve in the case; and he absolves.

34. "Various species of probabilities are given... An opinion slightly probable is one which rests upon some foundation, but not such as has power to draw to itself the assent of a prudent man... Probable is one which rests upon a grave moment, either of intrinsic reason or of extrinsic authority, which has power to draw to itself the assent of a prudent man, although with fear of the opposite. More probable is one which rests upon a weightier foundation, but still with prudent fear of the opposite, so that the contrary also is judged probable. Most probable is one which rests upon a most weighty foundation, on account of which the opposite is judged either slightly or doubtfully probable... An opinion or sentence morally certain is one which excludes every prudent fear of falsity, so that the opposite is reputed altogether improbable. Finally, a safe opinion is one which withdraws from every danger of sinning. Safer, however, is one which withdraws more from such danger, although it may not rest upon firmer reasons." L. loc. cit.

35. But St. Alphonsus speaks more exactly of a most probable opinion, H. A., tr. I, n. 65: "Unless we wish to confuse a most probable opinion with an absolutely certain opinion, it is necessary to say that the opinion contrary to the most probable is not slightly probable, but doubtfully probable." The reason is that a most probable opinion "is within the limits of probability," and therefore "does not exclude every prudent fear." "But slight probability is not true probability, and therefore does not bring with itself a prudent reason. But doubtful probability brings some prudent reason, although not one wholly certain and stable." Cf. Sporer, Op. Mor., I, n. 185.

"Truth known without fear is called certainty. But truth probably known is called opinion. The adversaries wish that a truly probable opinion be only that which, after all things have been weighed

on both sides, is known to be true, so that the opposite seems certainly false. But they err in terms; for this must be said of science, or of moral certainty, but not of probable opinion, which of itself carries with it that it be fallible, and that its contrary also be probable, that is, probably true"; St. Alphonsus, Scholastico-moral Dissertation, year 1749.

36. Now from probable conscience which is to be followed practically, probabilism arises. Probabilism is reduced to one proposition applied to human action, as regards its licitness, in a case of doubt: A doubtful law does not oblige. Behold what probabilism is, and it is nothing else except this. It is called probabilism because whenever there is against the law a truly probable opinion, the law is doubtful, and consequently does not oblige. Hence probabilism is also called the moral system by which, in doubtful matters, it is simply lawful, as regards the licitness of acting, from some reflex principle, to follow a truly probable opinion against the law.

37. It differs altogether from the other moral systems. It differs from rigid and mitigated tutiorism, because the former states: It is not lawful to follow a sentence favoring liberty unless it is morally certain; otherwise the safer part must always be held in practice. The latter states: it is not lawful to follow the less safe opinion unless it is most probable.

38. It differs from laxism, which is also called broad or lax probabilism, because lax probabilists say: it is licit to follow an opinion slightly or doubtfully probable. Probabilism simply so called, or moderate probabilism, wholly excludes an opinion slightly probable and doubtfully probable, because these opinions are not truly probable. A truly probable opinion is only one which is gravely and certainly probable. For this alone is able prudently to move a prudent man to assent, in the doubt of some grave matter; and this alone truly rests upon a grave motive.

39. It differs from probabiliorism, because probabiliorists say that it is not lawful to follow an opinion probable for liberty when the other opinion for the law is more probable. - It differs from equiprobabilism, because equiprobabilists affirm that it is lawful to follow a truly probable opinion favoring liberty when the contrary opinion for the law is equally probable or a little more probable; but not at all when the contrary opinion for the law is certainly and notably more probable.

40. But from what has been said it is clear that probabilism is called minus-probabilism by its adversaries without any truth. For probabilists do not say that it is not lawful to follow any opinion except the less probable, as probabiliorists say that it is not lawful to follow any except the more probable, and equiprobabilists the equally probable; rather, they say that it is lawful simply to follow a probable opinion; not at all that it is not lawful to follow any opinion except the less probable.

41. These things having been set down, we must now speak of the directive force of probable conscience, and consequently of the truth of probabilism. And this will be declared and proved step by step in the following propositions.

42. Lest there be a cavil about words, as far as we are concerned we recognize no other opinions, as regards doctrine, within the limits of true probability, except the probable, the more

probable, and the most probable opinion. Below the probable there is only the non-probable, the improbable, of which there can indeed be various grades; above the most probable there is only the certain. The probable is immediately opposed, by an opposition of comparison, to the more probable; mediately, however, to the most probable. Likewise the most probable is immediately opposed to the more probable, but mediately to the probable; unless someone should wish in fact to confuse the most probable with the certain.

43. But a twofold probability must be distinguished: intrinsic and extrinsic. The former is founded upon reasons taken from the thing itself; the latter upon the authority of doctors, and presupposes intrinsic probability, or at least causes it to be presumed. As intrinsic probability can be greater or lesser from the weight of reasons, so also extrinsic probability can be greater or lesser from the number and learning of authors.

44. It is wholly unlawful to operate with a practically probable conscience, which proximately directs an action really to be placed here and now. - For only subjectively certain conscience is the rule of morals. And consequently in this sense that saying is false: He who acts probably acts prudently. L. I, n. 58, 69, 80. Wherefore the whole question here is about speculatively probable conscience, which directs the action only remotely, by declaring the probable existence of a law; namely, whether by means of some reasoning we can by right make a step from a speculatively probable conscience to a practically certain conscience; or, what is the same, whether, with a probable opinion standing concerning the honesty of some action in general, we can form for ourselves a certain conscience concerning the honesty of such an action in a particular and individual case, and so licitly follow in practice an opinion speculatively probable. To resolve this question the following propositions are established.

45. It is not lawful practically to follow an opinion slightly or doubtfully probable, the safer having been left aside. - This proposition is against the lax probabilists, according to whom it is licit to follow an opinion slightly or doubtfully probable. - Proof of the first part. This first is established from proposition 3 condemned by Innocent XI: "Generally, when we do something relying upon probability, whether intrinsic or extrinsic, however slight, provided one does not depart from the limits of probability, we always act prudently." - Besides, a slightly probable opinion is an opinion resting upon a slight motive; but a slight motive is a motive by no means sufficient to move a grave or prudent man to assent, and therefore it is not truly probable. Indeed, a truly probable opinion is called that which rests upon such a motive that it is sufficient to move a prudent man to assent. But if such an opinion is insufficient to move a prudent man to a judgment concerning the non-existence of the law, it is impossible to form for oneself a conscience concerning the licitness of the action. - Proof of the second part. Nor indeed is it lawful practically to follow a doubtfully probable opinion. For a doubtfully probable opinion is an opinion resting upon a doubtful motive, concerning which, namely, one can prudently doubt whether it is truly grave and prudent, or sufficient to move a prudent man to assent. But it is evident that a prudent man, in matters of grave moment, does not rely upon a motive of this kind; hence, if the matter in fact does not turn out well, all would justly and deservedly charge him with imprudence. But the moral goodness or malice of human acts is a graver matter than any temporal business whatever. - Besides, with slight or doubtful

probability standing, it is impossible to form for oneself a practical dictate morally certain concerning the licitness of the action. For a slight or doubtful reason for liberty does not remove, nor can it remove, the certainty of the law. Wherefore, the law remaining morally certain, it must wholly be observed. - L. I, n. 40.

46. From the cited proposition condemned by Innocent XI nothing can be drawn against probabilism, both because in it there is question also of slight probability, and because it asserts too generally that we always act prudently when we do something relying upon probability. For slight probability is not true probability. Nor indeed is probabilism extended to the case where there is question of the truth of a thing and an end to be absolutely obtained. - To an opinion slightly probable there is opposed an opinion gravely probable; to an opinion doubtfully probable there is opposed an opinion certainly probable. But gravely probable and certainly probable is nothing other than probable, which, unless it rests upon a grave and certain foundation, is not truly probable. Wherefore the slightly probable and the doubtfully probable are wholly excluded from probabilism. - There are not lacking those who confuse an opinion doubtfully probable and an opinion slightly probable with one another. Practically, indeed, they are often confused; but speculatively, with attention to the nature of the thing, they are altogether distinguished from one another. La Croix, l. 1, n. 126.

47. It is not lawful to follow a probable opinion, concerning the very objective truth of a thing, where there is question of an end to be absolutely obtained, the safer having been left aside. - Proof. He who is absolutely bound to an end is bound to choose those means which least of all bring into danger the end to be obtained. But a probable opinion, since it can be false, brings the danger of frustrating the end which must be absolutely obtained. For the objective truth or existence of the thing will certainly not be had if the opinion about it is probable but false. Therefore. L. I, n. 42. To be absolutely obtained, "when, namely, from justice or charity someone is bound to avoid a harm which is present in the thing itself," Suarez apud St. Alphonsus, Op. Mor., Roman ed., year 1757, loc. cit., n. 33, or the danger of it. Then certainly "in doubt the safer way is to be chosen." C. Illud 5, De Cler. Exc. The case must also be added in which someone is bound to the safer course by some special positive law or precept, or by contract, or by vow. - Suarez, tr. 3, d. 12, s. 5, n. 8; s. 6, n. 10; De Censuris, d. 40, s. 6, n. 8, 9; L. l. 2, n. 10; l. 6, n. 918, p. ult.; L. l. 3, n. 700, p. 167, note, ed. P. Gaude.

48. Therefore it is not lawful to follow a probable opinion, but we must wholly choose the safer in all those things which are necessary, by necessity of means, to salvation, where the fact itself, or the truth of the thing, alone is considered. Hence we must embrace the safer religion. Proposition 4 condemned by Innocent XI; L. I, n. 43. - In the conferral of the sacraments the minister is bound to follow the safer sentence, unless necessity is present or the Church supplies; for again there is question of the truth of the thing. But the sacraments would not be had unless those things were really placed which Christ instituted for their validity. Proposition 1 condemned by Innocent XI. Unless necessity is present: "for in extreme necessity we can well use any opinion whatever, not only probable but even slightly probable, for the validity of the sacrament... provided the sacrament is conferred under condition; because the condition sufficiently repairs the injury to the sacrament if perhaps it is conferred invalidly;

and, on the contrary, necessity is a sufficient and just cause for conferring the sacraments conditionally." L. I, n. 49. Unless the Church supplies: for "we can licitly use a probable opinion where the Church is presumed to supply, as can happen in the sacrament of matrimony for convalidating a contract only probably valid, if perhaps that contract is null because of an impediment which the Church removes by supplying, and in the sacrament of penance for supplying the jurisdiction of the confessor, if perhaps it is lacking." L. I, n. 50.

49. A physician is bound to apply the safer remedies which can be had in the case; for here there is question of the objective effect itself, that is, of the health of the sick person, to be absolutely obtained. And indeed a physician is bound not only from charity, but also from justice, by reason of his office and tacit contract, to provide in the better way for the health of the sick person from whom he receives a stipend. L. I, n. 44. - A judge cannot judge according to the less probable sentence; for he is bound by divine and human precept to render to each his own right. Proposition 2 condemned by Innocent XI; L. I, n. 47. - A hunter who probably judges that the object hidden in the forest is a man cannot shoot, although he more probably judges that it is a wild animal. For on the one hand the neighbor has a certain right to his own life; on the other hand the greater probability does not bring it about that, if in truth it is a man, he will not perish by the shot. L. I, n. 52; H. A., tr. 1, n. 33.

50. When scandals and graver evils are imminent, the safer part is to be chosen, by which they may be avoided, so that the utility of all may be consulted. C. Illud 5, De Cler. Exc. - Generally safer things are to be chosen, when as regards charity a danger of formally sinning is to be avoided, and as regards justice a harm is to be avoided to one who is in certain possession of his certain right.

"We cannot use a probable opinion with danger of spiritual or temporal harm to the neighbor whenever the neighbor is in certain possession of his right," St. Alphonsus, H. A., tr. 1, 33; Apology, year 1769, n. 4.

51. It is lawful to follow a truly most probable opinion, and even a more probable one, the safer having been left aside, where there is question of the honesty of the action alone. - This proposition is against rigid and mitigated tutiorists. The former say: It is not lawful to follow a sentence favoring liberty unless it is morally certain; otherwise the safer part must always be held in practice. The latter say: It is not lawful to follow the less safe opinion unless it is most probable. - The honesty of an action, about which there is question here, is quite diverse from the effect of the action itself or from the truth of the thing, about which there was question in the preceding proposition. The honesty of a human action depends upon the dictate of conscience, which is the proximate rule of human acts; the effect of the action, or the truth of the thing, depends upon the very fact of the action. The former is subjective; the latter objective. - Proof of the first part from the third proposition condemned by Alexander VIII in the year 1690: "It is not lawful to follow an opinion, even the most probable among probable opinions"; the author of this proposition was John Sinnigh, October 8, 1666, a Louvain doctor and defender of Cornelius Jansen, whom other Jansenists followed. Hence it is clear that the rigid tutiorism of the Jansenists has already been reproved by the Church. And indeed no obligation is given of doing what is safer; for it suffices to do what is safe. Likewise no

obligation is given, nor can one be given, always to guard against the danger of materially sinning, for this would be morally impossible; there is only an obligation to avoid the danger of formally sinning. - Proof of the second part. The first part of this proposition is against rigid tutiorists, namely Jansenists; this second part is against mitigated tutiorists, favoring Jansen and his followers. Now, if it is not lawful practically to follow an opinion for liberty unless it is most probable, then either this most probable opinion is taken for morally certain, or, as the word sounds, for probable in the highest degree indeed, but not certain. In the first case mitigated tutiorism would fall back into condemned rigid tutiorism; in the other case it would fall into a false doctrine against the Apostle, saying, "all that is not of faith," that is, from a certain persuasion of honesty, "is sin," Rom. 14:23, unless recourse is had to a reflex principle, as is explained in the following proposition; and then it is lawful to follow any probable opinion whatever. Cf. following n. 52. - L. I, n. 40, 54; Suarez, tr. 3, d. 12, s. 6, n. 8; Antoine, De Consc., c. 4, q. 4.

52. It is lawful to follow a truly probable opinion, the safer having been left aside, equally probable, or even truly more probable, where there is question of the honesty of the action alone, by forming for oneself a certain conscience not directly, but from reflex principles. - This proposition is against probabiliorists, who say that it is not lawful to follow an opinion for liberty unless it is more probable. It is also against equiprobabilists, who say that it is not lawful to follow an opinion probable for liberty when the other opinion for the law is certainly or notably more probable. - There is again question of the honesty of the human action alone, that is, whether the human action is licit and consequently can be placed without sin. There is not question of objective truth, whether, for example, in conferring baptism the water is true water; nor is there question of an objective effect, whether grace is conferred by such a baptism; nor of a harm to be guarded against, whether, in hunting, for example, the harm necessarily to be guarded against and avoided, namely the killing of a man, is sufficiently guarded against by such a shot. In the former case the doubt and question is only about the licitness of the subjective action; in the others the doubt and question is about the suitability of the objective action for verifying the truth of the thing, for producing the effect, for guarding against harm. - It is lawful to follow a truly probable opinion, not directly by forming a conscience for oneself by the force of the opinion itself. "For for acting licitly probability alone does not suffice, but moral certainty concerning the honesty of the action is required." St. Alphonsus, I, n. 55, p. 25, ed. P. Gaude. But it is lawful to follow a truly probable opinion by forming for oneself a certain conscience by means of a reflex principle, by which "in practice the ultimate judgment morally certain is formed from that certain principle." St. Alphonsus, I, n. 36, p. 36, ed. P. Gaude. And thus an action which speculatively is only probably honest becomes in practice certainly morally honest. St. Alphonsus, loc. cit. But the fundamental principle of all is that of St. Thomas and St. Alphonsus: "No one is bound by any precept except through the mediation of knowledge of that precept." Hence an uncertain law cannot induce a certain obligation; and a doubtful law does not oblige, "because it is not sufficiently promulgated." St. Alphonsus, I, n. 61, p. 31, ed. P. Gaude. - Billuart, De Act. hum., diss. 6.

53. The first part is proved. Probabiliorism and equiprobabilism are refuted. - Proof 1. The system of the probabiliorists and equiprobabilists is not practical. For even for these doctors it is very

difficult to establish which sentence is more probable, which is notably more probable. What appears to one more probable or notably more probable appears to another less probable and notably less probable. Indeed, even what before appeared to one and the same person more probable, and much more probable, afterwards, when the matter has been weighed better, seems less probable and much less probable. - Proof 2. For either the probabiliorists and equiprobabilists say that it is lawful to act from the immediate judgment of the more probable or notably more probable sentence; or they say that it is lawful to act from a mediate judgment, namely by force of the principle: a doubtful law does not oblige; an uncertain law does not beget a certain obligation; since the will cannot be bound by its obligation without knowledge of the law. The first cannot be said, for although the sentence may be more probable or notably more probable, nevertheless it is not certain; and without certain conscience it is not lawful to act. But the second, as is clear, leads not into probabiliorism or into equiprobabilism, but into simple probabilism. For where true probability is had against the law, the law is now doubtful and uncertain, and knowledge of the law cannot be had. - Proof 3. For we would be bound to follow the more probable or notably more probable opinion insofar as these approach more nearly to truth. But now this is false; for an opinion simply probable can approach more to truth, and the sentence which bore before itself some greater appearance of truth can be false. Besides, here there is no question of speculative but of practical truth; there is no question of the adherence of the intellect simply to truth, but of the obligation of the will, which is not bound by the obligation of a law unless the law is certain and knowledge of the law is had.

54. Proof of the second part. Simple probabilism is proved. - Proof 1. The proposition established is clear from the authority of very many and very grave theologians, who not only hand it down, but even affirm it as common doctrine, such as Suarez, Lugo, Struggl, La Croix, Pignatelli, Vasquez, Elbel, Castropalaus, Sporer, etc. Hence St. Alphonsus in the Dissertation on the moderate use of probable opinion in the concurrence of a more probable one, second edition, Naples, 1755: "We undertake to prove the last, more benign, and most common sentence, namely that it is licit to use a probable opinion even in the concurrence of a more probable one for the law, whenever it has a certain and grave foundation." And indeed, although several after the Jansenists defended probabiliorism, nevertheless by far the greater part of theologians embraced probabilism. But he who follows in practice a doctrine which many and very grave theologians teach, and which doctors commonly hand down, acts prudently; but he who acts prudently acts honestly. For this reason, in the Dissertation just cited, the Holy Doctor immediately adds: "Add to these things the most powerful argument, namely, that if the benign sentence had been false, it certainly would least of all have been received commonly by doctors everywhere, as it truly was received, or at least the Church would not have tolerated it, permitting souls commonly to go along this path of perdition, as the adversaries cry out, deceived by such blind guides." And, as the same St. Alphonsus has, l. 6, n. 460, par. Haec autem: "Nor does it hinder that several opinions which are passed around are not condemned by the Church, and nevertheless by others are more commonly reputed lax; for the Church does not condemn all opinions which regard particular cases, although it does not approve them; but sentences which regard the universality of consciences the Church does not approve nor pass over in silence, as St. Augustine said, Epistle 119: The Church of God

tolerates many things, and yet those things which concern faith or good life it neither approves nor passes over in silence." Cf. L. l. 3, n. 669, toward the end, Hoc unum, etc.

55. Proof 2. He who follows in practice an opinion which remains within the terms of right reason and prudence acts prudently, and consequently honestly. But he who follows in practice a truly probable opinion, the more probable and safer having been left aside, follows an opinion which remains within the terms of right reason and prudence. Therefore. - The major is clear of itself. For what is more honest than to follow right reason and prudence, which is right reason of things to be done? And Benedict XIV, C. Apostolica Constitutio, Sect. 21, indeed hands down this rule of acting: namely, that we should follow the sentence which reason persuades and authority confirms. Besides, it is by no means agreeable to right reason, and especially to divine goodness, to will to oblige a man to perform at all costs that which, after diligent inquiry, remains prudently uncertain to the man himself, whether it is required by order or not; especially since doubts of this kind are most frequent because of the weakness of the human intellect itself. This would be to impose unbearable burdens. L. 58, 86; St. Thomas, I-II, q. 19, a. 16 ad 1. But the minor is clear from the very nature and definition of a truly probable opinion, which is not changed by the concurrence of another opinion, although more probable and safer. And St. Alphonsus himself openly affirms this in the definition of a more probable opinion; for he says that its contrary is to be judged probable. Muzzarelli, Dissert. de Regul. mor. opin., Rome, 1807, p. 30 seq.; L. I, n. 79, p. 58, 59, ed. P. Gaude.

56. The Rev. Father Wouters replies, in De Minusprobabilismo, 2nd ed., Amsterdam, 1908, p. 128: "Let the major pass. I deny the minor. And indeed, an opinion which is more probably false than true, or an opinion to which as true not even a weak assent can prudently be given, indeed which is to be held by opinative assent as false, an opinion of this kind does not remain within the terms of right reason. But of this kind is an opinion certainly less probable." - But, once a confusion of words has been made, surely all things can be proved according to anyone's whim. For an opinion which does not include prudent assent, or which by opinative assent is simply to be held as false, is not a probable opinion, nor consequently is it a less probable opinion. Wouters himself, recognizing the weakness of his Reply, immediately adds: "I reply II: Granted, not conceded, that an opinion truly, but less, probable remains within the terms of right reason and prudence - since these words are ambiguous - relying upon the arguments brought forward in Chapter II, I deny that every opinion of this kind can be brought into practice." Wonderful! Are these words, right reason and prudence, ambiguous? But there is no time to refute that whole Chapter II, since this has already been done more than enough by others; indeed the whole work of Wouters has already been most abundantly refuted by others. But let Wouters hear St. Alphonsus: the Holy Doctor explicitly teaches: "For acting honestly it suffices to act prudently, and we are not bound to act more prudently. For that axiom is common and commonly received: He who acts probably acts prudently." Schol.-Mor. Dissertation for the moderate use of probable opinion, Sect. 1. And Theol. Mor., ed. P. Gaude, l. 1, n. 79, p. 59: "He who acts probably, etc., can be taken in two ways. If it is taken as resting upon other reflex principles, it is truly prudent and certain. But if it is taken as a direct principle, with reflection of judgment excluded, it is false." And was not the aforesaid principle used in the first way, reflection and reasoning having been made?

57. Proof 3. St. Alphonsus has this in his Moral Theological Work, 6th ed., Rome, 1767, in which the Holy Doctor explained more fully his sentence concerning probabilism and never afterwards changed it, Theol. Mor., ed. P. Gaude, p. XIX: "There are two principles upon which, relying, I defend the licit use of probable opinion. The first, that a doubtful law, in the conflict of two equally probable opinions, does not oblige, because a doubtful law is not sufficiently promulgated. The other, that an uncertain law cannot induce a certain obligation, because the obligation of law is posterior to the liberty with which man has been endowed by God." Both these principles are explained fully and proved by the Holy Doctor, l. 1, n. 66 seqq.; H. A., tr. 1, n. 37 seqq. But when a truly probable opinion is present, although it is in concurrence with another more probable and safer opinion, both principles are still verified, namely that the law is uncertain, if there is question of its existence, or that it is doubtful, if there is question of its interpretation, because obscure; and therefore neither does the law have the power of actually obliging, since it has not been sufficiently or certainly promulgated; "for then the doubt whether the law exists has been sufficiently promulgated, but the law has not been promulgated," L. I, n. 70, Turin ed., 1846; nor is man, having certain possession of his liberty, bound to reckon himself stripped of it because of an uncertain law; for prior to every law each one possesses his own liberty, since man must first be conceived as free, and then the law which is imposed upon man. Therefore. - L. 54 seqq.

Now, that in that hypothesis the law is in fact doubtful or uncertain, so that it is prudently judged such, whence that twofold axiom flows, is clear from the very nature of probability; for where true probability is present, greater probability does not of itself destroy lesser probability; and this both philosophers and theologians commonly affirm, and St. Alphonsus expressly hands down, H. A., tr. 1, n. 29, and l. 1, n. 40, where he says that the contrary of the more probable is also judged probable. The same Holy Doctor explains it in this way in the Dissertation, ed. 1755, n. 13: Greater probability does not destroy the lesser, "unless that lesser probability is drawn from the same principle, or unless the more probable opinion has for itself so convincing an argument that the contrary seems truly improbable, or no longer gravely and certainly probable. Otherwise, however, one must speak if the excess is not notable, and the opposite probability receives its force from diverse principles, as almost always happens in the concurrence of opinions; for then the less probable opinion is by no means destitute of its grave probability." Indeed, the probability or improbability of some opinion is not the same as its truth or falsity, so that one excludes the other, but is a suitability for meriting prudent assent, arising from grave motives, which, although greater or lesser, do not contradict one another if they are taken from diverse principles. But if they exhibit an argument so convincing that the opposite is judged improbable, we are now outside the case of greater or lesser probability, since one opinion will then be certain or probable, the other false or improbable.

Hence St. Alphonsus, l. 6, n. 604, raising the question: "Can a penitent be absolved who wishes to follow an opinion contrary to that which the confessor holds?" replies: "The common and to-be-followed sentence teaches that the confessor not only can but is also bound under grave obligation, where namely there is question of grave matter, H. A., tr. 16, n. 118, to absolve a penitent who wishes to follow a probable opinion, although the opposite seems more probable to the confessor... With this common sentence standing, strengthened by so many authorities and reasons, I do not see how the confessor can with safe conscience deny absolution to one wishing to follow an opinion

which appears probable to the penitent himself, indeed perhaps more probable, if not directly, at least reflexively, as the probabilist authors commonly think, who, in following a probable opinion in concurrence with a more probable one, judge that they embrace a sentence reflexively more probable, as one confirmed by weightier foundations and by the most common authority of doctors." The same Holy Doctor has the same doctrine in his last work, H. A., tr. 16, n. 118, to which sentence he adds no other limits than the following: namely, that "the opinion of the penitent have some probability, so that the confessor, although he does not hold it as solidly probable, nevertheless does not reckon it altogether false... evidently erroneous." Cf. also l. 1, n. 87, where the Holy Doctor, after Gerson, says: "Theologian doctors must not be easy in asserting that some things are mortal sins, where they are not most certain about the matter. Note, WHERE THEY ARE NOT MOST CERTAIN." - Lugo, Resp. Mor., l. 1, d. 26, n. 3; Pignatelli, Cons. Can., tom. 8, cons. 15.

58. Proof 4. That a law may indeed oblige, it must be sufficiently promulgated, St. Thomas, I-II, q. 90, a. 4. But sufficient promulgation of law is not had if the law is not certain and manifest. Hence in Canon Law it is generally established: "In those things about which an express law is not found, proceed, equity having been observed, always by declining toward the more humane part, according as you shall see persons and causes, places and times to demand." C. Ex parte tua 11, De Transact. And in Civil Law it is decreed: "As often as there is a doubtful interpretation of liberty, the response must be made according to liberty." L. 20, De R. I. "In a doubtful matter, to follow the more benign interpretation is no less just than safe." L. 192, De R. I. But the reason is that law imposes a moral necessity, and therefore must necessarily bind the will. But it cannot necessarily bind the will except through knowledge. Wherefore, knowledge of the law being excluded, the will remains morally free. St. Thomas, De Veritate, q. 17, a. 3. Now, if a most probable sentence against the law is present, it is evidently clear that knowledge of the law is lacking. For certainty and evidence cannot be had with the opposite maximum probability; indeed not even with simple probability. Hence St. Alphonsus says: "For constituting a law doubtful, true probability to the contrary suffices." L. I, n. 57, ed. years 1762, 1763.

59. Confirmation 5 by the authority of St. Thomas. Law is a certain rule and measure. In order that a rule may direct and a measure may measure, it must be applied to the thing which must be directed and measured. St. Thomas, I-II, q. 90, a. 4. Therefore law must reach the subjects whom it directs; but it reaches them through knowledge. St. Thomas, De Veritate, q. 17, a. 3. Therefore law must be certain and evident. Wherefore, if the law is uncertain, namely if its existence is not established; if the law is doubtful, namely if the sentence of the law is obscure, the obligation of the law ceases; a precept does not bind except through knowledge. St. Thomas, loc. cit. Hence those axioms: An uncertain law cannot induce a certain obligation; A doubtful law does not oblige. For an effect cannot surpass the cause. These things are altogether generally in St. Thomas, and he does not distinguish between a law having against itself a less probable, or equally probable, or more probable sentence. Wherefore from the Angelic Doctor the whole question is this: whether a law, having against itself a more probable, equally probable, or less probable sentence, can be said to reach man through knowledge, to bind him through the mediation of knowledge, through knowledge, through the virtue of knowledge. But knowledge is not given if true probability is opposed. Hence every

question about mortal sin is determined dangerously unless truth is expressly had. St. Thomas, Quodl. 9, a. 15. And St. Alphonsus, l. 3, after n. 139, Epist. Resp.: "But that it may be affirmed absolutely that some action is a mortal sin, a probable opinion does not suffice, nor even a more probable one; for the more probable does not exclude the rational fear of erring; whence it does not bring about that the law does not remain doubtful, and that the opposite cannot be true, if it is truly probable."

60. Confirmation 6. Innocent III granted a three-year trial to a spouse laboring under impotence, C. Laudabilem 5, De Frig., and did not prescribe that one must first see whether the potency was more probable or at least equally probable. - In the seventeenth century, when certain Indians in the Kingdom of Paraguay had been converted to the faith, who had several wives, and questions arose concerning the validity of their marriages, Urban VIII responded to John de Lugo, later Cardinal: "Where opinions of doctors concur on both sides as probable, the opinions more favorable to the condition of the places and of barbarous men are to be followed." Urban did not say that the more probable opinions were to be followed, nor did he say where equally probable opinions concur, but absolutely where probable opinions concur. Carden., Cris. Theol., diss. 2, Sect. 553.

61. As regards the first: the Rev. Father Wouters replies, p. 101: "I retort the argument. But neither did Innocent III prescribe that one must first see whether the potency was probable and remained probable. Therefore - thus one may reason, if the argumentation of our adversary coheres aptly - it is not necessary that the sentence be truly probable in order that it can be brought into practice; which is admitted by no one." - If Wouters' retortion has force, it has force against St. Alphonsus, whose aforesaid argument it is. - Behold what St. Alphonsus has, l. 1, n. 78, p. 57, ed. P. Gaude: "In cap. Laudabilem, De Frigidit. et mal., it is had that the Pontiff granted to a certain spouse, who was doubtful about potency for intercourse, that he should try it for three years. If a doubtful law must always be observed, as the adversaries wish, and then the doubt was turning on whether the woman was another's, how could the Pontiff permit the man, while she was living, to approach her and try intercourse for three years?" Evidently therefore the Holy Pontiff supposed a doubtful potency, and consequently one probable at least in some way; but certainly not one certainly, notably more probable, or equally probable. - The Rev. Father Wouters replies secondly: "The decree of Innocent III, of which Bucceroni speaks, does nothing for our matter. For we are inquiring what it is right to do in a doubt which regards the honesty or dishonesty of an action, whereas the doubt intended by Innocent turns immediately around the validity of marriage." But was there not consequently question of the licitness of conjugal intercourse? Does not the Pontifical response regard this? And does not St. Alphonsus speak of this? Hence the Holy Doctor concludes that a doubtful law does not oblige. - Because there was immediate question of the validity of marriage, can the argument perhaps be weakened, because the Supreme Pontiff could by his authority make valid a marriage invalid because of impotence? - Wouters replies, p. 102, as to the second: "What Bucceroni narrates about the response given by Urban VIII to Cardinal de Lugo, when those things which Thyrsus Gonzalez discussed concerning that matter have been seen (Fundam. Theol. Mor., pp. 429-437), will be urged by no theologian." Nevertheless it is urged also by Cardinal D'Annibale, Summ., P. 1, n. 263, note 5, ed. 4.

62. Is the proposition established above, n. 47 seqq., some exception to probabilism, as though a true case of probabilism? - Reply. Negatively. For, if probabilism is true, it must always be true, and must be verified in every case. And indeed probabilism regards the very formal or subjective honesty or turpitude of an action; by no means the objective or real existence or non-existence of the effect of such an action. But that thesis precisely regards this objective effect to be obtained or not obtained. Therefore, if someone in that case, where the effect is to be absolutely obtained, should use a probable opinion, he will certainly sin; but he will not sin precisely because he uses a probable opinion about the licitness of the action, but because he uses a probable opinion about the validity of the act, exposing himself to the danger of frustrating an effect to be absolutely obtained. Then this would be a case of probabilism: when a probable opinion were that it is lawful by one's action to expose to danger an effect absolutely to be obtained; which is not a probable opinion, but a false and erroneous one. For he who is bound to the end is also bound to the means, and he who must guard against evil is also bound to guard against its danger. And thus, for example, a minister of the sacraments following in their administration a probable opinion as regards their validity certainly sins, not at all because he follows a probable opinion as regards the licitness of the action; indeed on the contrary, because he follows an altogether improbable opinion as regards the licitness of the action; because, since the effect of the sacrament certainly to be obtained, namely the remission of sins and infusion of grace, depends upon true matter and true form, someone applying doubtful matter or form exposes it to the danger of lacking such an effect, and therefore inflicts proximate harm, and consequently sins. - L. Op. Mor., Roman ed., year 1757, l. 1, n. 33; Laymann, l. 1, tr. 1, c. 5, Sect. 2, 3; D'Annib., ed. 4, p. 1, n. 266.

63. An exception, and a true and illogical exception to probabilism, is the limitation which some probabilists and equiprobabilists add to probabilism from the principle of possession: In doubt, the condition of the possessor is better. Wherefore, they say, a doubtful law, indeed, in doubt about the existence of the law, does not oblige, because liberty possesses. But a doubtful law in doubt about its cessation obliges, because the law possesses. Hence, if it is probable that you did not emit a vow, you are not bound by the vow. If you certainly emitted a vow, and it is probable that you satisfied it, you are still bound to satisfaction. But thus to admit probabilism by halves around the existence of law, but not the cessation of law, is to admit the principles and deny the conclusions. If a doubtful law does not oblige, precisely because it is doubtful, whenever it is doubtful it will not oblige. But the law is as doubtful in the doubt about its existence, namely about its first existence, as it is doubtful in the doubt about its cessation; for if its cessation is probable, by that very fact the very existence of the law becomes doubtful. But an obliging law is not a law which existed, but one which exists; nor is it a law which exists in the abstract, but one which in its present certain obligation binds us. But if a probable opinion is had about the cessation of a law, however this is understood, its obligation becomes doubtful, and its existence likewise becomes doubtful; namely, again, not the very existence of the law in the abstract, but its force of obliging in the concrete, in the particular case, here and now. L. I, n. 63, 78. And thus, although it is certain that a vow was emitted and once existed, if probably you have satisfied it, that certain vow, insofar as once existing, becomes doubtful insofar as obliging you here and now; and that saying has force: A doubtful law does not oblige. Possession indeed constitutes a prevailing right insofar as he who possesses, by

possession itself, is shown, or at least presumed, to be lord of the thing which he possesses. But how can this be either shown or reasonably presumed when the opposite is established by true or grave probability? For then it is established by true and grave probability that the possession is not legitimate, which is the only one that can constitute a prevailing right. For if the bare fact of possession, without legitimate title, at least reasonably presumed, constituted that prevailing right, then all thieves and robbers could retain another's thing by a prevailing right of possession. - Troplong, Della Prescrizione, c. 2, del Possesso, a. 2228; D'Annib., ed. 4, p. 1, n. 260, 268.

64. St. Alphonsus, l. 3, n. 112, par. Secunda vero, says: "When it is probable that the obligation of a law never began, or that it has been abolished, then the presumption for the law ceases, and liberty possesses." Behold, the limitation of probabilism by the principle of possession has been dealt with, which, from St. Alphonsus, has no force except from presumption. The Holy Doctor joins indifferently two cases, that the law never began, or that it has been abolished; and when either is probable, from the Holy Doctor, the obligation of the law is not present. - Likewise in n. 290 he says that a probable custom suffices for excusing from the law. Behold, again, no account is taken by the Holy Doctor of possession of the law. And then, distinguishing between doubt and probability, he very well says: "that in doubt about custom the precept possesses, whence a dispensation is to be sought; otherwise, if it is probable that the custom is present."

65. The very material fact of possession by no means constitutes a prevailing right in the internal forum, as regards the very right of dominion and ownership of the thing, but only as regards proof in the external forum, which must be instituted by the plaintiff against the possessor because of the aforesaid presumption of dominion. But presumption yields to truth. Hence, if someone has possessed in bad faith, even for a very long time, he must restore the thing even spontaneously and without proof and petition from the plaintiff. D'Annibale himself, who in ed. 4, p. 1, n. 264 seqq., follows the rule of possession, asserts in n. 256, note 5: "Justice forbids giving harm to him who is in certain possession of his right... I said, who is in certain possession of his right; for if the right of another is uncertain, either the condition of the possessor will be better, or at least, because no certain right of another is injured, there will be no obligation of restoring." Behold how D'Annibale himself requires certain and legitimate possession in order that it really constitute a prevailing right. And D'Annibale himself, loc. cit., n. 259, note 18, furthermore asserts: "Namely, certainty against true probability is not given." How, therefore, will the obligation of a law be certain if it is probable that that obligation has long since ceased? See also ibid., n. 169, 181. - L. l. 3, n. 212, par. Secunda, n. 290, 325, par. Infirmi, n. 483; l. 4, n. 47.

66. For the rest, D'Annibale asserts the law of possession in a threefold case, namely in a doubt: 1. whether it receives a restrictive interpretation; 2. whether it is just; 3. whether it has ceased. P. 1, n. 262. And in the preceding n. 261, note 30, and n. 263, note 1, he affirms that St. Alphonsus used this rule of possession perpetually. - But D'Annibale himself, cited n. 262, note 35, says: "except for the second case, in which all agree, in the others even those who seem to profess it depart from our rule." And among these he expressly cites and reports only St.

Alphonsus! - And while the praised author notes this against Probabilism, that it must use exceptions of which his rule of possession does not stand in need, loc. cit., n. 266, he then frankly admits that his own rule is not perpetual, and fails in several cases which he enumerates, loc. cit., n. 269, note 30. - But the alleged exceptions of Probabilism, namely when there is question not of the honesty of the action alone, but of an end to be absolutely obtained and of the objective truth of the thing, loc. cit., n. 266, 256, note 5, are not truly exceptions. - Likewise what he says, loc. cit., n. 267, that a probabilist is compelled to answer contradictories, is by no means true. And it is certainly strange that a learned theologian found a contradiction in cited n. 267 regarding that very same case in which he himself had expressly affirmed a little before, namely n. 263, that it is lawful to follow either probable contrary opinion. - Finally he asserts, n. 264, that this rule of possession enjoys better right; in n. 269, that it is better than the others not only as regards the truth of the thing alone but also as regards practice; but immediately after, in the following n. 270, he affirms that it is lawful to follow truly and gravely probable opinions; and in n. 263, after he has expounded the various systems and has also established his own rule in n. 262, he says that it is lawful for each one to choose what pleases him more. - To avert contradiction, perhaps it can be said that the illustrious D'Annibale considered this rule of possession not for the case of true probability, but for the case of doubt, which he seems sufficiently to insinuate in n. 269; and thus it is wholly true that the theologians most commonly teach that rule, n. 268, and in this sense we also admit it, and explain it diligently below. And indeed that rule is enunciated in doubt.

67. Does probabilism truly provide a safe norm for forming a certain conscience for oneself? - The norm which probabilism provides for forming a certain conscience for oneself in doubtful matters is most safe. For probabilism in fact is nothing other than this principle: A doubtful law does not oblige, applied practically, with a probable sentence standing against the law in a practical case.

68. The principle itself, considered in itself, is most safe. St. Alphonsus himself sustains his whole moral system by nothing other than this principle. And if someone asks, says the Holy Doctor, "why a doubtful law does not oblige, we shall answer with this concise argument: a law not sufficiently promulgated does not oblige; a doubtful law is not sufficiently promulgated; because while the law is doubtful, the doubt or question is sufficiently promulgated, but the law is not promulgated; therefore a doubtful law does not oblige. Whoever should wish to deny this argument," the same Holy Doctor continues, "would have to prove either that a law even not promulgated obliges, or that a doubtful law is truly promulgated, against that which St. Thomas and others commonly expressly teach; but he will never prove either of these propositions for all eternity," l. 1, n. 61, par. Posito igitur, p. 32, ed. P. Gaude.

69. Besides this most certain principle, there is another principle upon which all probabilism also rests; namely that, with a truly probable sentence standing against the law, it is metaphysically impossible that the law be certain. No one can deny this except the one who either does not understand the terms, or arbitrarily twists the terms into another signification.

70. It is worth the effort to hear from the Holy Doctor himself the definition of probable opinion and of certain sentence, so that it may appear from St. Alphonsus himself whether, with a truly

probable opinion against the law, a certain sentence of the law can at the same time coexist. "Probable," says the Holy Doctor, "is that which rests upon a grave foundation, either intrinsic of reason or extrinsic of authority, which has power to draw to itself the assent of a prudent man, although with fear of the opposite... A morally certain sentence is one which excludes every prudent fear of falsity, so that the opposite is reputed altogether improbable." Loc. cit., p. 21, n. 40. If an opinion opposite to a certain sentence must be altogether improbable, it is clear that together with the probability of an opposite opinion a certain sentence is utterly incompatible. Therefore the norm which probabilism provides for forming a practically certain conscience in doubtful matters is most safe; for each of these is most true: both that a doubtful law does not oblige, and that the law is doubtful when a truly probable sentence stands against it.

71. And this has force, as is clear of itself, even if for the law there stands a more probable opinion, and an opinion more probable in whatever degree, even notably more probable, while nevertheless a truly probable opinion stands against the law. For then, unless someone changes the definitions of things, and unless someone changes the definitions handed down by St. Alphonsus himself, it is still verified that the law is not morally certain when its opposite sentence is not improbable but probable. Therefore the law will then also be doubtful, and the axiom will have force: a doubtful law does not oblige.

72. Besides, from the same Holy Doctor, who follows the doctrine of St. Thomas in this matter, certainty of law can be had only when knowledge of the law is had. However probable the notice of the law may be, knowledge of the law is not had; and therefore the law will then always remain doubtful, not sufficient for obliging. For under the name of knowledge of law probable notice cannot be understood. "This would be," says the Holy Doctor, "a new signification of a new vocabulary, since all philosophers, with the same St. Thomas, distinguish opinion from science, which is taken as certain cognition of some truth." Loc. cit., n. 74.

73. And the same St. Alphonsus always taught this. For as a younger man in the Dissertation on the Less Probable Opinion he wrote: "Nor is it of force to say that, when some more probable opinion for the law appears, then that greater probability declares the law and now exhibits knowledge of the law. For knowledge, as is clear to everyone, imports certain notice concerning the existence of the law; but opinion, even more probable, since it does not remove the opposite prudent fear, is wholly diverse from knowledge, which, every prudent fear having been excluded, carries certainty before itself." Indeed, the Holy Doctor most rightly, as regards doctrine, wrote also concerning a most probable opinion: "More and less do not vary the species... It is clear that a most probable opinion differs in species from a sentence called morally certain. For this latter excludes every prudent fear, so that the opposite seems improbable. But a most probable opinion, although among probable opinions it holds the first place, nevertheless is below the limits of probability, and therefore does not exclude every prudent fear, nor can the contrary be called improbable... But if someone were to take a most probable opinion for morally certain, this would imply a contradiction in terms." Schol.-Mor. Dissertation for the moderate use of probable opinion, Sect. 1.

74. Therefore from a speculatively probable conscience to a practically certain conscience we make a step by the following reasoning. What is forbidden by no certain law is lawful. But such and such an action, which is truly probably prohibited by no law, by that very fact is forbidden by no certain law. Therefore such an action is lawful. Since the major and minor of this syllogism are certain, the conclusion also will be certain. But the conclusion contains the judgment or dictate of conscience. - The same transition can be made by force of another reasoning. He who acts according to what prudence dictates acts honestly. But he who acts according to this or that probable opinion acts honestly. Since again the major and minor of this syllogism are certain, the conclusion also will be certain. - L. I, n. 67, 68, 69, 84; Muzzarelli, Dissert. de Regul. mor. opin., Rome, 1807, p. 30 seq.

75. What is the force of extrinsic probability? - There is no doubt that extrinsic probability constitutes an opinion truly and sufficiently gravely probable. "Someone of little knowledge," says St. Thomas, II-II, q. 4, a. 3, "is more certified about what he hears from some learned man than about what seems to him according to his own reason." This probability has force for this reason, that a person is not thought to speak without a grave foundation. L. I, n. 79, p. 59, ed. P. Gaude. Hence, if someone does not stop at authority alone, but weighs this foundation, then extrinsic probability is resolved into intrinsic. But sometimes this extrinsic probability constitutes intrinsic probability itself, namely when there is question of a thing which greatly depends upon the estimation of the wise, L. l. 3, n. 1032, that is, of a thing rather of fact than of law, for example, what is grave matter in canonical hours, in fasting, etc.

An extrinsically probable opinion is customarily designated as a common, more common, or most common opinion. Concerning these Sanchez, De Matr., l. 3, d. 44, n. 3, has the following, from which one can form a judgment concerning a common, more common, etc., opinion: "An opinion is not called common which has several doctors asserting it, no discussion having been premised, but perfunctorily and, as they say, following it in passing... Wherefore Navarrus says very well that an opinion approved by six doctors treating the matter ex professo is to be considered more common than one approved by fifty, led almost only by the authority of the former. Add to these John Lupus... saying that doctors, however much they excel in learning, are not to be believed when they lack foundation." - La-Croix, l. 1, n. 164, 165; Muzzarelli, Dissert. de Regul. mor. opin., Rome, 1806, p. 21 seqq.

76. From the common sentence of theologians "one must not easily depart in a practical matter." Lugo, De Iust. et Iur., d. 16, n. 106. Nevertheless this is not to be accepted too scrupulously, and much less extended. Hence St. Alphonsus does not hesitate to affirm that he "departed from the sentences of many and grave authors," l. 3, n. 547, and lower in the same place he says: "Where reason convinced me, I did not refuse to go against several authors." And in the Preface, p. LVI, ed. P. Gaude: "In the choice of sentences, it was always a great care for me to put reason before authority." Cf. also l. 6, n. 257, 427, where the Holy Doctor departs even from a most common sentence.

77. Does the authority of one doctor suffice for the probability of some sentence? - Reply. Negatively, speaking ordinarily. The reason is that if it belongs to some ancient author and has been deserted by all, by this very fact it ordinarily lacks sufficient foundation. But if it belongs

to some more recent author, either he brings a grave reason, or not. If the former, his sentence is ordinarily handed down also by others.

78. Is there given an opinion speculatively, not practically, probable? - Reply. Negatively, speaking per se; for the reasoning established above, n. 74, can always be made, if the opinion in itself, or speculatively, is truly probable, by which we may proceed to practical conscience itself. - Reply. Affirmatively, per accidens, if, namely, when that opinion is brought into use, there is always or almost always present some extrinsic circumstance which renders the use of such an opinion illicit, for example, danger of a fall, scandal, hallucination, etc. - Pignatelli, Cons. Can., t. 8, cons. 15; Lugo, Resp. Mor., l. d. 26, n. 3; De Iust. et Iur., d. 10, n. 165, 189.

79. Can someone licitly follow in practice diverse probable opinions favorable to himself, although those opinions are opposed to one another? - It is indeed lawful, among diverse probable opinions, to choose now this one, now the opposite. But it is not lawful to choose them simultaneously, when either contradiction follows or a certain transgression of the law. The general reason for the assertion is that, if it is lawful for one person to follow one probable opinion, and for another it is lawful to follow the opposite probable opinion, the very same is wholly lawful for the same person; because for the same person in each case the law always remains doubtful. For from the fact that in one case someone used a probable opinion against the law, it does not follow that if the opposite opinion is truly probable against the law, the law becomes certain. Therefore he will be able to use this other opinion well at another time. And as someone the first time used that first opinion, so he could the first time, on the contrary, have used the opposite opinion. Therefore he will be able at another time to use the opinion which he has not yet used. Nevertheless someone cannot use an opposite probable opinion after he has used some probable opinion, if contradiction follows. The reason is that the principle of contradiction must always prevail immovably in the order of truth, whether speculative or practical. And thus, if someone has accepted an inheritance from a testament probably valid, he cannot fail to fulfill the legacies, whether pious or profane, prescribed in the same testament. For by doing this he would at the same time regard the testament as valid and as invalid. Likewise one cannot use an opposite probable opinion after he has used some probable opinion, if from this a certain transgression of the law follows. For then one cannot form one's conscience from that general principle that the law is doubtful; for then the law is certainly contained in one or the other, although in which of them it is contained cannot be determinately assigned. And thus, for example, it is probable that an irregularity is not incurred from baptism repeated, solemnly indeed, but conferred secretly; likewise it is probable that an irregularity is not incurred from baptism conferred privately but publicly before many; for both are required in order that a certain irregularity be contracted from the repetition of baptism, namely that baptism be conferred solemnly and publicly. Now who would ever say that he does not contract irregularity who first rebaptizes someone solemnly but secretly, then a third time rebaptizes him privately but before many? Likewise, if the law of abstinence urges today, and I wish tomorrow to approach Communion, and it is probable that midnight has now passed, and the opposite also is probable, it certainly is not lawful to eat meat and at the same time approach holy communion. - Elbel, De Act. hum., 190 seqq.

80. Is it expedient to prefer more rigorous opinions to more benign ones? - "Where there is question of removing a penitent from the danger of formal sin, the confessor ought, generally speaking, and insofar as Christian prudence suggests, to use benign opinions; but where benign opinions render nearer the danger of formal sin, as are some opinions of authors, for example, as regards avoiding proximate occasions, and others of that kind, then it is always expedient that the confessor use, indeed I say that he himself, as a physician of souls, is bound to use, the safer opinions, which conduce to preserving penitents in the state of grace." L. I, n. 87; l. 3, n. 547. - Where the penitent is prepared to follow the dictate of the confessor, whatever it may be, then "it belongs to the prudence of the confessor to weigh whether the use of the safer or of the less safe sentence will be profitable to his penitent... because although that in itself may be safer and more perfect, nevertheless it will be more dangerous to impose upon many the obligation of always operating according to the more rigid sentences." L. l. 6, n. 605. - Generally in practice, the confessor rather, insofar as can be done, ought to be benign than rigid with penitents.

L. loc. cit. The same is clear by the authority of the Fathers and Theologians, whom you have cited apud St. Alphonsus, loc. cit., and l. 1, n. 86, par. Ego, and n. 89, toward the end, Praeterea res; H. A., tr. 1, n. 79.

81. Must a confessor know all probable opinions? - "A confessor is not to be obliged to knowledge of all probable opinions, but to that knowledge which the moderately learned commonly have; just as an advocate, judge, physician, or artisans are not obliged to supreme and exquisite knowledge and expertise in their profession, but to a moderate one according to the degree of their office and condition... thus a penitent ought not to demand from an available confessor anything except common knowledge about common sins and also common opinions; but if he desires subtler remedies, let him go to a more learned confessor." Lugo, Resp. Mor., l. 1, d. 26, n. 2.

IV. Objections Against Probabilism

82. Probabilism seeks utility, not truth. - It certainly seeks utility, but at the same time truth. It seeks utility, and a very great one: not sinning, and not multiplying sins without necessity. But it obtains this utility by this most certain truth, which St. Alphonsus hands down, l. 1, n. 60, p. 30, ed. 6, Gaude, which doctors most commonly hand down, and which is had in L. 31, De Off. et Pot. Iudic. Deleg.: "Unless you have become certain about the mandate, you will not be compelled to execute what is commanded." Certain, as the same St. Alphonsus says, l. 1, n. 75, p. 51, either through an evident reason or through manifest authority. - Wherefore again probabilism seeks utility: to impede formal sins. This indeed is the greatest utility; for no one is damned because of material sins, but because of formal sins.

83. But to seek utility is certainly not something illicit; otherwise it would be a sin to seek eternal beatitude itself, and virtue. What indeed can be more useful than to exercise virtue and avoid sin? If to seek utility is illicit, this is only because someone seeks either a vicious utility or seeks utility viciously. But the utility which probabilism seeks is neither vicious, nor does

probabilism seek it viciously. For probabilism seeks this, and nothing else: not to multiply sins without necessity. And this utility is certainly not vicious. If entities are not to be multiplied without necessity, much less are sins to be multiplied without necessity. Nor is this sought viciously; for this is not sought except by means of this principle: a doubtful law does not oblige; with this other principle added: with true probability standing against the law, it is impossible that the law be certain. Each principle is most true, and consequently no vice can come from it.

84. Therefore while probabilism seeks a praiseworthy utility, it also seeks truth: for it seeks this practical truth, when a law obliges the will to observance of itself, and when it does not. And to find this truth in individual cases as they occur, it establishes the unshaken principle of St. Thomas and St. Alphonsus: "No one is bound by any precept except through the mediation of knowledge of that precept." St. Thomas, De Veritate, q. 17, a. 3; St. Alphonsus, l. 1, n. 63.

85. Probabilism is the art of evading moral duties by means of syllogisms. - Probabilism and probabilists, on the contrary, very commonly teach that it is altogether illicit both to act directly against the law and to act in fraud of the law. - It is indeed an art, or rather a moral system, and it is the science of evading moral duties or the law by means of syllogisms; but uncertain moral duties, a doubtful law. A doubtful law, St. Alphonsus cries out, does not oblige. An uncertain law cannot beget a certain obligation.

86. Probabilism selects means which render the attainment of the final end less safe. - Nothing is safer for the attainment of the final end than to remove the sins of an erroneous conscience; as, for example, the conscience of one would be erroneous who, in order to judge himself bound, would consider it sufficient that the law be uncertain and ambiguous. In the whole third chapter of the first book St. Alphonsus cries out against this, repeating, declaring, and proving a hundred times: A doubtful law does not oblige; An uncertain law cannot induce a certain obligation.

87. Let St. Alphonsus be heard, following and reporting the doctrine of Father Bancel, the Dominican: "Since we ought not to form our conscience about obligation to something under penalty of sin, unless the existence of such obligation is morally established, we ought not to impose that burden upon ourselves; when, on the contrary, exemption from such obligation is morally established, ... it is morally established for us that liberty remains to us of embracing whichever of such probable opinions we wish." L. 1, n. 82, p. 62, ed. 6, Gaude. "That saying, He who acts probably acts prudently, can be taken in two ways. If it is taken as resting upon other reflex principles, it is truly prudent and certain; but if it is taken as a direct principle, with reflection of judgment excluded, it is false." It is false, namely, as the same St. Alphonsus immediately says, "of one operating with a practical doubt, having no principle by which he could lay aside the doubt." On the contrary, it is true "of one operating who forms the ultimate judgment not from the probability of the opinion alone, but from another certain reflex principle." L. 1, n. 79, p. 59; n. 65, pp. 35-36, ed. 6, Gaude. But this certain principle from the same Holy Doctor is: "Law, in order that it may oblige, must not only be promulgated, but also promulgated as certain." L. 1, n. 58, p. 27. "No one is bound by any precept except through the mediation of knowledge of that precept." L. 1, n. 59, p. 28. And consequently, "A doubtful law

does not oblige." L. 1, n. 60, p. 30; n. 64, p. 34. "An uncertain law cannot induce a certain obligation." L. 1, n. 61, p. 31; n. 73, p. 48.

88. Many canons prescribe that IN DOUBTS THE SAFER PART IS TO BE HELD. - St. Alphonsus himself replies: "What do the canons prescribe? They prescribe that in doubts the safer way is to be chosen. Therefore it is said, in doubts: What obstacle is that rule, if a man rests upon some certain principle? Then he already forms for himself a morally certain conscience about the honesty of the action, and he leaves the bounds of doubtfulness; nor can it any longer be said that he is in doubts. - Besides, the adversaries themselves concede that the aforesaid rule of following the safer part has no place in the matter of justice. But if the rule of the canons of following what is safer were universal for all doubts, even one who legitimately possesses a thing, in doubt whether the thing is another's, would be bound to be stripped of it. But St. Augustine teaches the contrary, saying: 'In the law of estates, each one is most rightly called a possessor in good faith so long as he is ignorant that what he possesses is another's,'" l. 1, n. 78, ed. 6, Gaude, p. 58.

89. But Probabilism renders the attainment of the final end less safe. - Nevertheless it renders it safe, and this suffices. But it is false and absurd by reason that that attainment must be rendered safer. Indeed, this is impossible; because, whatever safer means has been devised, another still safer could always be brought forward. Someone approaches confession with attrition. Is this not safe, and does it not suffice? Yet it is safer to approach with contrition. It is safer; but is it not still safer to approach with contrition perfect at the same time appreciatively and intensively? It is still safer; and would it not be much safer also to premise before confession the strictest bodily penances, fasts, scourgings, hair-shirts, alms, daily and nightly prayers and meditations?

90. Let St. Alphonsus be heard: "It was always a fear for me lest God require an account from me equally if I approved lax opinions as probable, as if I rejected probable opinions as lax. Looking at the present frailty of the human condition, it is not always true that it is safer to direct souls by the narrower way, since we see that the Church has often proscribed both too much liberty and too much rigor." L. 3, n. 547, p. 53, ed. Gaude. - Probabilism renders safe the attainment of the final end, because it directs conscience in doubtful matters, lest it practically err by affirming that something is sin which is not sin, and thus in fact by sinning. "But someone will object," says St. Alphonsus, "how can reasons which are only speculatively probable become morally certain in practice? This happens... not because the speculatively probable reasons themselves of some opinion become morally certain in practice, but because there are other reasons of a reflex principle, by which in practice the ultimate morally certain judgment is formed from that certain principle; and thus an action which speculatively is only probably honest, in practice becomes certainly morally honest." Loc. cit., p. 36, n. 65, par. Et sic.

91. Through probabilism man constitutes himself judge concerning divine precepts. - A distinction certainly must be made: As regards themselves and their objective existence, it is denied; As regards us, and as regards our obligation, it is conceded. And so it wholly must be; because what is not from faith is sin. Let St. Alphonsus be heard: "When an opinion turns around the mode of a thing, whether it is honest or not, then a probable opinion does well bring it about

that the action is honest, although perhaps in itself it is not. The reason is that (as has been proved at length in the Dissertation on the use of probable opinion...) in those cases in which we probably opine that a prohibiting law is not present, or at least has not been proposed sufficiently manifestly, then the law does not oblige; and therefore the operation, because we do not sufficiently find it prohibited by law, certainly remains honest and free." L. 3, n. 700, note, p. 168, ed. Gaude. Through probabilism, therefore, man does not constitute himself judge concerning divine precepts, but concerning his own human actions.

92. By probabilism equivocation and mental restriction are legitimized; whence it is clear that the judgment of conscience is perverted by probabilism. - Equivocation and mental restriction are sometimes affirmed to be licit not by probabilists, but by all. If this licitness was affirmed beyond due limits by some probabilists, the abuse and error of probabilists, not the deceitful norm of probabilism, was the cause. Do equiprobabilists and probabiliorists have a privilege of infallibility, and are they not also sometimes deceived? Therefore from some errors of probabilists it does not follow that the judgment of conscience is perverted by probabilism. Otherwise, would this not have to hold also of the moral system of St. Alphonsus himself, whatever in the end this system may have been? For all know well that, with the progress of time, the Holy Doctor reprobated several sentences which he himself had previously embraced. Most certainly the Holy Doctor erred either the first time, when he had taught those opinions, or afterwards, when he retracted them. Therefore, if from the fact that some probabilists erred about equivocation and mental restriction, one must say of their moral system that the judgment of conscience is perverted, the same surely will have to be asserted of the moral system of St. Alphonsus himself, whatever in the end it may have been.

93. Adversaries of the Christian religion abused the placita of probabilists in order to attack the Christian religion. - This indeed is true; but did they not also sometimes bring forward the doctrines of St. Alphonsus himself in order to mock the same religion?

94. The Church has never authentically proposed probabilism. - This is wholly true, that the Church has never explicitly proposed probabilism as a moral system. But although it has not proposed it explicitly, nevertheless it has always proposed and does propose it implicitly. - For first, when it condemned various opinions concerning probable sentences, nevertheless it never condemned this proposition, that a doubtful law does not oblige, to which probabilism in fact, whole and entire, is reduced. Likewise it never condemned this other proposition, that with a true probable sentence standing against the law, the law becomes doubtful. And this second proposition together with the first enunciates simple probabilism.

95. Besides, it implicitly proposed probabilism by the proposition condemned by Alexander VIII: "It is not lawful to follow an opinion, even the most probable among probable opinions." For, if it is lawful to follow the most probable opinion, it is also lawful to follow a probable opinion. For, as St. Alphonsus himself expressly affirms, l. 1, n. 78, p. 58, ed. P. Gaude, n. 81, pp. 60-61, a most probable opinion remains within the limits of probability, and nevertheless it is lawful to follow it, the safer one for the law having been omitted, for this reason, which the same Holy Doctor weighs, because the law is doubtful. But it is also doubtful when against the law there is only a truly probable opinion. Behold what Suarez has, whom St. Alphonsus reports

and wholly approves, loc. cit., n. 60, p. 31: "So long as there is a probable judgment that there is no law prohibiting or commanding the action, such a law has not been sufficiently proposed or promulgated to man; whence, since the obligation of law is of itself burdensome, ... it does not urge until it is established more certainly." And Benedict XIV writes in his Notifications: "Bonds must not be imposed when there is no clear law which imposes them." Apud St. Alphonsus, loc. cit.

96. The Church also implicitly approves probabilism by often approving probable opinions and confirming them for practice. And thus, for example, the Church supplies jurisdiction when a probable opinion is had for it. Nor certainly has anyone up to now required, nor does St. Alphonsus himself require this, that the opinion for jurisdiction be either certainly more probable, or at least equally probable as the opinion for its defect. Thus also the Church often refers to approved Authors; and certainly Suarez, Lugo, Laymann, Lessius, Castropalaus, and six hundred others are approved authors, and they are probabilist authors.

97. And by approving the Moral Works of St. Alphonsus, the Church implicitly approved probabilism also. For the Holy Doctor, apart from his own system itself expounded in his various Dissertations, follows only opinions simply probable, and approves them for practice although the opposite seems to him more probable. If St. Alphonsus had never written Dissertations about his moral system, surely no one could deduce probabiliorism or equiprobabilism from his moral works, as is demonstrated even from the very exquisite diligence by which he weighs the probability of each sentence.

98. Moreover St. Alphonsus in fact speculatively proposes the moral system of simple probabilism. For his system rests upon the aforesaid principle: a doubtful law does not oblige; and upon the aforesaid proposition, that when against the law there is a truly probable proposition, although for the law there is a truly and equally probable proposition, the law becomes doubtful and consequently does not oblige.

99. Nor indeed is the probabilism of St. Alphonsus converted into another moral system by another proposition which the Holy Doctor adds for completing his system, namely that when for the law there is a sentence certainly notably, or certainly evidently much more probable, we must follow it. For then there would be a different moral system of the Holy Doctor, as equiprobabilists pretend, if from the Holy Doctor the contrary sentence for liberty remained itself probable, although in an inferior and notably inferior degree. But the Holy Doctor does not hold some sentence for the law as certainly and much, or notably, more probable unless when through it the law already appears at least morally sufficiently promulgated, and therefore by no means doubtful; and consequently the opposite sentence for liberty cannot be called certainly probable. This the Holy Doctor wished explicitly to note in order to remove from his system slight and doubtful and uncertain probability. And this whole thing is certainly not against probabilism, but against laxism.

100. Behold how the Holy Doctor embraces his whole system in a few words, speculatively and practically, in his Moral Theology recently edited by Rev. Father Leonard Gaude of the Congregation of the Most Holy Redeemer, book 1, tract 1, On Conscience - Chapter 3, On

Probable Conscience - Moral System, n. 82, p. 62: "There are many things which it is safer to do; but at the same time it is also safer not to believe oneself obliged to do them... unless such obligation is morally established for him." These things are from Father Bancel, the Dominican; and a little after the Holy Doctor adds: "For the rest, I protest that just as I do not approve those confessors who, adhering to excessive austerity, easily condemn the use of several opinions which rest upon a grave foundation; so, on the contrary, neither can I approve those who easily acclaim opinions without certain foundation as probable. - A confessor, before he embraces some opinion, is certainly bound to weigh the intrinsic reasons; and when some convincing reason occurs to him for the safer opinion, then he cannot embrace the opposite, less safe opinion." But does not this whole thing contain simple probabilism? Do probabilists say that it is lawful to follow opinions against the law, although for the law there is a convincing reason, and against the law no grave foundation is present? And when true or grave probability is present against the law, can it be said that its obligation is morally established?

101. Besides, in the same Moral Theology and new edition of Rev. Father Gaude, l. 4, c. 1, Epist. Resp. after n. 132, p. 456, the Holy Doctor thus expounds his moral system: "In order that it may be said that some action is not a grave sin, it suffices that true probability be had that it is not such, AS ALL ADMIT: I understand that probability which rests upon a foundation not slight, to be such that safely (according to the common sentence, the question of the more probable and the less probable having been set aside) it can be held and taught... Therefore, in order that some action be gravely illicit, certainty is required, as all teach." Does not probabilism teach and hand down the same thing? Does it not contend that certainty is required for affirming sin? Does it not also, the question of the more probable and less probable having likewise been set aside, constantly affirm this, that for removing grave sin true probability suffices, namely one which is not slight, but rests upon a grave foundation, so that it can safely be held and taught?

102. And in the same place, p. 457, he thus concludes his doctrine concerning the norm of human actions: "Hence Benedict XIV, in his work On the Synod, in very many chapters admonishes bishops of nothing else than that they never condemn as grave sin those opinions which doctors of either side defend as probable." Behold again simple probabilism. Probabilists say this same thing, and nothing else, neither more nor less. And the Holy Doctor repeats this a thousand times:

"It is certain, or to be held as certain, according as the doctors commonly teach... that things are not to be imposed upon men under grave fault unless an evident reason persuades this." L. 3, n. 547, p. 53, vol. 2, ed. P. Gaude. And this is simple probabilism.

103. Nor indeed is it of force to object that St. Alphonsus limited common probabilism, and that the whole hinge of the question turns on this limitation. For he says: "that if an opinion which stands for the law seems certainly more probable, we are altogether bound to follow it, nor can we then embrace the opposite opinion which stands for liberty." Loc. cit., n. 54, p. 25. Certainly more probable, as Rev. Father Gaude notes in the Preface, p. XX, is the same for St. Alphonsus as notably more probable. But this certainly or notably more probable opinion, for the Holy Doctor, is the same as a morally certain sentence, so that the opposite is only doubtfully or

slightly probable; and therefore that former one is called by the Holy Doctor certainly or notably more probable. Behold how, says the same Rev. Father Gaude, "the Holy Doctor in the sixth and seventh edition, n. 55, expounded that principle," p. 25. But this exposition the Holy Doctor, with the same Rev. Father Gaude as witness, p. XIX, did not afterwards change substantially. This exposition is: "I say... certainly, because when the opinion for the law is certainly and without any hesitation more probable, then that opinion cannot be anything except notably more probable. And in that case, the safer opinion will no longer be now doubtful (understanding doubt strictly so called), but is morally or quasi-morally certain; at least it can no longer be called strictly doubtful, since it has for itself a certain foundation that it is true. Hence then it comes about that the less safe opinion, which lacks a certain foundation, remains either slightly or at least doubtfully probable in respect to the safer one." But it is said by the Holy Doctor, "which lacks a certain foundation"; because if in truth, notwithstanding that greater probability of the sentence for the law, the opposite for liberty rests upon a sufficient foundation, the Holy Doctor himself will say that this is probable or sufficiently probable, and that we can follow it.

104. And thus, loc. cit., l. 3, n. 404, p. 660, concerning the question there proposed: Can a prince with only a probable opinion for himself wage war against another, who possesses a kingdom in good faith? the Holy Doctor reports three sentences: the first affirming, the second holding that in order that a prince, not possessing, can wage war, he must be supported by an opinion at least more probable; finally, the third sentence requiring certainty of his right. He says that this third sentence is by far more probable to him, adding also that Elbel holds it as certain, and Tamburini thinks the contrary opinion improbable from intrinsic principles. And nevertheless immediately the Holy Doctor says that the second sentence is sufficiently probable to him, speaking speculatively, even intrinsically. Behold therefore how from the Holy Doctor a sentence not improbable, but sufficiently probable intrinsically, is opposed to a notably more probable sentence.

105. In the same place, n. 649, p. 127, concerning the question: Is a man having a vow of chastity or religion bound to marry a deflowered virgin after a true or fictitious promise of marriage? St. Alphonsus reports the first sentence denying, the second more probable sentence affirming; and then he says: "This second sentence seems to me certainly and by far more probable. But whether the first sentence is probable, Tamburini doubts; indeed Sporer says that Diana, who defends it, is not to be heard. I do not dare to call it either probable or improbable." - Behold again how from the Holy Doctor himself, from the fact that some sentence is certainly and notably more probable, it does not follow that the opposite is improbable.

106. In the same place, n. 293, p. 561, it is asked: Is it lawful on feast days to work because of piety alone, without actual necessity? St. Alphonsus reports the affirming and the denying sentence. Concerning the denying one he says: "This second sentence seems to me certainly more probable, with Sanchez... and commonly." But concerning the affirming one he does not say that it is improbable or slightly or doubtfully probable. Rather, on the contrary, he expounds its reason from cap. Conquestus de Ferris, where judicial acts are excused, "if necessity urges or piety persuades." And then the Holy Doctor adds: "And this reason does not seem to be

despised, since judicial acts and servile works are forbidden by the same ecclesiastical law; but in things equiparated, where the same reason runs, the same disposition of the law runs, as we have said from the common doctrine, l. 1, n. 200, v. Haec tamen." Hence therefore we also have that the Holy Doctor, notwithstanding an opinion certainly more probable, still judges the opposite not to be despised, and consequently sufficiently probable.

107. In the same place, l. 3, n. 520, q. 4, St. Alphonsus asks: Is a thief consuming a thing taken away in extreme necessity always bound to restitution? The Holy Doctor brings forward the first sentence denying, and the second sentence affirming, which he calls most grave and more common; and, the reasons of this latter having soon been explained and handed down, he then adds: "Nevertheless, these things notwithstanding, I do not think the first sentence improbable." Therefore a sufficiently probable sentence at least is had, notwithstanding the opposite notably more probable, for it is called most grave. - But let us proceed to other things.

108. It is insisted: St. Alphonsus reproved probabilism as a lax doctrine, for he asserts that the doctrine which Theologians of the seventeenth century commonly held on this matter was lax. Likewise he asserts that he does not follow the system of the Jesuits. - The Holy Doctor holds as lax not probabilism simply, but broad and lax probabilism, which is extended even to doubtful and slight probability. Let the Moral System of St. Alphonsus be read, as it is expounded in the very edition of the Moral Theology of Father Gaude. In that whole Dissertation the Holy Doctor does not attack a truly probable opinion, but an opinion which, although it is called probable, in reality is not probable, since it is only slightly, or at least doubtfully, probable; as Rev. Father Gaude himself, p. 25, interprets St. Alphonsus, with the note added from St. Alphonsus himself in the sixth and seventh edition. And indeed St. Alphonsus, on the contrary, in that whole Dissertation does nothing else except defend ex professo and diffusely probable opinion against probabiliorists, from the fact that knowledge, or certain notice of the law, is required for affirming obligation; whence a doubtful law does not oblige, an uncertain law cannot induce a certain obligation. - Nor indeed does the Holy Doctor say that the doctors of the seventeenth century commonly held that lax sentence which he reproves; but that those authors held it as if commonly, therefore not commonly. As if commonly, not because all or almost all, or the greatest or greater part held it, but only because many held it. The Holy Doctor himself declares his assertion in the Dissertation of the year 1765, in which he says: "I did not pretend, nor do I pretend, to establish a new system; I also know well that no probabilist of solid doctrine declares licit the use of an opinion only slightly or doubtfully probable. But because many probabilists without distinction say that it is lawful to follow an opinion less probable if it is founded in reason or authority, I wished to distinguish, etc." And from these things it is openly clear that the Holy Doctor holds and defends only probabilism of solid doctrine, which excludes sentences slightly and doubtfully probable. Besides, it is clear that the Holy Doctor does not disapprove probabilism, but only its abuse. For this reason, H. A., tr. 1, n. 73, he says: "And in truth, in the past century very many abused matters in opining, in approving as probable many lax opinions; and therefore the Church proscribed several opinions, because they were undeservedly called probable." But how could the Holy Doctor have disapproved probabilism, when he defends it against its detractors who assert that it had already been condemned by the Church? Cf. l. 1, n. 85, 70, pp. 66, 70,

ed. P. Gaude. Finally, if in truth the Holy Doctor had held the authors of the seventeenth century as lax, at least in the greatest or greater part of them, how would he not have contradicted words by deed? For the greatest part of the authors whom St. Alphonsus praises and follows belong to the seventeenth century. To this century, among other probabilist doctors, belong Gregory of Valencia, S.J.; John Azor, S.J.; Gabriel Vasquez, S.J.; Dominic Bannez, O.P.; Peter Lorca, O. Cist.; Thomas Sanchez, S.J.; Francis Suarez, S.J.; Vincentius Fillucius, S.J.; Leonard Lessius, S.J.; Martin Becanus, S.J.; Basil Pontius, O.S.A.; the Salmanticenses, Discalced Carmelites; Martin Bonacina, doctor of Milan; Aegidius Coninck, S.J.; Ferdinand de Castropalao, S.J.; Didacus Alvarez, O.P.; Paul Laymann, S.J.; Augustine Barbosa, Bishop of Ugento; Francis Amicus, S.J.; Cardinal De Lugo, S.J.; Peter Marchant, O.S.F.; Hermann Busembaum, S.J.; Anthony de Escobar and Mendoza, S.J.; Christian Lupus, O.S.A.

109. Nor indeed, when the Holy Doctor says that he does not hold the doctrine of the Jesuits, does he intend to say of all or almost all Jesuits, but only of some one or of a few. And St. Alphonsus himself expressly affirms this in the letters to Remond, March 30, 1756, and June 30, 1768. Besides, he often praises Jesuit authors, and he himself clearly says in the cited letter of March 30, 1756, that he took from the Jesuits the things which he wrote. "For, that which I always say, they were and are masters in moral theology."

110. The principal schools reproved probabilism. - St. Alphonsus in the Dissertation on the less probable opinion of the year 1755, n. 8, says that probabilism, expounded in terms, was first from Medina, a Spaniard, of the Order of St. Dominic, in the year 1577; nevertheless, in substance and in equivalent terms, ancient authors handed it down, and used it commonly in practice. And then in n. 9 he adds: "But it cannot be denied that for the space of a hundred years, or at least until the middle of the seventeenth century, the benign sentence (of probabilism) was received by all doctors." And indeed, as D'Annibale says, Summ., ed. 4, P. 1, n. 10 seqq., probabilism, namely in terms, according to the expression of St. Alphonsus, "having gone out from the borders of Spain from about the year 1610 until the year 1650, held sway over almost all the schools... All the disciples of St. Thomas, with one or another exception, gave their name to it; the disciples of Scotus, with Mastrius as witness, who calls the sentence of the probabilists most common and most received in every school; all the Fathers of the Society of Jesus entirely (with very few exceptions), to whom, excepting the Theatines, almost all theologians gave their vote." The same D'Annibale counts among these St. Alphonsus, "who undertook to defend: that it is licit to use a probable opinion, even in the occurrence of a more probable one for the law, whenever that opinion has a certain and grave foundation." Which is, as is clear, to defend probabilism in terms. Nor indeed did St. Alphonsus ever desert this probabilism. For when did St. Alphonsus teach that it is illicit to follow an opinion which has a certain and grave foundation? More than enough is even the conclusion alone of the Holy Doctor in the tract On Conscience, as it is had in the edition of Father Gaude, l. 1, n. 76, p. 53: "It must be concluded that the divine law does not oblige unless when it is known, unless when it is MOST CERTAIN, unless when KNOWLEDGE is had of it, unless it itself BECOMES KNOWN."

111. After Bartholomew Medina, almost all Bishops, universities, and doctors from every nation and religious order indeed embraced probabilism in terms. Cf. Franc. Ant. Zachar., De Locis Moralis Theologiae, tr. 5, c. 3, and St. Alphonsus, Scholastico-moral Dissertation for the moderate use of probable opinion in the concurrence of a more probable one, Naples, 1755. But before Medina, the ancient doctors truly handed down probabilism in substance, and used it. And thus St. Antoninus, part 1, tit. 3, cap. 10, Sect. 10; p. 2, tit. 1, cap. 11, Sect. 28, says that there are contrary opinions among doctors especially in moral matter, and that anyone can follow any opinion, provided he forms for himself a good conscience, when no express authority and sufficient reason to the contrary is had. And St. Thomas, Ulricus, Albertus Magnus, Hostiensis, William, Peter de Palude, and Godfrey of Fontaines, reported by the same St. Antoninus in the cited places, also held this. And Christian Lupus, Opp., tom. 11, disp. 1, shows that the reason for resolving moral questions in doubtful matters by the principles and method of probabilism was familiar even to the most ancient Fathers.

112. The Church solemnly condemned probabilism. - Nothing is more foreign to the truth than this affirmation. The Church, as has already been declared a little above, if it did not approve it explicitly, at least approved it implicitly, and continually approves it. For the rest, when the condemnation of probabilism was brought forward against St. Alphonsus himself, reply was made to the Holy Doctor by the Consultors of the Holy Office and by the Cardinal Major Penitentiary that probabilism had by no means been forbidden, even as regards the less probable opinion for liberty, l. 1, n. 85, 88, ed. P. Gaude, pp. 66, 70.

Nor indeed did the Church solemnly condemn probabilism, as is objected by equiprobabilists, by the Decree issued by Innocent XI, June 26, 1680. - From the very publication of that Decree in the year 1902, which had never before been authentically published, it can perhaps appear to someone that there is some aversion of the Holy Office toward probabilism. If anyone thinks this, he is wholly deceived. For that publication was not made by the motu proprio of the Holy Office, but at repeated prayers made by me in the name of the Superior General of the Society of Jesus. Besides, it suffices to read that Decree so that one may see with his own eyes that nothing is contained in it against probabilism. - There are two parts of the Decree. In the first, Thyrsus Gonzalez is praised, who undertook to attack probabilism, and to defend the more probable opinion as practically to be followed, or probabiliorism, thus doing a thing pleasing to the Supreme Pontiff. In the second, the General of the Society of Jesus is commanded that anyone in the society freely write for the more probable opinion and attack probabilism.

113. Now indeed these things would favor at most probabiliorism, which Thyrsus Gonzalez defended, but in no way equiprobabilism, wholly unknown to Thyrsus Gonzalez, indeed even to Innocent XI himself. Wherefore, if from that Decree probabilism is reproved, equiprobabilism also is reproved. - Nevertheless from that Decree, as is clear, no reprobation of probabilism is had; indeed rather an approbation. For the Supreme Pontiff commands that in the Society of Jesus each one have full liberty of defending probabiliorism and attacking probabilism, as it shall please him. If the Supreme Pontiff had really by that Decree reproved probabilism, and had not rather on the contrary at least implicitly approved it, how could he impose that liberty be granted for defending probabiliorism? He surely ought to have imposed

the obligation of defending probabiliorism alone. Wherefore the Decree not only does not contain a condemnation of probabilism, but on the contrary contains its implicit permission and approbation. - Besides, Thyrsus not only defended probabiliorism, but on the contrary attacked probabilism, and consequently, as much as he could, acted with Innocent XI by letters given to him July 29, 1679, and in the month of May in the year 1680. But Innocent XI in his private sentence inclined toward a more severe mode of opining. Wherefore, if notwithstanding these things Innocent XI brought no condemnation against probabilism by his Decree, he implicitly held it as permitted and approved in the Church. - Finally, the aforesaid Decree was not a universal and doctrinal Decree directed to the whole Church, but a wholly particular and merely disciplinary Decree directed to the Society of Jesus alone. Hence St. Alphonsus, replying to Father Patuzzi, who attacked probabilism and objected the aforesaid Decree to the same St. Alphonsus, responds:

"But if the Supreme Pontiff ordered the Jesuits no longer to write for the less probable sentence, this was enjoined upon the Jesuits alone, and that perhaps because of particular reasons which the Supreme Pontiff had at that time." And so true is it that the aforesaid Decree was not a General and doctrinal Decree simply condemning probabilism, that when it was first issued it lay hidden secretly, and not many years later was completely unknown; and when recalled to memory by adversaries, only apocryphal and corrupted copies were had.

V. On the Doctrine of St. Alphonsus Concerning Probabilism

114. Since in moral matters the authority of St. Alphonsus is very great, and several more recent authors deny that the Holy Doctor stands for probabilism simply such, but affirm that he teaches equiprobabilism, and indeed rejects probabilism as a lax doctrine; hence here especially we raise the question concerning the mind of the holy Doctor, although in the preceding article we have almost constantly used his sentences and even words for establishing the doctrine of probabilism. But it will be very useful, as it were under one view, to set forth his doctrine, in order to understand it fully.

115. Lest there be doubt in this matter, and that we may faithfully expound the mind of the Holy Doctor, we take his doctrine from the tract On Conscience in his work Homo Apostolicus, which he himself declares in the same place, n. 79, that he wrote when near death. Now these things are had in nn. 33, 77: "The third sentence, which is ours, says that when the opinion which favors liberty is equally probable as the opinion which favors the law, it can without doubt and licitly be followed... Here it is necessary that I warn about something concerning my system, which is altogether to be warned, and it is this: that when it is doubted whether the opinion favoring the law is equally probable or a little more probable, then the same principle has place, that a doubtful law does not oblige; for in such a case the law itself does not cease to be strictly doubtful; for then, although some greater probability should be present for the law, since it is doubted whether this greater probability is present or not, the preponderance will be so light and minimal that it is to be considered as nothing, before that saying commonly admitted by the adversaries themselves, that a little is reckoned as nothing. But it would be otherwise when the excess were evident and certain; because then the opinion favoring the law

will be certainly and much more probable; and therefore then, as was said at the beginning, the law is now morally promulgated, and therefore obliges, and is without doubt to be observed."

116. Two things are to be investigated here. The first is what St. Alphonsus understands by an opinion evidently and certainly much more probable. For if he understands an opinion truly and properly probable, he is against us; but if he understands an opinion which passes beyond the limits of probability and reaches certainty, he will be for us. The other is what again the Holy Doctor understands by an opinion equally probable or a little more probable; for if that little more probable denotes a slight excess of probability, as it is distinguished from a greater excess of true probability, again the Holy Doctor is against us; but if it denotes simply an excess of probability, the Holy Doctor will be for us.

117. As regards the first, the Holy Doctor refers himself to those things which were said at the beginning. These things are had at the beginning, n. 31: "Whether it is lawful to operate with a probable opinion, three sentences are present. The first of these is that someone can licitly follow an opinion even less probable for liberty, although the opinion for the law is certainly more probable. The authors of the past century held this sentence as if commonly, but we say that it is lax and cannot licitly be embraced. The reason is that when the opinion for the law is certainly more probable, then the law is no longer doubtful by a strict doubt, as happens, as we explain afterwards, when the opinions both for the law and for liberty are equally probable; but it is morally certain, since it has for itself a certain foundation that it is true, while, on the contrary, the less probable opinion which favors liberty has such a foundation that it is not true, so that it remains slightly or at least doubtfully probable before the safer opinion; and therefore it is not prudence, but imprudence, to wish to follow it. For since it appears certainly to the intellect that truth stands more for the law than for liberty, then the will cannot prudently and without fault follow the less safe part; for then he would not operate from his own judgment, or his own belief, but by a certain effort which by his will he would make upon the intellect, removing it from that part which seems truer to it, and bending it toward that part which not only seems to it not true, but does not even show that it has a certain foundation by which it could be true."

118. Now from these things it is openly clear that the Holy Doctor, by an opinion certainly more probable, understands in fact an opinion morally certain. For he says that then the law: 1. is not doubtful by a strict doubt, but is morally certain; 2. that the same law then has for itself a certain foundation that it is true; 3. again, that the said law has against itself only an opinion which has such a foundation that it is not true; 4. that the less probable opinion opposed to the law is slightly or doubtfully probable, so that it would be imprudence to wish to follow it, and it not only seems not true, but does not even show that it has a certain foundation by which it could be true. - But a slightly probable opinion is not an opinion truly probable, and the same St. Alphonsus hands this down in n. 65: "slight probability is not true probability, but is only a certain false or vain appearance of probability." Likewise a doubtfully probable opinion is not truly and properly probable, which we contend that it is licit to follow even in the concurrence of a more probable one. For if it is doubtfully probable, it participates doubtfully in the nature of probability, and therefore, properly speaking, is not probable. And indeed an

opinion truly and properly probable is defined by the same St. Alphonsus, loc. cit., n. 21, as "that which rests upon some grave foundation, apt for inclining the assent of a prudent man." Therefore a doubtfully probable opinion will be an opinion which has a doubtfully grave foundation, and therefore does not merit the assent of a prudent man, who would be exposed to the danger of acting imprudently. "Doubtfully probable," says St. Alphonsus, loc. cit., n. 65, "which no one can follow, but if it is not probable, has only some prudent reason that it may be true... the doubtfully probable has some prudent reason, although not wholly stable, that it is probable." - And hence it is clear that that opinion, which it is imprudence to wish to follow, and which not only seems not true, but does not even show that it has a certain foundation by which it could be true, is not an opinion truly and properly probable. Therefore, if the less probable opinion, opposed to the certainly more probable, is not truly and properly probable, the certainly more probable opinion by no means subsists within the limits of probability, but now reaches certainty.

119. The same is confirmed from the Dissertation inserted in Op. Mor., l. 1, n. 55 of the sixth and seventh edition, and reported in the edition of Father Gaude, p. 25, as a commentary on the doctrine of St. Alphonsus in the text. The Holy Doctor explains that certainly more probable. "I say," he says, "certainly, because when the opinion for the law is certainly and without any hesitation more probable, then that opinion cannot be anything except notably more probable. And in that case the safer opinion will not now be doubtful (understanding doubt strictly so called...) but is morally or quasi-morally certain; at least it can no longer be called strictly doubtful, since it has for itself a certain foundation that it is true. Hence then it comes about that the less safe opinion, which lacks a certain foundation, remains either slightly or at least doubtfully probable in respect to the safer one; and therefore it is not prudence, but imprudence, to wish to embrace it," etc. - Note first that from the Holy Doctor, if an opinion is certainly more probable, it is notably more probable, because a small excess is either not perceived by the intellect, or is not perceived without fear of erring. Hence, if an opinion is certainly more probable, it is also notably more probable. - Note then, as regards that quasi-morally certain, that for the Holy Doctor in this matter, where there is question of a certain moral estimation, a little is reckoned as nothing. - Besides, the Holy Doctor does not speak of any probability whatsoever, but of that which appears certainly to the intellect; and he speaks of the one who, if he withdrew from this probability, would withdraw from his own judgment by a certain effort of the will, and would act against his conscience. To such a one, accordingly, he applies that saying of the Apostle to the Romans 14:23, what is not from faith is sin, ibid. and H. A., tr. 1, n. 31, "from which it is deduced that we, in order to operate rightly, ought to be morally certain concerning the honesty of the action."

120. Finally, the Holy Doctor calls that sentence lax which defends even the less probable opinion for liberty without any distinction, which namely has only some foundation of reason and authority, and therefore he distinguished by saying that one cannot follow this less safe opinion when there is a great and certain preponderance for the safer. Apology against Father Patuzzi, year 1765. But the true doctrine of probabilism, which we follow, does not defend indiscriminately just any probable sentence, but a certainly and gravely probable one, which alone is truly probable. Likewise the Holy Doctor calls that doctrine lax which the authors of

the past century handed down as if commonly, namely in the latter part of that century, in which several lax opinions of probabilists were condemned by the Holy See; but certainly not Sanchez, Suarez, Lessius, Palaus, Laymann, Lugo, Pallavicini, and very many others, whom St. Alphonsus himself approves and praises for his own opinion not only in his Moral Works, but in that very Dissertation on his Moral system. This he himself defends, and repeatedly champions, not against probabilists, but against rigid tutiorists, and affirms that it was without doubt common among all for a series of many years. Breve Dissertaz. dell'uso moderato dell'Opin. Probab., Naples, 1762, p. 48; Op. Mor., l. 1, n. 59, 68, 73, 84.

121. As regards the other point, it is an evident matter that, if the Holy Doctor by a much more probable opinion understands an opinion morally certain, or quasi-morally certain, against slight or doubtful probability, by a little more probable opinion he understands simply an excess of mere probability. Otherwise the Holy Doctor himself certainly could not admit that a probable opinion can at least sometimes retain its probability, and that someone can follow it, although the opposite is notably more probable, as he himself in fact admits several times. Cf. here n. 104 seqq. Otherwise again it would have to be said from the Holy Doctor that there is not in fact given a probable, more probable, most probable opinion, and a more probable opinion in various degrees, but only a probable opinion; which is both false in itself and altogether foreign to the doctrine of the Holy Doctor. Cf. here n. 33 seqq. - But if it is asked why the Holy Doctor then designates that excess by saying, a little more probable, and not simply by saying, more probable, the reason is that the Holy Doctor considers the matter more practically than speculatively, with attention to the nature of the thing and of the principles, and also to the rigor of the words; and thus he distinguishes between a small and a notable excess of probability. A notable excess truly such is had when it is evident and certain, and then, from the Holy Doctor, probability in fact ceases and reaches certainty. And so indeed it is, at least practically and regularly speaking; for such probability, at least practically, is confused with moral certainty, which is certainty in a certain broader sense.

122. And in very truth, the Holy Doctor speaks of a much greater probability certainly and evidently such. Certainly and evidently to whom? Certainly not to the opiner alone, since all know well that one and the same opinion appears less probable to one, more probable to another, indeed even to the same person in diverse circumstances; but to all, or by the common judgment of the wise. And in fact if a proposition is certainly and evidently much more probable to all, or by the common judgment of the wise, it is now, practically speaking, morally certain. For in things to be done we often use both most probable and more probable opinions as if true, and as if morally certain, when greater certainty cannot be had. - Every other excess, although perhaps it may be notable, if nevertheless it is not so evident and certain, cannot in fact properly be called notable, since then there is doubt about such a notable excess, and the proposition which seems much more probable to one perhaps, indeed perhaps even to the same person, the matter having been weighed better, as St. Alphonsus himself confesses about himself, l. 1, n. 86; H. A. 1, n. 78, appears much less probable. - Therefore, if that notable excess of probability is so evident and certain, then it now reaches certainty, and by right and deservedly the opposite can only be slightly or doubtfully probable. But if, although notable, it is nevertheless not so evident and certain, that excess in fact, as regards us, cannot be held as

notable, but remains within the limits of equal probability or of a little greater probability. And indeed, if to the opiner himself alone a sentence seems notably more probable, or if regarding it doctors fall into various opinions, can that sentence prudently be held as certainly and evidently more probable? Certainly not. - Hence again it is established that by that a little greater excess the Holy Doctor in fact understands simply an excess of probability.

123. For this reason the Holy Doctor openly confesses that he does not dissent from the probabilists. "These authors, our probabilists, say that the opinion for the law is to be followed when this is notably and with excess more probable, because in that case the law is morally sufficiently promulgated." Letter of May 25, 1767. And thus Suarez, De Leg., l. 8, c. 3, n. 9: "Greater probability," he says, "is a certain moral certainty, if the excess of probability is certain." Therefore St. Alphonsus did not found a new system, as he himself confesses, but only in the sixth edition and following handed down a practical rule for discerning true and real probability from false and only apparent probability, openly rejecting doubtful and slight probability, and deciding that the certainly more probable is then to be followed. And this in fact is that singular thing which, as the Holy Doctor wrote to Remondini, "is not found in other books." Theol. Mor., ed. P. Gaude, p. XIX.

124. But Rev. Father Wouters objects, p. 67, that the Holy Doctor speaks of an opinion certainly notably more probable to the opiner. - To the opiner alone: this is not true, and cannot be affirmed. For a sentence certainly and without any hesitation more probable is well understood if there is question of a certain and notable preponderance of probability as regards all. But if it is restricted to a notable preponderance of probability as regards the opiner himself alone, who is so ignorant of notions that, from the fact that he himself holds some sentence as notably more probable, he is persuaded that it is now certainly more probable, so that the opposite sentence is to be held as slightly and doubtfully probable? That one certainly is not St. Alphonsus, with whom we are dealing at present. St. Alphonsus establishes generally that for this reason we can follow a most probable opinion against the law, because the law is doubtful. Therefore a most probable opinion, which remains within the limits of probability, and much more an opinion only certainly notably more probable to the opiner, remaining within the limits of probability from the Holy Doctor, cannot make the law certain to the opiner. And consequently, speculatively and doctrinally, the axiom of the Holy Doctor has force: A doubtful law does not oblige. Op. Mor., ed. P. Gaude, vol. 1, l. 1, n. 78, p. 58; n. 81, pp. 60-61. - Besides, St. Alphonsus himself, as has already been demonstrated, in several particular cases, although he judged one opinion much more probable, did not for that reason reject the other opposite opinion, and on the contrary held it as sufficiently probable and useful for practice. Behold, we have an opinion much more probable to the opiner, St. Alphonsus, who nevertheless holds the opposite as probable. Cf. n. 104 seqq.

125. Moreover what kind of rule indeed would this be, by which someone, after a question has been raised about the value of sentences, could not be ruled except by his own individual judgment? Is this a true rule? It is not a true rule, nor certainly is it the rule of St. Alphonsus: "Such an appearance (of greater probability) cannot constitute a certain rule of operating, since it can deceive in many ways. For not rarely some opinion which will appear more probable to one

will appear less probable to another; indeed, to himself an opinion which yesterday was less probable will today appear more probable." Therefore that opinion which appears more probable to someone cannot be a true rule of acting, because "the law would be particular only for him to whom that opinion appeared more probable. But this certainly would be against the nature of law, which for the common good must necessarily be universal and universally proposed, lest the people who are bound to observe it be more often divided and perplexed about the truth to be embraced, while each preacher or confessor from the diversity of opinions would often instruct the faithful according to his own sense." Nor is it of force to say that in following the benign sentence (namely the probable one even in concurrence with the more probable for the law) deformity can also intervene, since the same opinion can seem probable to one, improbable to another. It is not denied that this can happen; but it will always be true that when some opinion is strong with solid probability and rests upon a certainly grave foundation, it will be judged probable among the greatest part of the wise. And this will already be enough for preserving the universal uniformity of observance of the law, notwithstanding that among some particular person that opinion is not probable; for that which rarely happens does not remove universal conformity. However, this does not happen concerning the estimation of more probable opinions; because since greater or lesser probability depends upon moral motives, namely upon judgment and the weighing of reasons, which some draw from one principle, others from another, it happens not rarely, but commonly, that what is stronger to one appears weaker to another... "But that we should become certain that some opinion... is truly more probable or has the required preponderance, this is morally impossible. For either that preponderance is small, and who will be secure that the opinion is truly more probable? For since the excess is modest, it can with difficulty be perceived certainly. Or the preponderance is great; and who will be able to judge that it reaches a sufficient measure, so that the opposite is judged false or slightly probable? And thus we would always have to act with a practical doubt. - Either I am bound to follow opinions more probable in themselves, and then when shall I know which opinion is truly more probable in so many cases where grave reasons and authorities occur opposed on both sides? Or opinions more probable to me, and anxieties would be increased, for often I would have to judge my opinion to be more probable against another sentence of many wise men; and then who will render me safe that my opinion is certainly more probable, and more notable with that notable preponderance which some of the adversaries require? How shall I become certain that I have understood the opposing reasons well and solved them well? That the dictate of conscience which I formed for myself is sufficiently certain and safe? That I was not deluded by my own sense, so that if I err, my error is truly invincible and inculpable?" St. Alphonsus, Dissertation, year 1755, n. 3, 17, 42, 43, 48, 50, 52.

126. St. Alphonsus himself tells us "that several opinions which he at some time held as probable, he was afterwards not ashamed to retract." Op. Mor., l. 1, n. 82, p. 62, ed. P. Gaude. - The sentence of Lessius, that it is not illicit to advise a lesser evil to one prepared to inflict a graver one, seemed to the same St. Alphonsus, l. 2, n. 57, p. 353, ed. P. Gaude, more probable; l. 5, n. 77, p. 763, ed. P. Gaude, sufficiently probable; and H. A., tr. 8, n. 7, not improbable. And on the contrary the sentence of St. Thomas, that that thing frees from the obligation of a vow which, if it had been known from the beginning, would have impeded the vow from being made,

seemed to St. Alphonsus probable, l. 3, n. 187, 198, pp. 488, 498, ed. P. Gaude; soon perhaps more probable, the same l. 3, n. 226, p. 518, ed. P. Gaude; finally as certain, the same also l. 3, n. 720, p. 186, ed. P. Gaude. - Can even learned men fully confident in their own knowledge and free from every prejudice rightly weigh the aforesaid excess? St. Alphonsus speaks of a most probable opinion for liberty, note well, against which from the same Holy Doctor there is only the doubtfully probable; and nevertheless against those who say that it is not lawful to follow any except the most probable, behold what he says: "Where will they find so exact a balance which will render them secure that the opinion standing for the law lacks indeed so much weight of probability as would make it probable, and thus they themselves may operate safely and free from danger?" L. 1, n. 81, p. 61, ed. P. Gaude.

127. Nevertheless, a sentence will sometimes be certainly and evidently more probable to the opiner himself, with sufficient foundation, "when namely he himself finds a convincing reason which is opposed to liberty, and judges that to such a reason an adequate response cannot morally be given." St. Alphonsus, Dell'Uso moderato dell'Opinione Probabile, cap. 5, n. 26. But when this case occurs, that opiner is now again not found in the case of a probable opinion, but of moral certainty, although perhaps only subjective.

128. And if it is asked why the Holy Doctor made this distinction between a little more probable, and notably, much, evidently, certainly more probable, the reason is this: because the Holy Doctor, as is clear from loc. cit., H. A., n. 31, and from the Apology against Patuzzi, 1762, wished to oppose himself to those probabilists who extended probabilism even to slight and doubtful probability, and therefore contended that it is licit to act when there is present any apparent, but not firm, reason or authority. Hence, from the opposite side, the Holy Doctor established that then one must follow the opinion certainly, evidently, notably, much more probable, which, as is clear, in comparison with the slightly or doubtfully probable, is rightly and deservedly called morally certain by the Holy Doctor. Therefore, since St. Alphonsus designated such an opinion, in comparison with the doubtful and slightly probable, by notably more probable, it remained that he should designate any other more probable opinion, in comparison with the truly probable, by a little more probable. Cf. Breve Dissertaz., etc., cited above, at the end of n. 133, p. 51; Op. Mor., Roman ed., year 1757, l. 1, n. 33.

129. Behold the very words of the Holy Doctor in the Apology of the year 1765: "I never contended, nor do I now contend, to found new systems; I well know that no probabilist of solid doctrine holds as licit the use of an opinion slightly or doubtfully probable. But because many probabilists indiscriminately say that it is lawful to follow the less probable opinion when it has some foundation from reason or from authority, therefore I wished to distinguish, saying that it is illicit to follow the less safe opinion when there is much and certain preponderance on the part of the safer opinion; because then the less safe opinion cannot be called certainly probable."

130. And Joseph Aertnys, C.Ss.R., in his Moral Theology, Tournai, 1890, On Conscience, n. 69, says that according to the mind of St. Alphonsus "to the probable, very probable, more probable, there is opposed the probable or sufficiently probable; to the notably more probable, the most probable, there is opposed the slightly or doubtfully probable." This once established, who can

any longer understand equiprobabilism according to the Holy Doctor? The same Rev. Father Aertnys, explaining the sentence of the Holy Doctor, says that the notably more probable opinion, about which the whole question is, and which one is bound to follow from the Holy Doctor, is in reality an opinion morally certain; "wherefore an opinion is not truly probable when the opposite is notably more probable, n. 80." But probabilists do not say that it is lawful to follow an opinion not truly probable, but an opinion truly probable. Equiprobabilism is thus reduced to a mere abuse of words, by still calling an opinion morally certain probable. The question would no longer be a question of a moral system, but at most would be a logical question of the nature of probability: namely, whether it is always true that an opinion notably more probable renders the opposite not truly probable. This, as has already been said, regularly and practically speaking, is true only when that opinion is certainly notably more probable to all. Cf. here n. 122 seqq. But if the question is made speculatively and doctrinally, this is altogether false, and will not be proved for all eternity. For probability of itself does not exclude opposite probability; probability is not excluded except by opposite certainty.

131. From the tract On Conscience in Homo Apostolicus and in the Moral Theology, according to St. Alphonsus it is lawful to follow an equally or nearly probable opinion for liberty, "because a doubtful law does not oblige... Hence all agree in asserting that law, in order that it oblige, must be certain and manifest, and must as certain be manifested or become known to the man to whom it is promulgated... whence no one is bound by any precept except through the mediation of knowledge of that precept," l. 1, n. 57, p. 26; n. 58, p. 27; n. 59, p. 29, ed. P. Gaude. But this is the very principle of simple probabilism itself. And from it, in fact, not equiprobabilism but simple probabilism is deduced: "because opinion denotes doubtful or probable cognition of some truth, but science signifies certain and evident cognition," l. 1, n. 53, p. 28, ed. P. Gaude. Therefore, with an opinion standing for the law, even certainly and notably more probable, the law does not become known as certain; nor is knowledge of the law had; and therefore it is doubtful, and even practically does not oblige, if against the law there stands, as well can stand, a truly probable opinion.

132. The same is wholly evinced from the general rule which the Holy Doctor hands down for the choice of opinions. "For the rest, I protest that just as I do not approve those confessors who, adhering to excessive austerity, easily condemn the use of several opinions which rest upon a grave foundation; so, on the contrary, neither can I approve those who easily acclaim opinions without certain foundation as probable," l. 1, n. 82, p. 62, ed. P. Gaude. - "For the rest, in discussing doubtful matters I had equal scruple both about admitting as probable sentences favoring liberty and foreign to reason, and about condemning as improbable those which seemed to me to rest upon some valid foundation," l. 3, n. 547, ed. P. Gaude, p. 33. - This rule of acting practically is certainly the rule of simple probabilism.

133. The system of equiprobabilism also cannot be understood from the Admonition prefixed by the Holy Doctor to his work, at the end of the preface, ed. P. Gaude, p. LVI, so that the reader may be able to understand which opinions the Holy Doctor approves in his work and which he reproves. It was certainly the place for affirming the system of equiprobabilism, and yet not even a word is had favoring equiprobabilism. - Finally, both in the Homo Apostolicus and in

the Moral Theology, the Holy Doctor pursues with the greatest diligence not only the more common and more probable opinions, but also the less and much less probable and common. For this reason the Holy Doctor does not consider whether a sentence is notably or certainly more probable, but whether it is probable; and if he judges it probable, he exhibits it as a norm of acting.

134. If therefore someone still wishes to contend that St. Alphonsus speculatively champions another system, different from true probabilism, he must certainly confess that practically St. Alphonsus is a true probabilist. And indeed, if, in order that we be bound to follow the more probable opinion according to the system of St. Alphonsus, that excess of greater probability must be commonly evident and certain, cf. here n. 124 seqq., you will scarcely perhaps find one or another such opinion in moral matters, since, as we have already observed, where there is question of probability, even the judgments of very grave theologians are very diverse, and therefore that excess cannot prudently be held as evident and certain. Indeed, as Ithur. observes, Cas. 44, n. 5: "scarcely any question is discussed among doctors in which there are not both probabilists who embrace the stricter sentence against other probabilists, and probabiliorists who embrace the more benign sentence against other probabiliorists." - L. l. 3, n. 930, dub. 1.

135. Therefore the doctrine which St. Alphonsus holds as lax is not true probabilism, which remains within the limits of true and proper probability; but it is that probabilism which goes beyond these limits and extends itself even to slight and doubtful probability. Hence the Holy Doctor does not absolutely say that this doctrine is commonly held, but as if commonly by the authors of the past century; for at that time it was in fact held by many. But it would be wholly and wrongly confused with the doctrine of true probabilism, which was truly commonly, indeed most commonly, handed down. Hence the same St. Alphonsus called this most common and most probable, Dissert. de Usu moder. opin. probab., 1755, which through almost two centuries exhausted the labors of so many wise men, and which, if it had been false, the Church would not have tolerated.

136. And if indeed the matter is not so, where is that moral system which in the Catholic Church could be defended in Catholic fashion, as Clement XIII replied to St. Alphonsus himself in the year 1761? l. 1, n. 84, 85, p. 66, ed. P. Gaude. For before St. Alphonsus there was nothing intermediate between true probabilism and tutiorism or probabiliorism; nor then was equiprobabilism even counted among the moral systems. But the Holy Doctor perpetually refuted tutiorism or probabiliorism. But the Holy Doctor asserts that he hands down only the common doctrine, l. 1, n. 59, 84. But the Holy Doctor perpetually taught: In order that there not be grave sin, it suffices that true probability be had, I understand that which rests upon a foundation NOT SLIGHT, etc., l. 3, after n. 139, Epist. Resp. Wherefore it is immediately to be noted that the Holy Doctor very rarely uses this note, certainly, notably, more probable, etc., which the Vindic. Alph., Appendix 1, Clavis operum, etc., themselves noted; and this indeed would be very strange if his system had been so little practical for the Holy Doctor himself. Nothing, on the contrary, would have had to be expressed more frequently and clearly in individual questions. The Holy Doctor did not reject true and proper Probabilism, but broad

Probabilism, extended namely even to slight probability, which the Church certainly did not tolerate. Cf. following n. 138.

137. But it is objected: From the Holy Doctor, "for acting licitly we ought in doubtful matters to inquire into and follow the truth; but where the truth cannot clearly be found, we are bound to embrace at least that opinion which approaches nearer to truth, such as the more probable opinion." L. 1, n. 54, p. 25, ed. P. Gaude. - The Holy Doctor himself solves this objection in advance, by simply denying that we are practically bound to follow the opinion approaching nearer to truth: "When truth appears for the law, we are certainly bound to follow it, because then the law manifestly appears, whence no one can form for himself a right conscience (concerning the non-existence of the law). Otherwise, if the thing only appears more likely; for then, since truth likely stands also for the other part, the law is doubtful, and therefore in that case either the law is not present or it does not oblige." Dissertation, year 1755, n. 35. "When the opinion for the law appears more likely, such an appearance cannot constitute a certain rule of operating, since it can deceive in many ways." Loc. cit., n. 17. "Certainly we are bound to follow what appears more likely concerning the truth of the honesty of the use of an opinion, but not always what appears more likely concerning the truth of an opinion... because often, granted, the law more probably seems to be present, nevertheless it will be more probable that it does not oblige; and from this we form a practical judgment morally certain concerning the licit... the law in that case, since it is doubtful, does not oblige." Loc. cit. 54, 17.

138. Are all opinions which St. Alphonsus reports and does not expressly reject, although neither does he expressly approve them, to be held as probable according to St. Alphonsus? - On this matter St. Alphonsus himself thus declares his mind: "I judged that the Medulla of Hermann Busembaum should be placed before my work, not now so that I might approve all the opinions of that author himself, but only so that I might follow his method, which among the methods of other doctors for expounding moral matters seemed to me very suitable... For the rest, kindly reader, I wish you to be warned, lest you think that I approve those opinions from the fact that I do not reprove them; for sometimes I shall faithfully set them forth with their reasons and patrons, so that others, according to their prudence, may judge of what weight they are. Then note that when I call some opinion truer, then I do not hold the contrary as probable, even if I do not expressly condemn it as improbable. Moreover, when I call one of the sentences more probable, without giving any judgment about the probability of the other, or use this phrase, I do not dare to condemn, I do not for that reason understand myself to call it probable, but to refer it to the judgment of the more prudent." Author's Admonition to the reader, at the beginning of the work. And again, l. 5, n. 76: "And here again I repeat what I protested at the beginning, namely that when I call some opinion only more probable, I do not therefore understand myself to call the contrary probable. Likewise, when I say concerning some opinion, I do not dare to condemn it, or to call it improbable, I do not therefore admit it as probable; but I doubt concerning its probability. Likewise, when I call some sentence truer, I understand the opposite not to have solid probability for me, although I do not altogether reprove it." - Nevertheless it can in no way be denied that in fact certain opinions are held by the Holy Doctor, at least implicitly, as sufficiently probable, which he not only reports, but also weighs their reasons, and to which he himself seems to add strength, if, in enumerating grave

theologians, he says, for example, the Salmanticenses judge it probable, etc., or adds at the end, indeed Palaus says, Lugo adds, notes, etc. St. Alphonsus also holds as sufficiently probable the opinions which he says are not improbable, l. 3, n. 1012. - Acta S. Sed. vol. 1, p. 467 seqq.

VI. On Doubtful Conscience

139. Doubt is the suspension of assent concerning an apprehended object; not only as to the specification, but also as to the very exercise of the act, because, namely, there is not a sufficient reason for either side. Therefore doubtful conscience is that which remains suspended concerning the honesty of an action, inclining to neither side. This conscience, since it does not involve judgment, is not properly conscience, but rather a defect of conscience; for conscience is judgment, not suspension of judgment. Nevertheless this suspension of judgment is called conscience, inasmuch as with this suspension of judgment we often act in fact. Doubt of this kind can be joined with a reflex judgment concerning the insufficiency of the motive or reason for assenting, and then a judgment of this kind is more properly called doubtful conscience. - L. l. 1, n. 20; Suarez tr. 3, d. 12, s. 5.

140. "Doubt is divided into negative and positive. Negative is when probable reasons occur on neither side. Positive is when for each side, or at least for one side, there is present a grave motive sufficient for forming a probable conscience, although with fear concerning the opposite; therefore positive doubt almost always coincides with probable opinion." L. l. 1, n. 20. Likewise one doubt is strict, another broad. Strict doubt is had when the mind does not determinately embrace one side with its assent, but clings hesitatingly to both; broad doubt is when the mind adheres to one side, yet without giving it an altogether firm assent. - In the former sense is to be understood what St. Alphonsus has in Aertnys n. 70 at the end: "Where two opinions concur as equally probable, neither remains probable, but only doubtful." Certainly the mind can remain doubtful, that is, suspend assent; but it can also well adhere determinately to one rather than to the other, and even to both, if the motives are not contradictory but disparate, with an assent indeed not certain and firm, but probable, not without fear of the opposite. Strict doubt, therefore, can arise from the fact that on each side the reasons are equal or nearly equal; or also from the fact that on neither side are there reasons, or only light reasons are present on both sides. And just as, when reasons are present on both sides, although equal, reason can be moved by them to assent, so, when no reasons or only light reasons are present, the doubt is then to be disregarded, and consequently does not impede opposite probability or certainty. - In the present matter we are not treating of conscience positively and broadly doubtful, or probable, concerning which we have already spoken; but our discourse will be only of conscience negatively and strictly doubtful.

141. Doubt is further divided into speculative and practical. Speculative doubt is doubt concerning what is licit or illicit according to itself; practical doubt is doubt concerning what is licit or illicit, insofar as it is the rule of a work here and now. Speculative is that by which someone doubts concerning the truth of a thing, or concerning the liceity of a thing in general, or in the universal, for example, whether baptism with distilled water is valid, whether painting on a feast day is a servile work. Practical is that by which someone doubts concerning the liceity or

honesty of an action in the particular, to be performed here and now, for example, whether on this feast day, in these circumstances, it is lawful for me to paint, whether it is lawful to baptize this boy with distilled water. To be performed here and now: for otherwise, although the action be considered as circumscribed by several circumstances, a speculative doubt can still be had concerning it, if there is not question of an action to be performed and to be directed by conscience in the present. Practical doubt always arises from another speculative doubt, either of law concerning the law, or of fact concerning some particular thing. - Hence conscience speculatively doubtful, and practically doubtful. - L. l. 1, n. 21; St. Thomas, 1 p., q. 79, a. 13.

142. The directive force of a doubtful conscience is clear from the following propositions. - With a practically doubtful conscience, whether an action is licit or illicit, it is illicit to act. - For only a certain conscience is the rule of morals. Cf. n. 13 seqq. Hence that saying: In doubts the safer part is to be chosen. The safer, namely that which stands for the observance of the law. C. Inquisitioni 44, de Sent. exc.; L. l. 1, n. 22; St. Thomas, Quodl. 8, a. 13; Suarez tr. 3, d. 12, s. 5.

Whether the action is licit or illicit. And thus in doubt whether you ought to kill someone wounded in war, lest the pains of his wounds be prolonged, a person sins whether he kills or does not kill. Likewise in doubt whether an action is prohibited under grave sin or only under light sin, if someone nevertheless acts with this doubt, he sins gravely. On the contrary, in doubt whether today is a day of abstinence of stricter law, a person does not sin if he abstains from meats and milk foods, although the day is one of no abstinence.

143. With a speculatively doubtful conscience it is lawful to act, provided that a practically certain conscience can be formed. - For as is clear from what has been said, n. 13 seqq., a certain conscience, however finally it has been formed, if at least it rests upon moral certainty, is a sufficient rule of morals, indeed the only rule of morals. - It is lawful to act: where, namely, there is question of the licit or illicit alone. For where there is question of the truth of a thing and of an effect necessarily to be obtained, if it is illicit to act with probability, it is consequently illicit to act with doubt. Cf. n. 47 seqq.; L. l. 1, n. 25; Suarez d. 12, s. 5.

144. The means by which someone may make the step from a speculatively doubtful conscience to a practically certain conscience are: 1. To weigh the doubt itself with a certain moral diligence. For if, as St. Alphonsus says, l. 1, n. 24, "after all things have been weighed, he should notice that the doubt is empty, here he can well lay aside his doubt without any other reflection, and thus perform the action." - 2. To inquire into the practice of good men who operate without scruple. - 3. The counsel of a learned and prudent man. - 4. Some probable reason, demonstrative of the matter a fortiori, which perhaps can be found by inquiring into the truth. - 5. Some general reason, or some general reflex principle, so called because it leads and bends us by means of reasoning to defining rightly the question, not concerning the intrinsic and objective truth of the thing, which cannot be resolved through itself and in its immediate principle; but concerning the subjective liceity of our action, which can well appear from some general extrinsic principle. Thus a judge is doubtful whether Titius is guilty, from the intrinsic and direct reasons of law or fact. But from the general and reflex principle, In doubt one must favor the accused, he at once absolves Titius. - L. ib.

145. There really are certain general reasons, or there are certain general sayings and principles, which can always be ready at hand, so that someone may make the step from a negative doubt immediately to moral certainty, or at least to probability, from which then, by means of the principles of probabilism, he can form for himself a certain conscience. Now rules and principles of this kind are the following. Suarez tr. 3, d. 12, s. 5, n. 7; Lugo de Iust. et Iur. d. 23, n. 110.

146. In doubt the condition of the possessor is better. C. 6. de Praescript. - That axiom has been received in the external forum, both ecclesiastical and civil, as a certain rule of judgments. For it must be presumed that he who possesses a thing possesses it by right, unless the contrary appears. The same certainly has force in the internal forum of conscience. For certain and legitimate possession gives rise to moral certainty concerning dominion over the thing, L. l. 1, n. 35, l. 4, 210, l. 6, n. 905, 927; and the reason is that, human morals being considered, no one, morally speaking, is negligent; indeed, on the contrary, all are diligent and very diligent in guarding their own things. Moreover, where one does not proceed from a false supposition, the right of the external and internal forum is the same; for each forum is founded on the principles of natural justice and equity. Hence theologians commonly admit the aforesaid rule for the forum of conscience. L. l. 1, n. 26.

Now some say that this axiom has force only in the matter of justice. "I, however," says St. Alphonsus, l. c., "do not know how it can be denied in all matters." And this certainly is by far the more common and truer sentence. The reason for this extension even to other matters is, with due proportion, the same as in the matter of justice. For no one can justly be despoiled without sufficient reason of a good which is his. But man naturally, and therefore altogether certainly and legitimately, possesses his own liberty, which surely is some good and right of his own. Therefore this good also pertains to justice, and whoever unjustly either takes it away or weakens it injures justice. Without injustice a free man cannot be subjected to servitude. - But there can be no doubt that in doubtful laws liberty is always in prior possession of itself. For upon whom is law imposed except one who is free? Hence it is that what is licit is not whatever the law permits, but what the law does not prohibit, L. 28, sect. 2, Ex quib. caus. maior., and therefore this prohibition must be manifestly proved, C. 23 de Verb. signif. - Suarez tr. 3, d. 12, s. 5, n. 8; Lugo de Iust. et Iur. d. 17, n. 87, d. 23, n. 110.

147. In doubt; that is, in negative doubt, and the reason of the axiom then is clear, because possession stands for the possessor, and therefore moral certainty; for the petitioner no prudent reason is had. This rule, as it has customarily been handed down by the Doctors and admitted in the schools, was never understood and received concerning the state of opinion, but only concerning the state of doubt taken strictly. For if there is question of opinion, then the rules are to be observed which are commonly given concerning probable conscience. Cf. Lugo de Iust. et Iur. d. 23, n. 110.

But in positive doubt, or probability, if probability is present on both sides, so that on this side there stands possession and probability of right, on the other side only an equal or nearly equal contrary probability of right, again the condition of the possessor is better, as is clear of itself. But if on one side indeed there stands possession, and on the other side contrary probability of right, or on one

side possession and also probability of right, and on the other a far greater contrary probability of right, then certainly the condition of the possessor is not better, but doubtful. For the first sentence holds that the judge is bound to adjudge the thing to the plaintiff, because the right of possession prevails in an equal cause, but not in a less probable cause. For Rule 65 of Law in the Sixth is thus: "In equal delict, or cause, the condition of the possessor is stronger"; and in L. 128 ff. de div. Reg. Iuris it is said: "In an equal cause the possessor must be held stronger." But the second sentence holds that the condition of the possessor is still better, and that the judge cannot despoil him of possession. The reason is that "it is certain that legitimate possession gives to each one a certain right of retaining the thing, until the right of another is clear, as they most commonly say... a certain right, which cannot be overcome except by the certain right of another through convincing reasons." For possession is defined: the right of standing upon a thing not prohibited to be possessed, sect. 4, Retinendae de Interdictis Inst.; L. l. 1, n. 36; Ithur. Cas. 1, n. 2. Cf. L. l. 3, n. 547, 562, 711, etc.

Therefore possession, of which there is question in the present saying, is certain and legitimate possession. It is called certain, that is, that the fact of possession is certain; legitimate, that is, begun and continued in good faith; likewise begun and continued by a just title, at least apparent, or at least believed, or presumed, such as, for example, donation, purchase, inheritance, and the like, by which dominion of some thing is customarily acquired. If therefore possession is doubtful, or begun with doubtful faith, or by a doubtful title, it of itself does not exhibit to the possessor a special prerogative and presumption against which no contrary probability has force. L. n. 36, 47, l. 4, n. 219.

148. Probability of right, which can be on only one side, or on both, is probability of a real just title, or one really existing, from which true and real dominion and ownership of a thing arise. For for legitimate possession, of which there is question in the axiom, there suffices a just title at least apparent, because, for example, there intervened a donation or purchase from him who was thought to be owner, although he was not; or at least believed, because it is thought that there intervened an action signified by the title, although it did not intervene, as happens when someone thinks that a thing was given to him or bought by him, and yet this was not done; or at least presumed, because, for example, because of length of time in quiet possession, or other circumstances, it is prudently judged that some title intervened, although the possessor cannot allege any determinate one. Therefore that probability of right, as is clear, is wholly outside the possession itself, which only gives a right of standing upon the thing, or of detaining it, although perhaps dominion and ownership of it do not belong to you, since in reality there was no just title.

149. Now the probability of a real just title, or of one really existing, can be twofold: 1. Probability of the justice of the title for beginning or continuing possession and ownership of a thing, for example, a testament destitute of legal formalities. 2. Probability of the reality or existence of a just title for the same effect, for example, of a donation, when it is also probable that the thing was taken away by theft. The former probability is called of right, the latter is called of fact. Where there is question of the latter, "when the fact is not plainly proved, it is not probable that the accused can be condemned, since the laws never permit the accused to be condemned unless the delict or debt is fully proved; but it is not proved fully and sufficiently for a sentence, when, although two or three witnesses testify, other witnesses nevertheless testify to the contrary; for through these the testimony of the former is weakened or diminished, and

therefore there does not remain the sufficient proof required for full proof and condemnation." Lugo de Iust. et Iure d. 16, n. 100. Cf. also d. 23, n. 100; d. 16, n. 34, 96, 99.

150. From the aforesaid axiom, therefore, several practical cases of negative doubt can be resolved, in which all true probability is lacking, namely whether the time of the obligation of the law has arrived or has passed. "In doubt of inception, for example, whether you have completed twenty-one years, you are not bound to fasting, because then possession is for liberty. Otherwise in doubt of passing, for example, whether on Saturday the hour of midnight has passed, you may not eat meats, for then the law possesses. So also, if you doubt whether you have sixteen years for profession, or twenty-five years for priesthood, you may not make profession or be ordained. Thus commonly." L. l. 1, n. 99, 32.

151. In doubt one must stand for that for which presumption stands. - For presumption, taken from things ordinarily happening, or from other circumstances of person and thing, produces moral certainty, or at least probability. "In obscure matters it is customary to consider what is more like the truth, or what is usually done." L. 114 de R. I.; R. I. 14 in 6. It is a certain anticipated proof of a thing from signs, before direct proofs. Therefore presumption exhibits the thing as true, and stands for that side which is not bound by itself to prove the contrary fact, but transfers that burden of proving to the other side. For as often as something is known to have preexisted which by its nature perseveres until it is taken away by some contrary fact, that thing is judged to persevere so long as the contrary fact is not clear, which consequently will have to be proved by the adverse side.

152. Hence, if you are accustomed at such a time diligently to recite the breviary, and you doubt whether you have recited some part, presumption favors you, and exempts you from the obligation of reciting or repeating. If an insane person, but one who has lucid intervals, vowed, and afterwards doubts whether he vowed while in possession of himself, he is not bound, so long as it does not appear that he was in possession of himself. L. l. 1, n. 26. Nevertheless in the forum of penance, in which, as St. Thomas says, 4 D. 17, a. 3, q. 3, one must stand by the saying of the penitent both for himself and against himself, presumption yields to the truth affirmed by the penitent. - Lugo de Poenit. d. 20, n. 17, 19; L. l. 3, n. 270, l. 6, n. 600, par. Limitant.

Likewise in a case of doubt, the baptism of spouses is not presumed, in relation to marriage, if the non-Catholic party or parties had parents belonging to a sect which rejects baptism; on the contrary, it is presumed if they had parents belonging to a sect which admits baptism, and in that sect were zealous. S. O., Aug. 1, 1883, Collect. S. C. de P. F. n. 662, ed. 1.

Where there is question of obedience to be rendered to a superior, in doubt the presumption stands, speaking per se, always for the superior. L. l. 1, n. 93, 98, 99. Speaking per se, always, for by accident it can sometimes happen that the presumption is not present for the superior, for instance in doubt concerning the liceity of the thing, even with the superior's precept added, for example, when the superior "is accustomed rashly and imprudently to command at his pleasure things which are not lawful... when even with the precept of the prelate added, the matter remains in doubt (as to its

intrinsic liceity); nor does the authority, learning, probity, or prudence of the prelate suffice for laying aside the doubt, which is a possible case." Lugo Resp. Mor. l. 3, d. 19, n. 11; L. l. 3, n. 617.

153. In doubt a fact is not presumed, but must be demonstrated. L. 10 C. de Non numer. pec. - For no reason is to be given for non-being, but for being; because non-being does not have a cause of itself, but being does. Understand this, however, concerning the principal fact, if it is doubtful; because, if the principal fact is certainly clear, and there is doubt concerning an accessory fact, then other principles have force: In doubt every fact is presumed to have been rightly done; In doubt that fact is presumed which by right had to be done; In doubt one must stand for the validity of the act; always excluding unjust harm to one's own, or another's, or the community's good. For every being naturally tends to its own perfection and good. Therefore if nothing is clear as standing in the way, nature proceeds to pursue its own course. If consequently something had to be done, that thing is presumed to have been done. It is clear concerning the fact of Confession having been made; you doubt concerning right, whether you confessed rightly with sorrow and purpose; you can acquiesce. These three latter principles have force both for liberty and against liberty. For liberty, if contrary and certain presumption or the common good does not stand in the way; for an obligation is not to be imposed unless it is certainly clear. Against liberty, if namely a contrary and certain presumption or public good stands in the way; for the common good prevails over the private. - L. l. 1, n. 26, 27, 137, 182, 251, l. 3, n. 201, l. 6, n. 505; L. Quoties 12 de Reb. dub. ff.

154. Therefore in doubt whether you have taken any food or drink; and likewise in doubt whether you have taken food or drink after midnight, you can receive the Eucharist. For unless in each case the fact is proved, liberty possesses. L. l. 1, n. 38, 39; Elbel 166, 167; Amort. Theol. t. 2, d. 5, q. 4, who at the end notes these things: "I say, however, that he would sin at least venially who, for the pleasure of drinking alone, should thus trade around the laws of the Church, exposing himself to the danger of at least material transgression; and if he does this from custom or from a purpose always to operate in this way, with no other reasonable cause concurring, for example, thirst, infirmity, he will sin mortally, because such a purpose argues interpretative contempt and a defect of charity toward God and the Church, whose comeliness he defiles." - Busemb. apud La Croix, l. 1, n. 470, VI.

Indeed, although it is lawful to use a probable opinion against the law, nevertheless it is not lawful to act in fraud of the law by voluntarily procuring a state of doubt against the law, lest one be bound afterwards to observe the law.

Doubtful baptism, in order to a marriage already entered or to be entered, is held as valid; and therefore marriage is pronounced valid or invalid according to various circumstances. The marriage of one doubtfully baptized with one not baptized must be held invalid. On the contrary, the marriage of two doubtfully baptized persons, and of a doubtfully baptized person with a baptized person, must be held valid. S. O., Nov. 17, 1830; Sept. 9, 1868; Sept. 18, 1872; July 7, 1880; Sept. 18, 1890; Apr. 12, 1899; Collect. S. C. de P. F. n. 1872, ed. 1.

But a doubtful marriage, because of the common good, is commonly held as valid. But because of the preeminent good of religion, the doubtful marriage of infidel polygamists who are converted to the faith is declared invalid. Collect. S. C. de P. F. n. 1301, 1304, 1332, 2184, ed. 1.

155. In doubt no one is presumed evil, unless he is proved so. - This axiom is a corollary of the preceding one. For since facts, and consequently delicts, are not presumed, but must be demonstrated, neither must anyone be presumed evil, but he must be proved so. Indeed, no one is evil without reason.

156. Odious things should be restricted and favors should suitably be enlarged. R. I. 15 in 6. - For no one desires to be odious, but all desire to be pleasing. Therefore favors are to be preferred to odious things. By favor is understood whatever indulges liberty, or grants grace. R. 122 de R. I. By odious is understood whatever restricts liberty, establishes a penalty, or injures some right. But since it sometimes happens that what is a favor to one is odious to another, the particular case must be considered, so that it may be determined whether favor is to be preferred to odium, or odium to favor. Hence arises the general principle: In obscure matters the least is to be followed, R. I. 30 in 6, L. 9 de Reg. Iur., and therefore the interpretation of law is to be made less burdensome and more favorable to liberty. Hence another general principle is: Always in doubts the more benign things are to be preferred. L. 56 de R. I. And likewise another: Unless you have become certain concerning the mandate, you will not be compelled to execute what is commanded. C. Cum iure 31 de Off. et pot. iud. del. L. l. 1, n. 97.

157. Therefore it is false that where there is speech generally of speculative doubt concerning the liceity or illiceity of an action, in doubts the safer part is to be chosen. And certainly in this Rule of Canon Law there is not question of speculative doubt, in which by means of a reflex principle someone can form for himself a certain conscience, and thus choose the part altogether safe; but there is question either of practical doubt, namely of a practically doubtful conscience, with which it is not lawful to act, or there is also question of those cases in which the end must necessarily be obtained. But primarily there is question of the external forum, in which there is often a special reason for following the safer in order to remove scandals, abuses, and offenses of the faithful; or there is question of honesty and of greater merit, not of the necessity of salvation. L. l. 1, n. 68, 79; H. A. tr. 1, n. 39; Struggl tr. 1, q. 5, n. 17.

158. Of what species of sin is he guilty who acts with a practically doubtful conscience? - This guilty person will be guilty of a sin of the same account and species as the sin concerning which he doubts. The reason is that one doubting concerning that malice, and nevertheless acting, has an affection toward that malice. Hence, if you doubt whether it is mortal, you sin mortally; if you doubt generally whether it is a sin, not attending, not even confusedly, to the grave malice which may be present, you sin venially. L. l. 1, 22, 23; Elbel 140.

159. He who sinned from an erroneous conscience is not bound in confession to explain that circumstance of erroneous conscience, because it does not change the species; since every sin is against conscience, and does not depend upon the objective truth of the thing, except insofar as that truth is judged through conscience and proposed to the will. Except the case of censure and reservation: since then the erroneous conscience must be explained, so that exemption from censure and from reservation may be clear. Except also the case in which otherwise the sin would not be understood, for example, if someone by omitting Mass on a weekday believes that he sins gravely.

160. What ought someone to do, if, placed between two precepts, he remains doubtful which he ought to choose, for instance, if the precept of hearing Mass presses, and he ought to assist someone gravely sick? - This conscience is usually called perplexed. When such a case occurs, a person ought sufficiently, so far as lies in him, to inquire into the truth so that he may lay aside the doubt. - When the truth has been sufficiently inquired into, and the doubt remains, he can and ought to choose that which seems to him the lesser evil; and, if each seems equally grave, he can choose either. This is true even if someone had culpably cast himself into that perplexity, provided that he grieve for the past fault. The reason is that there is no obligation to impossibilities, and therefore then the lesser obligation ceases; or, if they are or seem equal, or because of ignorance someone does not know how to discern which is lesser, either ceases; and, even if someone thinks that by acting thus he sins, in reality he does not sin from defect of liberty. - Suarez d. 12, s. 5; Lessius in q. 19, d. 19, a. 6, d. 9; L. l. 1, n. 10; Elbel 141.

If the agent chooses that which seems to him the greater evil, he sins according to the excess of the apprehended evil, since he freely chooses this excess.

161. If you doubt whether you have already satisfied some obligation, are you still bound to satisfy it? - R. Affirmatively, if the doubt is merely negative. For with such a doubt no prudent reason of satisfaction is present, and therefore it is impossible by some reflex principle to form for oneself a conscience concerning non-satisfaction, since the certain law altogether perseveres. In such a doubt the axiom altogether has force: the condition of the possessor is better. Cf. Ithur. Cas. 44, n. 15.

But if the doubt is positive, there is controversy. The first sentence, which St. Alphonsus altogether holds and thinks must be held, l. 1, n. 26-29, l. 3, n. 700, par. ult., l. 6, n. 477, quaest. reform., recent. retract. q. 1 and 18, etc., and which several others hold, affirms. The reason is 1. because one does not satisfy a certain obligation through a doubtful fulfillment; 2. because, since in doubt the condition of the possessor is better, and the certainly existing law possesses against liberty, it prevails over liberty, and will always hold liberty obligated to itself until it is certain that the law has been fulfilled. Cf. besides L. l. 1, n. 20, 33, 99, l. 3, n. 112, 290. The second sentence, which is very probable both extrinsically and intrinsically, denies that such an obligation is present. The reason is the very fundamental reason of probabilism, which the Illustrious Holy Doctor expounds most eruditely and learnedly in the chapters cited above, namely, a doubtful law does not oblige. For law does not oblige in the abstract and universal, but in the concrete and particular case, L. l. 1, n. 78. But although the existence of the law is certain according to itself, nevertheless the same law, insofar as obliging in such a concrete and particular case, is uncertain, and is altogether prudently pronounced uncertain, if it has already truly probably been satisfied. Therefore either it must be said that the obligation of satisfying the law again in the aforesaid case is none; or it must be said that the aforesaid principle, a doubtful law does not oblige, is not universally true, but suffers an exception; which would not be fittingly said. For what is true is always true; and for every particular which is contained in the universal.

But from this reason it appears that the obligation in fact is not certain, which is assumed in the first reason of the opposite sentence, if it is probable that the law has already been satisfied. For against certainty there cannot be probability. As regards the second reason, as is clear from what has already

been said, possession prevails in a merely negative doubt; but in order that it should certainly prevail also in a positive doubt, it is necessary that there be certain and certainly legitimate possession. Now when in a particular case it is truly probably clear that the law has been fulfilled, the possession of the law for that concrete and particular case becomes prudently doubtful; for if you in fact have satisfied, liberty in reality possesses. Moreover it is certainly not legitimate, since a just title of obligation is probably lacking; for you can probably believe that you have already satisfied, and therefore a just title, at least presumed, probably does not exist. This sentence besides is held by several and very grave theologians. St. Alphonsus himself, l. 1, n. 76, ed. year 1757, called this sentence common, and himself deduced it from the very principles of probabilism; and, l. 4, n. 150, he calls it most common. Hence D'Annibale leads it as safe, Summ. ed. 4, p. 1, n. 169.

162. Since this question is held by equiprobabilists as a certain capital question, it will not be beside the point to linger somewhat over the doctrine of St. Alphonsus concerning it. - When the question has been proposed: "If someone probably judges that he has already satisfied a vow, is he bound, notwithstanding this, to fulfill the vow?" St. Alphonsus responds, l. 1, n. 29, p. 14, ed. P. Gaude: "Several Authors deny it, namely Roncaglia, the Salmanticenses with Leander, Lugo and others; because, as they say, since the obligation of the law in that case is doubtful, so also is the possession of the law. - Formerly I thought this opinion probable, being led more by extrinsic probability than intrinsic; but after the matter was better weighed, now I by no means judge it probable. Hence I say that the opposite is to be held with Concina, Filliuccio, Leander and others. The reason is that... when the vow is certain, liberty remains bound by the obligation of the vow, until the vow certainly has not been fulfilled." Indeed in Elenchus 2 of Reformed Questions, q. 1, the Holy Doctor writes these things: "If someone probably judges that he has fulfilled a vow, the canonical hours, or penance, is he bound to satisfy it, if it is still probable or doubtful that he has not fulfilled it? Several Authors deny it... But the opposite is to be held, because the obligation already contracted possesses, until certainly it has not been fulfilled."

163. But the Holy Doctor seems in reality either to have revoked his retraction, or certainly afterwards to have been doubtful. For as regards the very general question proposed in our Question, behold what he has in the same edition of the Moral Theology, l. 1, n. 99, which is to be held as altogether definitive from Father Gaude: "What in doubt whether you have fulfilled the law? In negative doubt you are bound to fulfill it; otherwise, in positive doubt. Cardenas and Illsung with Croix." Rev. Father Gaude, so that he may free the Holy Doctor from a certain contradiction, or from a new retraction, or certainly from every doubt on his part concerning that question, appends this note 99 d): "What St. Alphonsus briefly writes here, namely that you are no longer bound to fulfill the law in positive doubt whether you have fulfilled it, needs explanation. The saying of the Holy Doctor has force for the case in which there is only one probability, namely that you have fulfilled the law; or in the case in which it is notably more probable, and therefore it is clear to you with a certain moral certainty, that the law has been fulfilled. But in the case in which probability is present on both sides, you are by no means released from the obligation of the law, according to the reformed doctrine of St. Alphonsus, as is clear from l. 1, n. 29 and Elenchus 2, Quaest. reformatar., q. 1."

164. But this note of Rev. Father Gaude has altogether no foundation except in a prejudged opinion about equiprobabilism. Neither in the text of the Moral Theology nor in the first reformed question is there found any trace of a single or double more probable opinion. Therefore the saying of the Holy Doctor is well clear of itself, and needs no explanation.

And this is confirmed from the very citation of La-Croix, l. 1, n. 599, 600, whom St. Alphonsus praises. For the Holy Doctor resumes in few words the very same doctrine of La-Croix, from whom he also took the citations Cardenas and Illsung. And La-Croix is most certainly not an equiprobabilist.

165. Moreover, if from the general question we make a step to particular questions, we shall certainly see that St. Alphonsus both constantly holds that it is safe in conscience to follow, as regards obligation, a probable opinion; and that possession prevails in doubt, not in probability. And thus l. 3, n. 290, p. 560, ed. P. Gaude: "In doubt concerning custom the precept possesses; hence a dispensation must be sought. Otherwise, if it is probable that the custom is present."

Likewise l. 3, n. 112, q. 3, par. "second sentence," p. 432, ed. P. Gaude: "Here we are not dealing in doubt, but in probable opinion... For in doubt presumption stands for the law... But when it is probable that the obligation of the law never began, or that the law has been abolished, then presumption for the law ceases, and liberty possesses."

166. And those things which the Holy Doctor has l. 4, n. 150, ed. P. Gaude, p. 574, bear more upon the proposed case. The Holy Doctor treats the question: "Whether, if someone doubts whether he has omitted something of the Office, he is bound to recite it?" And he responds: "... If the doubt is merely negative, he is certainly bound; because in doubt possession stands for the precept... But if the doubt is positive, so that you probably judge that you have said it, you are not bound to repeat it; as they most commonly teach... Likewise Croix says... he acts badly who, having a conjecture that he has said some part, repeats it; because he opens the way to scruples." And if this has force concerning the Office, to which someone is bound from the law of the Church, does not the same have force concerning the Rosary, to which someone is bound from his own private vow?

167. And here too Father Gaude appends a note, saying that the Holy Doctor left the aforesaid opinion in the last edition from the preceding editions through mere forgetfulness. But it is repeated forgetfulness; indeed it is forgetfulness repeated several times. Ought it not rather to be said that there was an implicit retraction of the retraction? And who will ever be able prudently to affirm forgetfulness in the preceding question, for example concerning the Breviary, since St. Alphonsus treats it not incidentally and briefly, but professedly and at sufficient length? Nor indeed is the aforesaid case of doubt rare, but very practical and frequent.

168. At the most one would have to say that the Holy Doctor after the retraction was doubtful and undecided. Indeed, concerning another similar question: "Is someone bound to confess some mortal sin certainly committed, in doubt whether it had or had not been confessed?" he

responds, l. 6, n. 478, of the last edition of the Moral Theology: "If the doubt is negative, he certainly is bound to confess it, as they commonly teach... But on the contrary, if the doubt is positive, so that he probably believes that that sin has already been confessed, there is a sentence that he is not bound to confess it, and Suarez, Navarrus, Sylvester, Bonacina, Lugo, the Salmanticenses, Croix, etc., defend this. But just as the opinion reported elsewhere of those Authors who said that there was no obligation of fulfilling vows which have probably been fulfilled seemed by no means probable, so neither can I approve this sentence as regards a sin probably confessed, since the obligation of confession is certain, and the satisfaction doubtful."

But it must be noted first how St. Alphonsus, although he brings forward a general reason, nevertheless refers himself not to the general question, but to the particular question concerning a vow, around which he reformed his sentence; but in reality he also reformed his sentence concerning the question of the canonical hours and of penance. Then, although the Holy Doctor reformed his sentence, nevertheless it always remains true that he himself adhered to the other sentence, l. 6, n. 477, of the Roman edition of the year 1757, dedicated to Benedict XIV; and there he himself frees the penitent from repeating confession, "as Suarez, Sanchez, Navarrus, Bonacina, Filliuccius, Roncaglia, Viva, Tamburini, Croix, Lugo, Escobar, Granadus, and Fagundez, the Salmanticenses with Sylvester, Henriquez, etc., also commonly say." Therefore we have St. Alphonsus with Concina against St. Alphonsus with Suarez, Lugo, and several other most distinguished theologians. Does not the prior St. Alphonsus prevail notably over the later St. Alphonsus? teaching a sentence which Lugo, de Poenit. D. 16, n. 58, says all commonly teach? And, what is still more, this remains true, that these things are had in St. Alphonsus, l. 6, n. 505, of the same last edition: "It must carefully be noted that penitents are not to be compelled to repeat Confessions, unless it is morally certain that they were invalid, as Croix, Gobat, Holzmann, Mazzotta, and Elbel with Filliuccius and the common opinion rightly say."

169. The doctrine set forth has no difficulty against it from the case of the debtor, if he has only probably paid his debt. For, if that doctrine cannot be applied to this case and the obligation of restitution is affirmed, this will be only because it is not in reality a case of probabilism, which turns only around the honesty of a human action and not around the truth of things, and because of the special account of justice, which does not have force for other precepts.

Let St. Alphonsus be heard: "When the debt is certain, and probability turns around the fact of payment, certainly the debtor is not freed by a probable payment; because probable payment cannot equal a certain debt." L. l. 3, n. 700, ed. P. Gaude, p. 167. Indeed, as the same Holy Doctor has in the note there, "we cannot use a probable opinion with harm to neighbor, when the probability is only of fact... Whenever the opinion is only probable that this action is not prohibited, someone can form a certain conscience by such an opinion... When opinions turn around the things themselves, often a man is bound to prefer the certain to the probable, namely when from justice or from charity he is bound to avoid harm which in the thing itself underlies... For the first says an order to the operator, and altogether removes the danger of malice; but the second says an order to the thing itself, and does not remove the danger of detriment which is in that thing."

But Cardinal de Lugo has these things concerning the proposed case, de Poenit. d. 11, n. 59, 60: "First, if those hundred are owed from a liberal promise, it seems that satisfaction is made by probable payment; just as one who by vow owes fasting, if he fasts by observing the fast according to a probable opinion... But if they are owed from an onerous contract, as from purchase, exchange, etc., then perhaps he does not satisfy; because equality is not preserved by giving, for a certain thing, another uncertain thing, which for that reason is worth less; and because the intention of the contracting parties seems to be this, that certain money be given to him for certain goods; which reasons... do not proceed in all other precepts, in which the obligation is certain, for example of fasting, of reciting the Office, etc., and nevertheless a man satisfies if according to a probable sentence he fasts, hears Mass, or recites the Office, etc." And Father Palmieri in Comp. P. Gury n. 80 adds: Thus Lugo, who skillfully, even concerning an onerous contract, speaks doubtfully: perhaps he does not satisfy: for if the matter concerns contracts which they call of good faith, in which namely there is given to the judge the faculty of arbitrating many things according to equity and good between the litigants, then also the very equality which must be preserved in an onerous contract is customarily determined by a prudent, that is, probable judgment."

170. Therefore that axiom, a doubtful law does not oblige, must be understood of a law doubtful by positive doubt, or truly probably doubtful. Now law can be positively doubtful in many ways, concerning its existence and concerning its cessation: concerning existence, whether it has been enacted, whether promulgated, whether the time of obligation has arrived, whether it is extended to such a case; concerning cessation, whether it has been abrogated, whether its excuse or dispensation is present, whether it has already been fulfilled; and in all these cases we say that the aforesaid axiom has place, unless we wish to admit the truth of the general proposition and at the same time deny the truth of the proposition contained in the general. But come now, law can be doubtful:

    1. As to its very existence and promulgation, concerning which St. Alphonsus says: "Law, in order that it oblige, must not only be promulgated, but also promulgated as certain. And this point must be firmly established here," l. 1, n. 63 seqq. and 97. And, that we may pass over others, this is from the eminent Doctor in St. Alphonsus, l. 1, n. 66: "So long as there is a probable judgment that there is no law prohibiting the action, such a law has not been sufficiently proposed to man; whence, since the obligation of law is of itself burdensome, it does not press until it is more certain concerning that law." C. 31 de Off. iud. deleg.

    2. As to its understanding and obvious interpretation, and whether it is obscure or ambiguous. For since law must be sufficiently proposed in order that it oblige, the legislator is not judged to wish to oblige beyond that which is clearly and determinately expressed in the law. R. I. 30, 57 in 6; L. 9 C. de Leg. et Const.; Suarez in 1. 2, tr. 3, d. 12, s. 5, n. 7.

Obscure: for example, whether regular prelates, since they too have their own sheep, must apply Mass for them on feast days. This question, proposed twice before the Holy See, has not yet been solved. Giraldi, Expos. I. P. p. 2, s. 85, t. 3. - Ambiguous: it is provided that a beneficiary not reciting the canonical hours after six months from obtaining the benefice does not make his fruits his own; nevertheless the fruits are to be understood not of the earlier and later time, but of the later only.

3. Whether it has an extensive or restrictive interpretation, concerning which St. Alphonsus says, l. 3, n. 1036: "When it is doubted whether a law comprehends some case or subject, it is the same as if it were doubted whether law exists for that case or subject, and therefore liberty possesses." Cf. also l. 1, n. 27, 97; Lugo de Poenit. d. 16, n. 59, de Iust. et Iur. d. 23, n. 110.

4. Whether it has ceased, either immediately after it was enacted, because it was never received, or through the progress of time by desuetude; concerning which the Holy Doctor says, l. 3, n. 112: "Nor does the first sentence, which we followed l. 1, n. 97, stand in the way, namely that in doubt whether a law has been received, the law does oblige; for here we are not dealing in doubt, but in probable opinion... For in doubt presumption stands for the law, since a delict, in not receiving a just law, is not presumed. But when it is probable that the obligation of the law never began, or that it has been abolished, then presumption for the law ceases and liberty possesses." The same Holy Doctor has l. 1, n. 107, par. An vero, l. 4, n. 47. And consequently the same must be said when it is probable that the end of the law has adequately ceased, L. l. 1, n. 199, or that the law has been abrogated by custom, L. l. 3, n. 290, or that in a particular case there is no need of dispensation, L. l. 1, n. 192, l. 1, n. 304. - Certainly as soon as the obligation of the law is doubtful, its possession consequently becomes doubtful; and therefore the argument drawn from the Rule of possession has no force in the case.

5. Whether the law is just or unjust; and here a threefold case can occur. The first is that the justice of the law is doubted because there is doubt concerning the legislator himself, whether he is a legitimate superior. Now in this case, if the doubt concerning the legitimacy of the superior is positive, concerning which we are treating, namely it is truly probable that he is not a legitimate superior, by that very fact the non-existence of the law becomes truly probable, and therefore it does not oblige. Cf. L. l. 1, n. 98, 121. - But if the doubt is merely negative, the law must be obeyed, "whenever the superior is in peaceful possession of his power; for then his condition is better as one already possessing the right of commanding." L. l. 1, n. 98, l. 4, n. 47.

The second case is that the justice of the law is doubted because there is doubt whether the superior exceeds his power. In positive doubt, or true probability concerning excess of power, the same must be said as in the preceding case. For by that very fact that it is truly and manifestly probable that the superior exceeds his power, the non-existence of the law becomes truly probable, and therefore it does not oblige. Cf. L. l. 3, n. 617. - But if the doubt is merely negative, presumption, speaking per se, always stands for the superior.

The third case is because there is doubt concerning the liceity of the thing itself prescribed. In positive doubt or true probability, the law is not doubtful, and therefore it obliges. For the superior then commands a thing probably licit, indeed certainly licit; for he commands that the subject embrace some probable opinion in practice, which is certainly licit. Therefore he commands licitly and by right. Therefore the subject is bound to obey. Lugo Resp. Mor. l. 3, d. 19; L. l. 1, n. 93, 99, 124, l. 4, n. 47.

"But the Doctors commonly limit the aforesaid sentence, and say that the subject is not bound to obey, 1. if the thing is very difficult and troublesome...

They limit it 2. when the subject by obeying would expose himself or another to danger of undergoing a grave inconvenience in life, reputation, honor, or goods." L. l. 4, n. 47, l. 3, n. 617, l. 1, n. 31. "The reason is that subjection and obedience owed to a superior does not take away your right and possession, or that of the other person, concerning the good of honor, reputation, body, or fortune. Therefore you are not bound to deprive yourself of this certain possession in a matter of so great moment; but rather it seems consonant with equity that a greater account be had of your certain possession, and that this be preferred to the right, or possession in some way doubtful, of the superior." Elbel 173; Laymann c. 5, n. 12; Suarez tr. 3, d. 12, s. 5. Moreover, because then, in the case of a thing very difficult or harmful, it can deservedly be doubted whether the superior exceeds the limits of his power, and therefore the existence of the law becomes doubtful; or also place can then be given to legitimate epikeia, according to the various circumstances of the particular case.

But if the doubt is merely negative, presumption, as has already been said, always stands for the superior. Cf. Suarez de Relig. t. 4, c. 10, l. 4, c. 15; Lugo Resp. Mor. l. 3, d. 19. For the rest, as regards what pertains more to practice, "the sentence of all theologians, both recent and ancient, is common: they teach that in obscure matters obedience is to be given to the superior, where sin is not certain; and thus all who have treated of this matter have taught. So also all the masters of mystical theology with St. Ignatius of Loyola in the Epistle on the Virtue of Obedience." L. l. 1, n. 100, 194; Lugo l. c., n. 3; Suarez tr. 3, d. 12, s. 5.

VII. On Scrupulous Conscience

171. A scruple is an empty apprehension, and the fear and anxiety arising from this, that there is sin somewhere where there is none; or grave sin, where there is only light sin. Therefore a scrupulous conscience is that conscience which, from some vain cause, doubts concerning the honesty of some action, and therefore fears concerning sin. Fear of this kind can very well stand with a determinate judgment concerning the honesty of the thing; for it rests only on a light and empty motive. But if that fear is with a determinate judgment that something is a sin which in reality is not, this judgment, insofar as it proceeds from an empty motive and afflicts and troubles the soul, can indeed be called a scruple, or a scrupulous conscience, speaking broadly; but properly it is a vincibly erroneous conscience. Likewise there can be a scruple with a true practical doubt whether this is a sin or not, from an empty motive, suspecting perhaps that there is sin, without any determinate judgment that it is or is not a sin. And thus again it is a scruple or scrupulous conscience broadly so called, but properly it is a doubtful conscience. - Ferraris Supplem. v. Scrupulus.

Scrupulous conscience differs from tender conscience. For the latter is a conscience recognizing, fearing, and fleeing both grave and light sins; and it also strives to avoid simple imperfections, as much as it can with divine grace.

172. Is it lawful to act with a scrupulous conscience? - The response is clear from the two following propositions in this number and the next. - It is lawful to act with a scrupulous conscience, while the scruple remains, provided that it is judged to be a scruple and is contemned as such. Nor indeed is it necessary that, for individual acts, this express judgment be formed, that it is a scruple; but it suffices that one act against it from the judgment of experience of past acts. -

Reason 1 is that the scrupulous person acting thus has a prudent motive for contemning the dictate of a scrupulous conscience; because a scruple proceeds from a light foundation, and consequently does not take away a judgment otherwise certain or probable; and because confessors and theologians commonly say that scruples are to be laid aside, or, if they cannot be laid aside, are to be contemned. Reason 2 is that then there is had at least a virtual judgment of that contempt of scruples. - Suarez tr. 3, d. 12, s. ult.; L. l. 1, n. 18, 19.

He who is scrupulous, without knowing or noticing that he is scrupulous, or at least scrupulous in this action, cannot act against the scrupulous conscience, if a judgment concerning sin is formed, or a doubt concerning it is had. - The reason is that such a person would freely choose that which he judges evil, or concerning which he doubts whether it is evil.

173. Whence do scruples proceed? - The causes of scruples, dispositive, permissive, effective, occasional, are some intrinsic, others extrinsic. - The intrinsic causes of scruples are: 1. The natural constitution of the body, very much disposed to suspicions and fears, such as a melancholic disposition. 2. Weak health of the head, especially in women. 3. Ignorance, by which someone does not well perceive the precepts of God and of the Church. 4. Hidden pride, by which someone trusts too much in his own judgment. 5. Excessive abstinence and immoderate vigils, by which, the head being weakened, the soul is easily disturbed. 6. Immoderate and indiscreet fervor. - But the extrinsic causes of scruples are: 1. God, who permits scruples in the just, so that, thus purged, they may advance more; in the tepid, that they may perform the offices of Christian piety more fervently; in penitents, that they may pay the penalty of past sins. Scruples are judged to be from God if those agitated by them become better. - 2. The demon, who, "God permitting, can move melancholic humors in man, through which the imagination can either err or be disturbed toward inordinate fear." St. Antoninus, 1 p., t. 3, c. 10. Scruples are judged to come from the demon if the scrupulous person senses that he is being led to tepidity, drawn back from virtue, and especially inclined to despair. - 3. The society of the scrupulous, especially if scrupulous persons are ruled by their counsels, and frequently converse with them concerning things of the soul; for those with whom we associate, these we most easily imitate. - 4. Reading books which are too rigid, "establishing harder precepts which the human condition cannot sustain"; St. Ambrose on Psalm 118; little by little, without sensing it, we assent to the opinions to which we devote ourselves.

174. What are the signs of a scrupulous conscience? - "1. Obstinacy of judgment, by which the scrupulous person refuses to obey the counsels of the wise, consults various persons, but acquiesces in the judgment of none; indeed, the more persons he hears, the more perplexed he becomes. - 2. Frequent change of judgment from light motives, whence arises inconstancy in acting, and disturbance of mind, especially in external operations, for instance in the celebration of Mass, etc. - 3. To have impertinent reflections upon many circumstances which were present in the action or could have been present." L. l. 1, n. 11. - 4. If he thinks that he sins in that in which pious men find no sin at all; if he recites his prayers anxiously and continually begins them anew; if he makes no end of examining his conscience, and explains every smallest thing, and often even repeats it in Confession. - 5. If he uses ridiculous signs,

gestures, and other ways for laying aside scruples. - 6. If the confessor, or another prudent man, has judged him scrupulous. - La-Croix l. 1, n. 515 seqq.

175. What are the remedies of a scrupulous conscience? - 1. To contemn scruples, to act against them, and not to cherish them by thought. "A scrupulous person is sometimes bound by a grave obligation to operate against scruples, since from the anxiety of scruples he can fear grave harm in spiritual progress, or in the health of body or mind." L. l. 1, n. 17, 13. - 2. To acquiesce in the judgment of the confessor, or of another pious and learned man. "For this above all can be called the principal, indeed the only, remedy of infirm persons of this kind... Deprived of this anchor of obedience, they can never be healed." L. l. 1, n. 12, 13, 16. "After a scrupulous person has received the response or example of one confessor or good man, he ought not to consult others, lest he become accustomed to cherishing useless anxieties longer." Sporer n. 108. - 3. To look upon the life and custom of good men as a rule, and to avoid the conversation of other scrupulous persons; likewise to abstain from the reading of books that excite scruples. L. 1, n. 2. - 4. Before he acts, not to judge anything to be a sin unless he knows it certainly, lest from an error of conscience he in fact sin. After the operation, let him use "the rule wisely handed down by the Doctors, namely, that those who are of a fearful conscience, unless they know morally certainly that they have consented to grave sin, are to be judged immune from sin; for it is impossible that sin should enter into a soul abhorring it without being clearly recognized by it." L. l. 1, n. 15; Suarez tr. 3, d. 12, s. ult. - 5. To accustom himself to following the milder sentences and even the less safe ones. Busemb. apud La-Croix, l. c. "For the scrupulous, that rule handed down by Blessed Albert the Great and St. Antoninus is to be observed: Between the hard and benign sentence concerning precepts, the benign interpretation, other things being equal, is to be made." L. l. 1, n. 19. - 6. Never to be idle; because idleness fills the imagination with scrupulous thoughts. L. l. 1, n. 12. - 7. To destroy the causes of scruples; for example, let the melancholic person evacuate black bile by medicines, let the obstinate break his own judgment, let the proud person not trust his own prudence, let the rude seek instruction, let the timid meditate on the goodness of God, which does not impose precepts reducing one to madness. - 8. Earnestly and confidently to commend himself to God, who consoles us in all our tribulation, 2 Cor. 1:4; L. l. 1, n. 12.

176. It will also be useful to know the privileges of the scrupulous: 1. that a scrupulous person in acting is not bound to apply examination and diligence except a very moderate one, nor so much as others; and that, while a scruple troubles him and counsel is not at hand, he can freely do what he wishes, unless it is certain and evident that it is a sin. Cf. Vasquez in 1. 2, d. 57. - 2. That he is bound to repeat nothing from past Confessions, unless he certainly knows that it was mortal and that he was not rightly confessed. But he is not certain so long as he doubts. Hence Laymann advises that a scrupulous person never confess doubts and scruples. And Sa, v. dubium, and others say that he is not bound to confess except those things which he can swear to be mortal and never to have been confessed. - The reason of each privilege is that in the scrupulous person reason is disturbed by excessive fear of sinning, so that he cannot rightly examine the matter. Hence, granted that he has not confessed something, nevertheless he is not bound, with such great harm and danger of perpetual anxiety, to procure the integrity of confession, since lesser difficulties often excuse from it. L. l. 6, n. 476, 477. - 3. "Indeed,

sometimes someone can be so troubled by scruples that, although it seems certain to him that he has not said certain things, still he is not bound to confess them." L. l. 1, n. 16.

177. What ought to be the manner of acting of the confessor with the scrupulous? - It is contained in these rules: 1. Let him be patient and full of charity, since the care of the scrupulous is long and arduous, and their condition most wretched. - 2. Let him be discreet, so that he may rightly know what is the origin of the scruples in the penitent; and whether he is scrupulous in all things, or only in one, so that he may be able to remedy the evils congruently. - 3. Let him be prudent, namely in prescribing rules, which indeed ought to be general; for scrupulous persons are almost never able to accommodate themselves to particular rules, because they cannot apply them to themselves. Indeed, they always doubt whether the case was sufficiently explained and understood, whether the rule prescribed to them was well accommodated to that case. - 4. Let him be brief and dictatorial in his responses; and let him define all things, as far as he can, promptly and firmly; otherwise the penitent would be confirmed in his anxiety by the authority of the confessor himself.

178. Especially let the confessor note that for the most part scruples turn around three things: 1. that assent has been given to any evil thought which presents itself to the mind, for example, against faith, chastity, charity; 2. that past Confessions were null, or even sacrilegious, either because of defect of integrity, or because of imperfection of sorrow; 3. that in every action there seems to be sin or danger of sin.

179. If the first, let him command the penitent that he altogether despise fears of this kind, and teach him that not depraved thoughts, but depraved consents, are sins. Often it will also be expedient to impose on the scrupulous person that the penitent abstain from Confession of thoughts of this kind, unless he knows so certainly that he consented to them that he can at once swear it. "Nor is there reason that we be terrified because of the duration of time, or the vehemence of the thought, for these also often are natural and involuntary, and sometimes from fear afterwards appear greater than they really were." Suarez d. 12, s. ult. "See to it, however, that you diligently notice that the demon, or sense itself, sometimes injects temptations into certain persons, especially the scrupulous, under an utterance expressing consent, in this or a similar way: I will to sin, I will to consent; although nevertheless no consent of the will is present, which is not to be sought from incidental words, but from the proper act itself of the higher will." Ithur. Cas. 18, n. 5; Elbel de Act. hum. 226 seqq.

And Lehmkuhl, Cases of Conscience, ed. 3, Freiburg im Breisgau, 1907, On Human Acts, Concup., (1), Case (9), R. 2: "The mind can be occupied for a sufficiently long time with those impure matters, without full advertence and full consent being present, which nevertheless is required for mortal sin." And if someone, "noticing more fully, struck by fear, flees to prayer, it sufficiently shows that he had not previously fully consented, nor is guilty of mortal sin." And concerning the Rule of Human Acts, Scrupulous Conscience, Case (17), R. 2: "If someone is habitually in that state in which he would rather die than offend God, he ought by no means to be troubled by those various temptations against chastity, nor by those which have progressed even to a sense of joy and satisfaction (or of natural desire). For this affection and that sense is not yet voluntary consent, in which alone sin consists. It can indeed happen that sometimes some venial negligence insinuates itself; but this is

human misery, which should teach continual humility and vigilance, not fear and anxiety." And again concerning Sin, Advertence necessary for sin, Case (37), R. 2: "It can altogether happen that someone clings for a sufficiently long time to a thought of preceding delectation, before full advertence of mortal malice has in reality been present."

180. If the second, and the penitent has already at another time completed a general Confession, or for some notable time has been accustomed to approach Penance diligently and piously, let him impose on this person that he no longer think about past faults, nor say any more word about them, unless he can swear that he certainly perpetrated those mortal sins, and never laid them down in Confession. But if after a Confession duly made he returns, then let the confessor dismiss him unheard, commanding him to approach Communion. Thus St. Bernard conducted himself, who is said to have said to a certain priest who wished to abstain from the celebration of Mass because of scruples: Go and celebrate on my faith, and he was freed. Nor say: Would that he who speaks thus were another Bernard! "Whoever says this," says St. Antoninus from Gerson, "errs: for you have not committed yourself into the hands of a man because he is learned, because he is pious; but because he is placed over you."

181. If the third, let the confessor impose that he act freely and despise scruples; indeed that he operate against them as often as evident sin does not appear; because, generally speaking, these persons, because of reason disturbed by that excessive fear, think sin is present where it is not. Hence it is necessary to enjoin on them a precept that they overcome scruples, lest they become useless both to themselves and to others; and that afterwards they by no means accuse themselves in Confession concerning such actions. "For it is not necessary that a scruple be driven away speculatively, but practically, nor in such a way that it is not felt, but that it is not consented to through a determinate judgment." Suarez l. c., n. 4. In this matter it is to be noted that even if it can happen that they sometimes err materially by acting thus, nevertheless they will not sin formally by reason of the obedience which they render to the confessor; because then they do not obey man, but God saying: He who hears you, hears me, and he who despises you, despises me. Nor indeed "in moral matters is omnimodal certainty to be sought, and doubt, which perhaps in others would be reasonable, is to be judged as nothing in the scrupulous person." Suarez l. c., n. 6. - L. l. 1, n. 12, 19; La-Croix l. 1, n. 527 seqq.

182. Are scruples useful? - "Scruple... for some space of time, helps not a little the soul which gives itself to spiritual exercises; indeed it greatly purges and cleanses such a soul by separating it very much from every species (appearance) of sin according to that saying of Gregory, It belongs to good minds to recognize fault where there is no fault." St. Ignatius of Loyola, Spiritual Exercises, Rules on Scruples, 3; La-Croix l. 1, n. 513. - But if they are protracted for a long time, "scruples are harmful, first to the body, because they destroy health, weaken the head, often reduce a man to madness, often shorten life; then to the soul, which they render entangled, desolate, perplexed, sometimes despairing; they confuse the intellect, disturb the power of judging, often render the whole man, endowed with distinguished talents, unfit for all functions; moreover they impede many good works, waste time with many vain and useless thoughts, etc." La-Croix l. c., n. 514.

Third Commentary: On the Fourth Precept of the Decalogue

Honor thy father and thy mother.

Exod. xx, 12.

I. On the Intrinsic Nature of This Precept

1. "The precepts of the Decalogue are ordered to the love of God and of neighbor. But among neighbors we are most bound to parents. And therefore immediately after the precepts ordering us to God there is placed the precept ordering us to parents, who are the particular principle of our being, just as God is the universal principle. And thus there is a certain affinity of this precept to the precepts of the first table." St. Thomas, 2.2, q. 122, a. 5.

2. This precept primarily and directly regards the obligations of children toward parents, but secondarily and implicitly looks to the obligations of parents toward children, and also to the mutual obligations of other blood-relations, and of other Superiors and inferiors. "The use of this Precept extends most widely, for besides those who begot us, there are many others whom we ought to reverence in the place of parents, under the title of power, or dignity, or usefulness, or of some eminent duty and office." Roman Catechism, P. 3, C. 5, nn. 2, 8. "Something is owed first to parents rather than to country and blood-relations, because through the fact that we were born of parents, both blood-relations and country pertain to us. And therefore, since the precepts of the Decalogue are precepts of law, through them man is ordered more to parents than to country or to other blood-relations. Nevertheless, in this precept, which concerns the honoring of parents, there is understood to be commanded whatever pertains to rendering what is due to any person whatever, just as the secondary is included in the principal." St. Thomas, 2.2, q. 122, a. 5, ad 2.

3. This fourth precept, as regards acts per se, belongs to the virtue of piety, observance, dulia, obedience, and besides, gratitude.

4. Piety is taken 1. in a broader sense for religion, and thus to be pious is the same as to be religious; and the pious are called worshipers of God, but the impious idolaters and sinners. "God is the principle of being and governance in a far more excellent way than father or country. And therefore religion, which offers worship to God, is a virtue other than piety, which offers worship to parents and country. But the things which belong to creatures are transferred to God through a certain superexcellence and causality... Hence by excellence piety is named the worship of God; just as God is excellently called Our Father." St. Thomas, 2.2, q. 101, a. 3, ad 2. - It is taken 2. likewise in a broader sense for mercy or a benign affection toward those needing our help. "As Augustine says: ... according to common usage the name of piety is also frequently used in works of Mercy. I think this has happened for this reason, because God principally commands these things to be done, which He testifies please Him before sacrifices; from this custom it has happened that even God Himself is called pious." St. Thomas, l. c., a. 1, ad 2. - Piety is taken 3. properly; and it is a special virtue, to which it

belongs to offer worship to parents and country. "It must be said that some virtue is special from the fact that it regards some object according to some special reason. But since it pertains to the notion of justice that it render to another what is due, wherever there is found a special reason of debt to some person, there is a special virtue there. Now something is owed to someone specially because he is the connatural principle producing into being and governing. But piety regards this principle, insofar as it spends duty and worship upon parents and country, and upon those who are ordered to these." St. Thomas, l. c., a. 3.

5. As in every virtue pertaining to justice, which is a virtue toward another, so also in piety a threefold object is distinguished, namely the object to whom, the object which, or material object, and the objective formal reason.

6. The object to whom of piety is 1. parents, because after God they are the chief authors of our origin and of our education; 2. country, because country also is in some way the principle of our origin and education; 3. other blood-relations, not because they are the principle of our origin, but because in them, by communion of blood, parents are in some way represented; 4. the well-wishers of the country, because in them we behold the favor and assistance of the country. Therefore, just as on account of parents piety pays worship to blood-relations, so on account of country it pays worship to the well-wishers and allies of the country. "It must be said that man becomes debtor to others in diverse ways according to their diverse excellence and the diverse benefits received from them. But in each respect God obtains the highest place, who both is most excellent and is for us the first principle of being and governing. But secondarily the principles of our being and governance are parents and country, from whom and in which we were born and nourished. And therefore after God man is most debtor to parents and country. Hence just as it pertains to religion to offer worship to God, so in the secondary degree it pertains to piety to offer worship to parents and country. But in the worship of parents there is included the worship of all blood-relations; because blood-relations also are so called from the fact that they proceeded from the same parents... But in the worship of country there is understood the worship of all fellow citizens and all friends of the country. And therefore to these piety principally extends itself... The communications of blood-relations and fellow citizens are referred more to the principles of our being than other communications, and therefore the name of piety extends more to these." St. Thomas, 2.2, q. 101, a. 1.

7. Therefore piety is also between spouses and with respect to children, "since between spouses there is worship and duty toward each other, as cohelpers for the conservation of the blood-relationship of each, which each spouse has from his own parents: for by the propagation of children the blood of each parent is conserved. And we say the same about children, because they are regarded by the virtue of piety as conservers of the blood-relationship received from the parents." Cajetan on 2.2, q. 101, a. 1.

8. The object which, or material object, of piety is worship, service, and duty; worship indeed and service per se, duty per accidens. "Something is owed to parents and fellow citizens in two ways: in one way per se, in another way per accidens. Per se there is owed to them that which befits a father insofar as he is a father, who, since he is superior, existing as a kind of principle of the son, is owed reverence and service by the son. But per accidens something is owed to a

father which it befits him to receive according to something that happens to him; for instance, if he is sick, that he be visited and that attention be given to his cure; if he is poor, that he be sustained, and so with other things of this kind; all of which are contained under the debt of service. And therefore Tully says... piety exhibits both duty and worship, so that duty is referred to service, but worship to reverence or honor; because, as Augustine says... we are said to cultivate men whom we honor with either remembrance or presence." St. Thomas, 2.2, q. 101, a. 2.

9. Therefore the worship due to parents consists in reverence and honor to be shown to them; service, in this, that the son "obey their command, and while living repay their benefits according to his manner," St. Thomas, l. c., q. 102, a. 2; duty, in supplying to them any necessary assistance of life, if they need it. As duty is contained in service, so duty and service are comprehended in worship. For "in worship not only honor is understood, but also whatever other things pertain to fitting acts by which man is ordered to another." St. Thomas, l. c., ad 1. Likewise "in the honoring of parents there is understood every assistance which ought to be shown to parents, as the Lord interprets in Matthew 15. And this is because assistance is given to a father from debt as to one greater." St. Thomas, l. c., q. 101, a. 2, ad 1. "To parents as such there is owed the honor of reverence. But sustenance and other things of this kind are owed to them by reason of some accident, for instance insofar as they are needy, or servants, or something of this kind, as was said above, q. 101, a. 2. And because what is per se is prior to that which is per accidens, therefore among the first precepts of the law also, which are the precepts of the Decalogue, the honoring of parents is specially prescribed, in which, as in a certain principal thing, sustenance is understood to be commanded, and whatever else is owed to parents." St. Thomas, 2.2, q. 122, a. 5, ad 3. "With this honor," says the Roman Catechism, P. 3, c. 5, n. 7, "all these things are conjoined: love, observance, obedience, and worship. But wisely in the Law the word of honor was placed, not of love or fear, although parents are greatly to be loved and feared. For he who loves does not always observe and venerate; he who fears does not always love; but whom someone honors from the soul, he also loves and reveres."

10. The objective formal reason of piety is the special honesty which is in that worship; arising proximately from the reason of debt of that worship, remotely from the reason of the principle of our origin, which is in our parents. For piety offers worship and service to parents because this is due to them; but this is due to them because they are the principle of our origin. Therefore piety is wholly distinguished from charity toward neighbor. For charity indeed wills good and does good to parents, but on account of God, namely insofar as they are ordered to God. But piety wills good to them and does good to them according as they are the principle of being for us. "Just as religion is a certain protestation of faith, hope, and charity, by which man is primordially ordered to God; so also piety is a certain protestation of the charity which someone has toward parents and country." St. Thomas, 2.2, q. 101, a. 3, ad 1. Likewise piety is wholly distinguished from legal justice, which indeed "regards the good of the country, but according as it is the common good" to be obtained through observance of the laws: "Piety extends itself to the country according as it is a certain principle of being for us." St. Thomas, l. c., ad 3.

11. Observance is a virtue "through which worship and honor are shown to persons constituted in dignity." St. Thomas, 2.2, q. 102, a. 1. Hence the object to whom, the object which, and the objective formal reason of observance are clear.

12. The object to whom of observance is all persons constituted in dignity, namely superiors who actually govern us, and all others endowed with some excellence, since they are fit to govern us. "It is necessary that virtues be distinguished in an ordered descent in the same way as the excellence of the persons to whom something is to be rendered. But just as the carnal father particularly participates in the account of principle, which is universally found in God, so also a person who in some respect exercises providence over us particularly participates in the account of father; because the father is the principle both of generation and education and discipline and all things which pertain to the perfection of human life; but a person constituted in dignity is as a principle of governance with respect to certain matters: as the prince of the city in civil matters, the leader of an army in military matters, a teacher in disciplines, and there is the like in other matters. And thence it is that all such persons are called fathers because of the likeness of care; just as in 4 Kings 5 the servants of Naaman said to him: Father, and if the Prophet had told thee some great thing, etc. And therefore, just as under religion, through which worship is given to God, there is found piety, through which parents are worshiped, so under piety there is found observance, through which worship and honor are shown to persons constituted in dignity." St. Thomas, 2.2, q. 102, a. 1. And hence it is clear that persons constituted in dignity, as has already been said, are properly here those who not only have excellence, but also power of governing: kings, masters, teachers, the Supreme Pontiff, Bishops, and all others who have fitness to govern us by reason of their excellence. And thus the same Angelic Doctor, l. c., ad 2, says: "It must be said that someone, from the fact that he is constituted in some dignity, not only has a certain excellence of status, but also a certain power of governing subjects, whence the account of principle belongs to him, insofar as he is governor of others. But from the fact that someone has perfection of knowledge or virtue, he does not obtain the account of principle as regards others, but only a certain excellence in himself. And therefore a certain special virtue is determined to showing honor and worship to those who are constituted in dignity. But because through knowledge and virtue, and all other things of this kind, someone is rendered fit for the state of dignity, the reverence which is shown to some persons because of any excellence whatsoever pertains to the same virtue." But because of the various dignity there is various observance: civil, religious; natural, supernatural, which, offered to the saints, is called dulia.

13. The object which, or material object, of observance is honor, and worship or service; the former is owed by reason of the excellence of the person constituted in dignity, the latter by reason of power over subjects. "It must be said," says St. Thomas, 2.2, q. 102, a. 2, "that to those who are constituted in dignity it belongs to govern subjects. But to govern is to move some persons to a due end, as a sailor governs a ship by leading it to port. Now everything moving has a certain excellence and power above that which is moved. Hence it is necessary that in him who is constituted in dignity there be considered first the excellence of status with a certain power over subjects, and second the office itself of governance. Therefore by reason of excellence honor is owed to him, which is a certain recognition of someone's excellence. But by

reason of the office of governance worship is owed to him, which consists in a certain service, namely while someone obeys their command and repays in turn their benefits according to his manner... To the excellence of those who are constituted in dignity there is owed honor by reason of the higher grade, but fear by reason of the power which they have for coercing; but to the office of their governance there is owed obedience, by which subjects are moved to the command of those presiding, and tributes, which are certain stipends of their labor."

14. Honor certainly imports a certain testification concerning someone's excellence, either by words or by deeds, as by inclinations, or even by exterior things, for instance by the offering of gifts. It is distinguished from praise, because praise consists in words alone. It is distinguished from glory, which is the effect of honor and praise, because from the fact that we testify concerning someone's goodness, his goodness becomes clear in the knowledge of many; and this the name of glory imports, which is clear knowledge with praise. St. Thomas, 2.2, q. 103, a. 1.

15. The objective formal reason of observance is that special honesty which shines forth in worship and honor shown to persons constituted in dignity, which arises proximately from the reason of debt of that worship, remotely from that dignity. Now there is a twofold debt. "One indeed is legal, to the rendering of which man is compelled by law, and thus man owes honor and worship to those who are constituted in dignity and have prelation over him. But the other is a moral debt, which is owed from a certain honesty; and in this way we owe worship and honor to those who are constituted in dignity, even if we are not subject to them." St. Thomas, 2.2, q. 102, a. 2, ad 2. Now persons constituted in dignity can be considered in two ways: according to their personal dignity, and according as they are ordered to the common good. Worship shown to them insofar as it is ordered to the common good pertains not to observance, but to piety. But worship shown to them which pertains specially to their personal usefulness and glory properly pertains to observance, according as it is distinguished from piety. St. Thomas, 2.2, q. 102, a. 3. But since piety shows worship and honor, as observance also shows worship and honor, piety, although properly distinguished from observance, can by a certain excellence be called observance; just as, although piety properly so called is distinguished from religion, religion by a certain supereminence is called piety. St. Thomas, l. c., a. 1, ad 1.

16. As regards dulia, "dulia can be taken in two ways. In one way commonly, according as it shows reverence to any man whatsoever by reason of any excellence whatsoever. And thus it contains under itself piety and observance, and any virtue of this kind which shows reverence to man. And according to this it will have parts diverse in species. In another way it can be taken strictly, insofar as, according to it, a servant shows reverence to a master: for dulia is called servitude... And according to this it is not divided into diverse species, but is one species of observance... because by one account a servant reveres a master, a soldier a commander, a disciple a teacher, and so concerning other things of this kind." St. Thomas, 2.2, q. 103, a. 4. Dulia "is a certain species of observance; because through observance we honor any persons whatsoever excelling in dignity; but through dulia properly taken servants venerate their masters. For dulia in Greek is called servitude." St. Thomas, l. c., a. 3. And hence it is clear that

observance is not a special virtue in the most specific species, but a special virtue in a subalternate species. And the Angelic Doctor insinuates this by saying, q. 102, a. 1, that it pertains to observance to cultivate and honor prince, commander, teacher, master, etc., whom he asserts, q. 103, a. 4, to be cultivated and honored by a diverse account.

17. Obedience, although it is comprehended under religion, piety, and observance, nevertheless properly is a special virtue. "For since inferiors must show many things to their superiors, among the rest this is one special thing, that they are bound to obey their precepts. Hence obedience is a special virtue; and its special object is a tacit or express precept. For the will of the superior, in whatever way it becomes known, is a certain tacit precept. And obedience seems so much the more prompt, as it anticipates the expressed precept by obeying, once the will of the superior has been understood." St. Thomas, 2.2, q. 104, a. 2. Indeed the will of the superior is the rule of the subject. But this subject can be subject to a superior, even if the superior does not expressly command; and therefore then he still renders true obedience. - And q. 104, a. 3, ad 1, the same Holy Doctor says: "It must be said that obedience proceeds from reverence, which shows worship and honor to superiors. And as to this it is contained under diverse virtues, although considered according to itself, insofar as it regards the account of precept, it is one special virtue. Therefore insofar as it proceeds from reverence for prelates, it is in some way contained under observance; but insofar as it proceeds from reverence for parents, under piety; but insofar as it proceeds from reverence for God, under religion, and it pertains to devotion, which is the principal act of religion." But insofar as it proceeds from procuring the common good, it is contained under legal justice, and pertains to it. Indeed, "if obedience is taken broadly for the execution of anything whatever which can fall under precept, and disobedience for the omission of the same from whatever intention, thus obedience will be a general virtue and disobedience a general sin." St. Thomas, 2.2, q. 104, a. 2.

18. Finally, as regards gratitude, "it must be said that according to the diverse causes from which something is owed, it is necessary that the account of rendering what is due be diversified; yet so that always in the greater that which is lesser is contained. But in God first and principally is found the cause of debt, because He Himself is the first principle of all our goods. But secondarily in a father, because he is the proximate principle of our generation and discipline. Thirdly, in a person who excels in dignity, from whom common benefits proceed. Fourthly, in some benefactor, from whom we have received certain particular and private benefits, for which we are particularly obligated to him. Therefore, because not whatever we owe to God, or to a father, or to a person excelling in dignity, do we owe to some benefactor from whom we have received some particular benefit, thence it is that after religion, by which we pay due worship to God; and piety, by which we worship persons excelling in dignity; there is grace, or gratitude, which recompenses favor to benefactors; and it is distinguished from the foregoing virtues, as each of the later is distinguished from the prior, as it were falling short of it." St. Thomas, 2.2, q. 106, a. 1. Therefore to a benefactor there is owed also per se honor and reverence, because he has the account of principle, and per accidens assistance or sustenance, if he is in need. St. Thomas, 2.2, q. 107, a. 3. But grace or gratitude recompenses a benefit by thanksgiving and by bestowing something gratuitously. St. Thomas, l. c., a. 6. To it is opposed ingratitude, which, according to the diversity of circumstances, is sometimes a lethal,

sometimes a venial sin. It is not grave unless the ingratitude has been great. St. Thomas, 2.2, q. 107.

II. On the Obligations of Children Toward Parents

19. Some children are legitimate and natural, others natural, others legitimate. - Legitimate and natural children are those who are born from a man and his wife. - Those are presumed in law to be legitimate and natural who are born from a mother joined in a just marriage, unless it is juridically certain that their origin is from someone other than the mother's husband. For he is held to be the father whom the nuptials demonstrate. The mother indeed is certain; but the father is presumed. And this presumption also has force in the forum of conscience. C. B. (Cod. Germ.) 1591, 1717, 1720.

20. The fetus is usually brought forth in the ninth month from the time when it was conceived, sometimes at the beginning of the seventh, sometimes at the completion of the tenth, namely not before 180 days, nor after 300 days, C. I. (Cod. Ital.) 161 seqq.; C. G. (Cod. Gall.) 315; C. H. (Cod. Hisp.) 108; C. A. (Cod. Austr.) 138, 163; C. B. 1592, 1717; C. L. (Cod. Lusit.) 101. - Hence of him who is born either after the seventh month from the marriage entered, or before the tenth month from the marriage dissolved, that one is the father whom the nuptials demonstrate, unless something else is most evident; C. L. 103. Nor indeed does it stand in the way that the mother was adulterous, C. I. 165; C. G. 313; C. H. 109; C. A. 158, or that she herself professed the son to be adulterine, C. A. 158, unless she brings forward such indications as would be sufficient in the external forum, Lugo de Iust. d. 12, n. 26, although she be most worthy of faith, and under oath, and dying, asserts it; for no one merits belief when alleging his own turpitude, C. Inter 8, sect. ult. de Donat.; L. 654, 924. - A fetus brought forth before the seventh month from the marriage entered is held legitimate only if the husband either knowingly and willingly married the pregnant woman, or, when he was present, did not wholly repudiate the born child, C. I. 161; C. G. 314; C. H. 110; C. L. 102. A fetus brought forth later, after the tenth month from the dissolution of the marriage, is held as illegitimate, unless the health and morals of the mother and the circumstances of things persuade otherwise, C. I. 169; C. G. 315; C. H. 111; C. L. 102 seqq.

21. Natural or illegitimate children are those who are born outside marriage. These by canon law are irregular; by civil law they are distinguished from legitimate chiefly as regards succession to the paternal inheritance. C. A. 155, 165; C. H. 114, 127, 134, 139. - Natural children, if they are born from a man and woman between whom marriage could not have been entered, whether by natural law or by divine and canon law, by the same canon law are called spurious, or born from a condemned intercourse, C. 3, 10 Qui fil. sint legit.; and they are adulterine, sacrilegious, incestuous, and nefarious; these latter are those who are born from ascendants and descendants. But by civil law all are called illegitimate and cannot be recognized, in various cases nevertheless determined by the various laws, C. I. 180; C. H. 119; C. G. 335; C. B. 1732; C. L. 122, 134. But in other cases not excepted by the laws they can be acknowledged and legitimated. C. I. 179, 195; C. G. 331, 334; C. L. 119. - They are acknowledged by the confession of the parents, by civil law authentic, C. I. 181; C. G. 334; C. H. 131; C. B. 1718; by

canon law simple and bare, C. 10 de Probat.; and after they have been acknowledged, they follow the condition of the one acknowledging, whether mother, or father, or both, C. I. 185. - But those acknowledged are legitimated by subsequent marriage, by the law itself, C. 1, 6 Qui fil. sint leg.; C. I. 194; C. G. 331; C. H. 120, 121; C. A. 161; C. B. 1719; C. L. 119; and they can also be acknowledged after the marriage has already been contracted, C. I. 197; C. H. 121. Cf. C. G. 331. - But from the time they have been legitimated they are held just as if they had been brought forth from a just marriage, C. 6 Qui fil. sint leg.; C. I. 194; C. G. 333; C. H. 122; C. A. 161; C. L. 121. Cf. Benedict XIV, de Syn. l. 13, c. 24, n. 16. But one merely acknowledged is understood to be the child only of him who acknowledged him. C. I. 182; C. G. 336; C. H. 129, 134. - From C. B. 1589, 1705, it is established altogether against natural law that a natural son and father are not reputed blood-relations! and, on the contrary, in his relations with his mother he has the juridical condition of a legitimate son! - In doubt whether someone was born from a legitimate marriage, he must be presumed legitimate. C. I. 120. - L. l. 3, n. 951.

22. Legitimate children are legitimated natural children, and adopted children, C. I. 737. Adoption is an act by which someone who is not such by nature is admitted into the place of a child. From more recent laws, the adopted person is held just as the legitimate and natural son only of him who adopted him, and he acquires the right of succession to him, C. I. 202, 204, 210, 737; C. G. 343, 344, 350; C. B. 1741, 1757; C. L. 124, 129. But he is not exempted from the power of his natural father, nor does he pass into the power and family of the adopting father; C. I. 210, 212; C. G. 348, 349. It is otherwise from C. A. 183; C. H. 177; C. B. 1765. This adoption is perpetual and is not dissolved even by mutual consent, C. I. 217. And so also the French Jurisconsults. It is otherwise from C. A. 185; C. B. 1768.

23. Legitimate and natural children, as regards receiving donations and as regards the right of succession, are held such from the time when they were really conceived, provided that afterwards they are born viable, C. I. 724; C. G. 725; C. A. 138. One is born viable who is born after the 180th day from conception, C. I. 160, 162; C. G. 312, 314; C. A. 138, and has been perfectly born. In doubt, one who was brought forth alive is presumed to have been born viable, C. I. 724. Abortive children, if they do not survive, are held as born dead. - Merely natural children, whether legitimated or acknowledged, acquire the right of succession from the marriage of the parents entered, or from that time at which they afterwards were acknowledged, C. I. 197; C. H. 124. - Merely legitimate children acquire the right of succession from that time at which they were adopted, as if then first they had been conceived. C. I. 210, 217; C. B. 1754, 1757. From C. H. 177, an adopted person acquires no right of succession except from a testament or from a prior agreement. From C. B. 1767, the right of succession can be excluded in the contract of adoption. - Therefore a donation can be made to one scarcely conceived, and, when a pregnant widow has been left, the inheritance in the meantime pertains to the son to be born. But, when he is born dead, it devolves to the nearer cognates of the father.

24. Those younger than seven are called infants, as if non-speaking, unable to speak. If they have already attained the use of reason, although they are not held by human laws, nevertheless they are held by natural law. - From the seventh year to the fourteenth, if male; to the twelfth,

if female, they are called impubes; but beyond the aforesaid age they are called pubes, namely from the proximate power of generation attained at that age. - Impubes, if they cease to be under the power of the father, by the father's death or by the emancipation of the children, are called pupilli, L. 239 de Verb. sign.; having become pubes, they are called minors up to the twenty-fifth year of age by Roman Law, L. 1 de Minoribus. - By more recent Law, every other distinction having been removed, whoever, male or female, has not yet completed the twenty-first year of age is called a minor; with such age completed, he is called of age, C. I. 323, 240; C. G. 388, 488; C. B. 2; C. L. 97, 311. From C. H. 320, majority is established when the twenty-third year has been completed; C. A. 21, 174, the twenty-fourth year. - A cleric is of age in beneficial and other spiritual causes when he has completed the fourteenth year of age. C. Si annum 3 de Iudic. in 6. - At a minor age the son, unless he is emancipated, is constituted under paternal power. C. I. 220; C. B. 1626. But one of age regularly manages his own affairs. From C. L. 311, he can freely dispose of his person and goods.

25. Since children have existence from parents, therefore, besides love, they owe them piety. For as the love of parents is for doing good, so the love of children is for honoring parents, St. Thomas, 2.2, q. 31, a. 3, ad 3; q. 26, a. 9, ad 1, ad 3. But although love does not import honor, honor includes love, since whom we honor from the soul we also love. Therefore when by a sin of children only charity toward parents is injured, the only malice contained in it is that alone which is against filial piety. But if that sin has another malice against another virtue, then this new species is superadded to the former. - Piety per se requires two things, reverence and service, but per accidens help to be furnished, if they are in need. Hence it is that a sin against piety can injure both love and reverence and service toward parents; as, for example, if a son conceives internal hatred against parents, or externally by words or another action saddens them, he sins against love; if he curses his parents he sins against love and against reverence; if he contemns parents and the precept of parents, he sins against reverence and obedience. Another species can also accede to the species against piety, for example, if a son defames or strikes his father, he sins against piety and against justice. - Even at a greater age children owe parents love, honor, and reverence, because they are always children, those always parents. - St. Thomas, 2.2, q. 26, a. 9, 10; q. 101, a. 7; L. 333; C. I. 220; C. G. 371; C. H. 154; C. A. 144, 154.

26. From Sacred Scripture, in several places under grave penalties, love, honor, and obedience toward parents are prescribed. Eccli. 3:8, 9, 18; 7:29, 30; Prov. 19:26; Deut. 27:16; Exod. 21:15; Eph. 6:1; Col. 3:20. - And this precept is also clear by reason; because parents have a threefold respect to children, namely by reason of cause, by reason of preeminence, and by reason of governance. Consequently children ought to love them as authors of their existence, honor them as Superiors, and obey them as rulers delegated by God. But this precept is grave per se. - "For among neighbors we are most bound to parents." St. Thomas, 2.2, q. 122, a. 5. The reason is that, as the same St. Thomas teaches, 2.2, q. 102, a. 3, the persons of parents are more substantially joined to us than any other persons constituted in dignity. For generation and governance, of which parents are the principle, pertain more to substance than exterior governance, of which other persons constituted in dignity are the principle. Besides, "the showing of honor or worship must be proportioned not only to the person to whom it is

shown, considered according to himself, but also according as he is compared to those showing it. Therefore although the virtuous considered according to themselves are more worthy of honor than the persons of parents; nevertheless children are more obligated, because of benefits received from the parents themselves and natural conjunction, to show worship and honor to parents than to virtuous strangers." St. Thomas, l. c.

27. Therefore although love, honor, and obedience, as they are shown to other men, pertain precisely to the virtue of charity, observance, and obedience, nevertheless as they are shown to parents they pertain to the virtue of piety, according as it is a certain special virtue which furnishes worship and duty to parents as the chief authors of life after God, and to other blood-relations, in whom, because of communion of blood, parents are in some way represented. But only those sins bear before themselves a special malice against piety which immediately injure their person, or intrinsic personal goods, such as hatred, detraction, striking; not theft. Nevertheless, since a father with respect to a son, and the same is true of a son with respect to a father, retains his own right as regards life, reputation, honor, a son sinning against his father in these things sins at once against piety and justice. But secretly taking away the goods of the father, against the father's will, a son sins per se only against commutative justice, and per se is bound to restitution.

28. For piety, which is between children and their parents, does not exclude strict justice between them. Those duties which are had between children and parents, as also between husband and wife, between brothers and sisters, and between other blood-relations, if they regard only these conditions of these persons, contain a certain deficient just, and pertain only to piety, as, for example, the education of children does. But those duties which regard the same persons among themselves insofar as they are men contain a just strictly such, and look to commutative justice. Therefore theft committed by a son against a father is theft injuring commutative justice, as any other theft. Likewise if a son kills his father, he sins against justice, as any other homicide, but besides there is also added a graver malice against piety. Similarly, if a spouse does not keep conjugal fidelity, he sins against justice, as any other person violating faith given in a bilateral and onerous contract; but besides there is added a graver malice against piety. The reason is that those duties which pertain to piety recede from the perfect distinction and otherness of persons which is properly required by commutative justice.

29. To the point St. Thomas, 2.2, q. 57, a. 4: "Right, or the just, is said by commensuration to another. But another can be said in two ways: in one way, that which is simply another, as that which is altogether distinct, as appears in two men, one of whom is not under the other, but both are under one prince of the city, and between such persons there is the simply just. In another way something is called another not simply, but as existing as something of him; and in this way in human affairs a son is something of the father, because he is in some way part of him, and a servant is something of the master, because he is his instrument. And therefore there is not a comparison of father to son as to one simply other; and on account of this there is not there the simply just, but a certain just, namely paternal; and by the same reason neither between master and servant, but there is between them dominative just. But a wife, although she is something of the husband, because she is compared to him as to his own body,

nevertheless is more distinguished from the husband than a son from a father, or a servant from a master; for she is assumed into a certain social life of marriage; and therefore between husband and wife there is more of the account of the just than between father and son, or master and servant: because, since husband and wife have an immediate relation to domestic life, therefore between them there is not even the simply political just, but rather the economic just." But, as the same Angelic Doctor has ibid. ad 2: "A son, insofar as he is a son, is something of the father; and similarly a servant, insofar as he is a servant, is something of the master; nevertheless each, insofar as he is considered as a certain man, is something subsisting according to himself, distinct from others. And therefore, insofar as each is a man, justice is toward them in some way; and on account of this also some laws are given concerning those things which are of father to son, or of master to servant."

Hence it is clear that children under paternal power can well have dominion of things. But this dominion regards things given to them by any translative title of dominion, or acquired by their own industry. For as regards paternal goods, no strict right to paternal goods belongs to children while the father is living. Hence, if children under paternal power steal anything from these goods, they are bound to restitution per se. Per se, namely unless there is question of a thing of lesser moment, and it is prudently presumed that the father remits that obligation.

30. Now as regards love, one does not sin against it if parents are saddened by the manner of acting of children, when a just and grave cause urges that something be done, and it is clear that the offense of the parents arises from their mere moroseness.

But children, whether they are legitimate, that is, born in legitimate marriage from husband and wife, or illegitimate, that is, born outside legitimate marriage; likewise whether they are natural, generated from father and mother, or adopted, not from generation but from adoption, all owe parents love, honor, and obedience. But all owe love both by internal affection and by exterior work, also by furnishing them assistance if they are found in necessity, whether corporal or spiritual. For as love is contained under honor, so also the assistance of necessities is contained under the same honor. St. Thomas, Quodl. 3, a. 16.

31. As regards reverence, every irreverence and contempt toward parents, other things being equal, is graver than toward other neighbors, even relatives, even those constituted in dignity, because of the greater conjunction with them, which obtains the first grade after God, because of their greater dignity. But although, if children have injured the honor of parents, they ought to repair the injured honor to them by asking pardon from them, even before others in whose sight they sinned, nevertheless it can certainly be presumed, at least for the most part, where children refused to do this, that parents remit this obligation to the children, lest the children again incur offense of God and undergo eternal danger to the soul. Cf. St. Alphonsus n. 334.

32. Reverence can be injured by words, gestures, and deeds, namely gravely, even in those things which as regards others are light, provided that they are not altogether light. Therefore children sin gravely: by Words, by everywhere addressing parents harshly; or even by showing them no sign of benevolence; by calling them, when present, by contumelious words; or by cursing them from the soul; by Gestures, by looking at them with fierce eyes, by mocking and

deriding them when present; by Deeds, by lifting hands against them with deliberation, as a sign of striking them, by accusing them of crimes, unless there is question of crimes pernicious to the republic, such as heresy, treason, etc. - L. 333, 334.

33. Service likewise is gravely injured by not obeying parents in those things which look to domestic governance and economy, or pertain to good morals, if nevertheless parents command seriously and in a grave matter; except the election of a state, the entering of marriage, the entering of religion, unless nevertheless parents for a just cause contradict children in this matter. Likewise a grave sin is committed by not acknowledging them as parents, unless this is done from a just cause and only by outwardly concealing that one is their son. But they by no means sin by fulfilling the duties of religion against the prohibition of parents. For as regards all those things which pertain to salvation, they "are immediately subject to God, by whom they are instructed through the natural or written law." St. Thomas, 2.2, q. 104, a. 5, ad 2. - L. 334, 335; St. Thomas, Quodl. 2, a. 9, 2.2, q. 104, a. 2, 5; C. A. 148; C. L. 142.

34. The obedience to be furnished by children to parents is not unlimited, but has its own boundaries by which it is circumscribed. - The reason is that obedience is to be furnished according to the power of the Superior; namely, in those things to which the right of prelation extends. But paternal power does not exceed the rule and governance of the family, and the right education of the children. Aptly St. Thomas, Quodl. 2, q. 5, a. 9: "It must be said that, since obedience is owed to a prelate, the debt of obedience extends to those things to which the right of prelation extends. But a carnal father has the right of prelation over a son, first indeed as regards domestic conversation. For the father of a family is in the house as the king is in the kingdom; hence, just as subjects of the king are bound to obey the king in those things which pertain to the governance of the kingdom, so also children and others are bound to obey the father of the family in those things which pertain to the dispensation of the house. Secondly as regards discipline of morals, whence the Apostle says at Heb. 12:9: We had fathers of our flesh as instructors and we obeyed them. For the father owes the son not only education, but also discipline, as the Philosopher says. Therefore in these things the son is bound to obey the carnal father, and not in others."

35. And this doctrine is general: any subject whatever ought not obey his superior in all things, but only in those which pertain to his own subjection and to the superior's prelation. Man owes obedience in all things to God alone, because he is subject to God as regards all things; to any other human superior he is subject only according to a certain limited and determinate account. To the point St. Thomas, 2.2, q. 104, a. 5: "In those things which pertain to the disposition of human acts and things, a subject is bound to obey his superior according to the account of superiority; as a soldier obeys the commander of the army in those things which pertain to war, a servant his master in those things which pertain to carrying out servile works, a son his father in those things which pertain to discipline of life and domestic care, and so concerning others... Man is subject to God simply as regards all things, both interior and exterior, and therefore he is bound to obey Him in all things. But subjects are not subject to their superiors as regards all things, but as regards some things determinately, and as regards

those things they are intermediaries between God and subjects. But as regards other things they are immediately subject to God, by whom they are instructed through the natural or written law."

36. Ought a son, concerning the election of a state, to consult parents and obey them? - R. 1. If there is question of the conjugal state, theologians more commonly teach that a son per se is bound to consult parents. The reason is that this is required by the service to be furnished by children to parents, that in a matter so grave, and in which they have greater experience, they should hear their counsel. But this obligation per se is light. For first, a grave obligation is not clear, since it is much disputed among the Doctors. Cf. St. Alphonsus, l. 6, n. 849. Besides, this obligation cannot be grave, since children are not bound also to follow the counsel of parents, but are free. And they can sufficiently, either by themselves or through other prudent men, know what things occur in such an affair, lest they err in it. - But if there is question of the religious state, it is certain that per se they are not bound, nor is it expedient, commonly speaking, that children await the counsel of parents; because parents in this matter have no knowledge and experience, indeed often in this affair they are not friends, but enemies. St. Thomas, Opusc. 17, Against Those Withdrawing Men from Entrance into Religion, c. 9.

2. As regards the election of a state, children per se are not bound to obey parents. For God calling must be heeded more than men contradicting. Moreover in those things which pertain to the nature of the body, man is not bound to obey man, but God alone, because all men are equal by nature. "According to those things which pertain to the nature of the body, man is not bound to obey man, but only God; because all men are equal by nature; for instance in those things which pertain to the sustenance of the body and the generation of offspring. Hence servants are not bound to obey masters, nor children parents, concerning contracting marriage, or preserving virginity, or some other thing of this kind." St. Thomas, 2.2, q. 104, a. 5; Suppl. q. 45, a. 5, ad 1, q. 47, a. 6. - Therefore parents sin gravely who force unwilling children, either directly or even indirectly, to choose a state, whether religious or clerical; or, conversely, if without just cause they prevent them, altogether unwilling, from choosing some state of life. It is said per se; for otherwise it must be said if parents, on account of grave and reasonable causes, contradict children. Cf. nn. seqq.

37. But, generally speaking, it is not to be advised to children of minor age that, without the knowledge of parents or against their will, they embrace the clerical or religious state, as often as the matter does not so urge, or the divine vocation is not sufficiently clear. St. Alphonsus, l. 4, n. 68. Besides, attention must be paid to more recent laws, by which parents, by the help of the secular arm, can take their own children from any place whatever and recall them to themselves. C. I. 221; C. G. 374.

38. When are children bound to obey reasonably unwilling parents as regards entering marriage itself? - The Council of Trent, sess. 24, cap. 1 de R. M., says that "marriages contracted by children of families without the consent of parents are indeed true and valid; but that nevertheless the Holy Church of God has always detested and prohibited them." But since the Church has never detested marriages contracted by children when parents are unreasonably unwilling, it follows that from the Tridentine saying it has detested and prohibited only those

which are contracted by children when their parents are reasonably unwilling. - Therefore there are causes by which parents can be reasonably unwilling as regards entering marriage itself. And certainly parents are reasonably unwilling: 1. if a son, with no special reason urging, wishes to enter marriage before due age and an acquired state, so that he is afterwards forced to remain in continual necessity and poverty together with wife and children; for this tends to the harm of the son himself. And the positive law itself favors parents, which prescribes the age at which children are free in order to marriage. Italian Code, art. 63; French Code, art. 148. - 2. If he wishes to marry a dishonest, irreligious, non-Catholic person, etc.; for this tends to the still greater harm of the same son. Again the positive law of the Church favors parents by prohibiting mixed marriages. - 3. If a daughter wishes to marry a man unworthy of herself, with whom, namely, she cannot contract without dishonor to her family, according to the custom of her region, because of disparity in nobility. Yet one who is obscure when his family is considered can be distinguished here by wealth, letters, war, dignity. But for the most part it is more base and unseemly if daughters, than if sons, marry unequals or the unworthy, so that scarcely ever is a daughter joined in marriage with an unworthy man without grave dishonor to the family, and also quarrels and grave enmities, being generated from it. Cf. Ithur. Cas. 14. - 4. "They commonly say... that a son is bound to obey if that marriage would be of great importance for removing grave dissensions or relieving grave necessity of the parents, not now by force of precept, but from the virtue of piety, because a son is bound to assist parents in necessity. And St. Thomas agrees with this in 4 D. 29, q. 1, a. 4, where he teaches: A father cannot force a son to Marriage by precept; but he can induce him from a reasonable cause; and then as the son is related to that cause, so he is related to the precept of the father; but if that cause obliges by necessity or honesty, the precept similarly obliges; otherwise not." St. Alphonsus, l. 6, n. 850. Besides, the obligation of entering such a marriage "must also be understood as often as there would not be for him a very intolerable horror toward that woman; for charity can oblige no one to so much that he would have to live his whole life with a wife whom he notably abhorred." St. Alphonsus, Hom. Apost. tr. 18, n. 10. - 5. Parents can be reasonably unwilling because of scandals and hatreds of blood-relations that would arise, especially by reason of disparity in wealth. "Then children are bound under mortal sin to obey parents by abstaining from a marriage of this kind, when they can do so without their own grave inconvenience." For charity does not oblige with such inconvenience. St. Alphonsus, l. 6, n. 851. And it certainly is a grave inconvenience for a son if he is forced to omit marriage with a girl with whom he believes he will lead a quiet life. Nor indeed is it to be omitted that, once the marriage is entered, minds are easily reconciled, dissensions and scandals vanish. L. l. c. Cf. Hom. Apost. tr. 18, n. 16.

39. Can a son enroll for military service against the will of his parents? - He can, from the Italian Civil Code, art. 221. He can also from the French Civil Code, art. 374, provided that he has reached the age of eighteen years. This, however, seems to have force only for the external forum; except unless sufficient causes are present, for example, if the son is altogether badly treated in the paternal house, etc. Thus commonly. Gury 370.

40. Even at a greater age, as has already been said, children owe parents love, honor, reverence, and also help, if they need it; because they are always children, those always parents. But the

obligation of obedience ceases when the son is no longer under paternal power. C. L. 142. This paternal power ceases at the son's greater age, or by emancipation. But if the son, although of age or emancipated, continues to dwell in the paternal house, he remains still subject to the father, and is bound to obey him in those things which pertain to domestic order, by reason of domestic power which is in the father over the whole house.

41. Children also owe help to parents in need, and consequently ought to support them; and it is grave even to enter religion by deserting them in want. Likewise it is grave under this head not to care that the sacraments be conferred upon the sick; that the dead be handed over to burial; that some sacrifice be offered for their soul. - St. Thomas, 2.2, q. 101, a. 2, a. 4, ad 4, q. 102, a. 2, q. 123, a. 5, ad 3; L. 333, 335; C. I. 139; C. G. 205; C. A. 154; C. B. 1617.

42. "Whether someone is bound to contract marriage, so that he may sustain his father by the dowry, if otherwise he cannot?" - "It must be said," says the Angelic Doctor, Quodl. 10, a. 9, "that the proposed case does not seem easily possible. For it can scarcely happen that someone cannot sustain parents without the contract of marriage, at least by working with his hands or begging. If nevertheless this should happen, the same judgment would have to be made concerning virginity to be preserved in that article, and concerning other works of perfection, as is made concerning entrance into religion, about which some opine variously. For some say that if someone has a needy father, he ought to leave to him whatever he has for his sustenance, and thus can licitly enter religion, committing the care of his parents to the heavenly Father, who also feeds the birds. But because this opinion seems too harsh, therefore it seems better to say that either this man who has the intention of entering religion sees that he cannot live in the world without mortal sin, or not easily. If he fears for himself the danger of mortal sin, since he is more bound to provide for the salvation of his own soul than for the corporal necessity of his parents, he is not bound to remain in the world. But if he sees that he can live in the world without sin, a distinction seems to be made; because if without his service his parents can in no way live, thus he is bound to serve them and to set aside other works of perfection, and he would sin by leaving them; but if without his service they can in some way be sustained, but not honorably, he is not on this account bound to leave aside works of perfection. But it is otherwise concerning him who has already entered religion, because, since he is already dead to the world through profession, he is loosed from the law by which he was bound to parents in worldly services, according to the doctrine of the Apostle at Rom. 7. But in other spiritual things, for instance prayers and things of this kind, he is bound to serve them."

43. Ought a son to leave the religious state because of the necessity of parents? - "One thing must be said," says St. Thomas, 2.2, q. 101, a. 4, ad 4, "about him who is still constituted in the world, and another about him who is already professed in religion. For he who is constituted in the world, if he has parents who cannot be sustained without him, ought not enter religion, leaving them behind; because he would transgress the precept concerning the honoring of parents: although some say that even in this case he could licitly leave them, committing their care to God; but, if someone rightly considers it, this would be to tempt God, since, having by human counsel what he should do, he would expose his parents to danger under hope of

divine assistance. But if without him the parents can pass their life, it would be lawful for him, having left his parents, to enter religion; because children are not bound to the sustenance of parents except by reason of necessity. But he who is already professed in religion is reckoned now as if dead to the world; whence he ought not, on the occasion of sustaining parents, to leave the cloister, in which he is buried together with Christ, and entangle himself again in secular affairs. Nevertheless, with obedience to his Prelate and the state of his religion preserved, he is bound to apply pious zeal as to how his parents may be assisted." And ibid. ad 3: "If our services are necessary to carnal parents, so that without them they cannot be sustained, and they do not lead us to anything against God, we ought not leave them under the view of religion. But if without sin we cannot be occupied in their services, or also if they can be sustained without our service, it is lawful to omit their services, in order that we may be more occupied with religion."

44. Do children owe to parents even their own goods? - R. Negatively. Children owe piety to parents, not works. Therefore, if a son in the paternal house furnishes works, for example, of a craftsman or shoemaker, what is gained from them is his own, with the food which he receives from the father deducted; since now by his own work and labor he is able to be sustained, and no longer needs paternal sustenance. But, if he asks nothing, he seems to remit these things to the father from a grateful soul and piety. The same must be said concerning goods acquired by the son, by donation, testament, etc.; these indeed the son makes his own, but he is bound to refund to the father the expenses of education. C. A. 150, 154;

C. B. 685, 1618. Nor indeed is he bound from his own goods to pay the debts of his father. - These things stand by natural law, and are confirmed by positive law, which, determining the natural obligation, ascribes to parents the usufruct of the goods of their children. - As regards positive law, ownership, or the property of goods, usufruct, and administration must be distinguished. Likewise various goods and various laws must be distinguished: the Common or Roman Law, and the various More Recent Laws, which are in force in various regions. - From the more recent Codes, sons of families, generally, although minors and not emancipated, have direct ownership of all goods which come to them by some just title, of inheritance, donation, their own industry, etc.; certainly they are capable of dominion of property. But the administration of all goods is in the power of the father, or mother, or tutor, who must supply the incapacity or inexperience of the children, until they become of age, or obtain emancipation. Those of age have full administration of their own goods; but emancipated persons have it only limitedly. Finally the usufruct of at least some goods is granted to the father, or to the mother having paternal power, until the children become of age or are emancipated. But it is lost by either parent who, after the death of the spouse, enters other nuptials. Commonly excepted from usufruct are goods left or given to children on the condition that the father not receive the usufruct; goods which children acquire for themselves by their own office, profession, art, labor, or separate industry. Parents, however, must feed and educate children according to their condition and fortune. C. I. 230; C. G. 385; C. L. 148. - Since the right of parents as regards the goods of children constitutes part of those rights whence paternal power is had, we shall soon speak of it more particularly when declaring paternal power. - L. 488; C. B. 1627.

III. On Paternal Power

45. Paternal power is the complex of the rights of parents over children, which arise from a twofold cause: 1. because children have had life from them; 2. because parents must educate them fittingly. C. A. 147; C. L. 137. It is from Natural and Positive Law at once, natural law defining and determining it. For the rights of parents over children flow from natural and civil law.

46. By Natural Law piety is owed to parents, whether legitimate or illegitimate; namely to father and mother, and it belongs to them equally and perpetually as regards love and honor, but not as regards obedience after the son has become of age or has been emancipated. C. I. 220. Besides this, there belongs to parents power as regards those things which pertain to the spiritual salvation of the children. And this also belongs equally to each, indeed also to grandfather and grandmother. But if they dissent among themselves, he prevails who consults the salvation of the son. And, the father being dead, if the mother-tutrix and the paternal grandmother dissent, the latter will be preferable. Benedict XIV, Ep. Probe te, sect. 20, 21, 23; Ep. Postremo mense, sect. 16, 17; C. Ex litteris 2, de Convers. infid. - The natural power of parents in those things which pertain to the salvation of the soul, infancy having passed, is ended; in those things which pertain to the election of a state it is ended at puberty, C. Cum virum 12, de Regul.; C. A. 148; in those things which pertain to domestic care and discipline it is ended by emancipation. But in those things which regard the sustenance of the body and the generation of offspring, children are of their own right. And as regards entering marriage, commonly they are bound only to seek the counsel of parents. L. 325. - But emancipation is held naturally when the son of the family has already grown sufficiently by age, so that he himself can now be a father of a family, and duly consider by himself and bind himself concerning those things which pertain to his person and to his exterior goods. C. 11, 12 de Regul.; St. Thomas, 4 D. 27, q. 2, a. 2; D. 38, q. 1, a. 1, q. ult., sol. 3; 2.2, q. 104, a. 5; Suppl. q. 43, a. 2, q. 58, a. 5.

47. Paternal power is distinct from marital power: the former is exercised by father and mother together over the son; the latter by the husband over the wife. The former is concerned with the education and good of the children; the latter with the defense of the wife and the conjugal good. But each power is distinguished from the domestic power of the same father of the family and husband. For this latter is exercised over the whole house, over the wife, children, servants, and regards the right order of the whole family and the common good of that family, which, when sons remain in the paternal house, naturally extends also to their grandchildren and their wives.

48. "Abdication, which was employed according to the Greek custom for alienating children and was called apoceryxis, is not approved by Roman laws. Formerly to fathers the right of life over children and the power of death was permitted." LL. 6, 10, de Patr. pot. C. Yet in the old discipline, by civil law, and consequently also canon law, paternal power extended still very widely. For by this law it was entirely within the father's power to consign sons perpetually to sacred orders, or to any regular institute, CC. 2, 3, 4, 6, 7, Caus. 20, q. 1, and to join them in marriage to whomever he wished, C. 1, de Desp. impub. But in the twelfth century Celestine

III gave to sons of families who had reached puberty the power of departing from a monastery, C. 14, de Regul.; then in the thirteenth century Boniface VIII gave the power of withdrawing from espousals entered by their parents, C. un., de Desp. impub. in 6.

49. By Common Law paternal power belongs to the father of the family alone, and of itself it was perpetual, Inst. l. 1, t. 9, sect. 2, 3; t. 12; lib. 1, tit. 6, ff. sect. 3-5; de Patr. pot. C. lib. 8, t. 46; C. 2, de Convers. infid. - But by the More Recent Laws it belongs also to the mother of the family, C. I. 220; C. G. 372; C. B. 1634, 1684, 1685; C. L. 138. But the mother does not use it as long as the father uses it, to whom it principally belongs, C. I. 46, 220, 230, 231; C. G. 141, 373, 507; C. A. 144, 147; C. H. 154; C. B. 1634; C. L. 139, 155. - It belongs, moreover, over legitimate and natural children, over acknowledged natural children, over acknowledged and legitimated natural children, and at least in some way also over adoptive children, C. I. 66, 184, 194, 210, 211, 220; C. H. 154; C. A. 183; C. B. 1306, 1757, 1765; C. L. 166. Paternal power is exercised by the father, and, when he is dead or absent, by the mother by equal right, C. I. 46, 220, 231; C. H. 154; C. G. 141, 390; C. A. 144, 147; C. B. 1627, 1684. Nevertheless the father, when dying, has the right to prescribe to the surviving mother what manner he wishes to be observed in the education of the children and the administration of goods, C. I. 235, 1059; cf. C. G. 391; C. B. 1852 seqq. If the mother enters second nuptials, it will be in the power of the family council, or of the pupillary judge, to permit or take away guardianship from her, C. I. 237; C. G. 395; C. A. 255. - When parents are lacking, and no tutor has been named, guardianship by law looks to the paternal grandfather; and, he lacking, to the maternal grandfather, C. I. 244; C. B. 1776. - Moreover paternal power is exercised partly over the persons, partly over the things of children, C. B. 1627.

50. Paternal Power is exercised 1. over persons by the faculty which the father has of retaining the son at home, unless the son wishes voluntarily to give his name to military service, C. I. 221; C. G. 374; by the faculty which the father has of moderately correcting and punishing a disorderly son; even of excluding him from his own house, and, by recurring even, where there is need, to a tribunal, of placing him in another house of education or correction, C. I. 222; C. H. 155, 156; C. G. 375 seqq.; C. A. 145; C. B. 1631, 1632; C. L. 143; L. 3 de Patr. pot. C. - Besides this, the son is prohibited without the consent of the parents from giving himself in adoption, C. I. 208, 224, 315, 330; C. G. 346; C. A. 181; C. B. 1747, and from entering marriage, C. I. 63, 208; C. G. 148; C. A. 49, 153; C. H. 1305; C. L. 1058. But when the mother dissents, the consent of the father suffices, C. I.; C. G. ll. cc.; C. L. 1061. To the parent last dying belongs the right of giving a tutor. C. I. 242; C. G. 397; C. B. 1777.

51. If a son of the family has not yet completed twenty-five years, a daughter of the family twenty-one years, they need the consent of the parents, or at least of the father, for contracting marriage. And, these being dead or impeded, it belongs to the grandfather to give consent to minors, and, he lacking, to the grandmother, whether paternal or maternal. These also lacking, there is need of the counsel of the family, if they are legitimate; of guardianship, if illegitimate. C. I. 63, 64, 65, 66.

52. Excepting marriage, which before puberty by canon law is null, as regards other acts and contracts minor children of families are bound naturally only, and, if in due time they do not

seek restitution in integrum, also civilly; and those who contract with them are bound naturally and civilly. Wherefore, if they enter espousals, if they emit a vow, they are bound by the espousals and by the vow. If they have given anything, they transfer ownership to the one receiving; and if they themselves receive something by gift, they licitly acquire and retain ownership. C. 1, de Desp. impub.; C. I. 1304; C. G. 1314; C. H. 160, 161; C. A. 244, 246; C. B. 106; C. L. 98, 99; Inst. l. 3, t. 19, sect. 6; St. Thomas, 2.2, q. 88, a. 8, 4 D. 27, q. 2, a. 2; L. l. 3, n. 918; Lugo de Iust. d. 22, n. 228, 295, 300.

53. Non-emancipated minors cannot contract firmly without the assistance of a tutor, C. I. 277; C. G. 450; C. H. 262, 1263; C. A. 152; C. B. 106 seqq. But emancipated minors are capable of making acts of administration and contracts determined by law. For the remaining things the assistance of a curator is required, C. I. 317-319; C. G. 480, 484, 487; C. H. 317. In a matter of greater moment, however, tutor and curator depend on the authority of the family council, C. I. 277-301, 314 seqq.; C. G. 450, 468, 483; C. H. 269. From C. I. Comm. 9 seqq., emancipated minors, whether males or females, legitimately exercising commerce are deemed of age, and can alienate also their immovable goods. - Therefore, although a minor contracts validly, from the More Recent Laws he does not contract firmly if the various prescriptions of those laws are not observed, and then restitutio in integrum is granted to them, which has force also in the forum of conscience, since a law of this kind is definitive of right and just: since it is for protecting good morals, for the peace and good of families, for the common good. - C. G. 2012; C. I. 317, 319, 1899.

54. From C. I. the minor is restored because he is a minor, and an action of nullity is admitted: 1. If a non-emancipated minor carried out an act of himself without the intervention of the father or of his legitimate representative. 2. If an emancipated minor carried out of himself an act for which the law requires the assistance of a curator. 3. When the formalities established for certain acts by special dispositions of law are not observed. - But an action of nullity is not admitted: 1. If the minor by craft and fraud concealed his condition as a minor. 2. If there is question of an obligation arisen from a delict or quasi-delict. 3. If it is proved that what was paid was converted to the advantage and utility of the minor. - C. I. 1300, 1303, 1305, 1306, 1307, 1899.

From C. G. the minor is restored because he is injured, and an action of nullity is admitted if the prescriptions of law in contracts of minors have not been observed. Rescission is not admitted: 1. If the injury happened from a casual event. 2. If the minor exercises commerce or some art, as regards contracts entered by reason of his commerce or art. 3. If there is question of an obligation flowing from a delict or quasi-delict. 4. If it is proved that what was paid has yielded to their advantage and utility. - C. G. 1304, 1305, 1306, 1308, 1310, 1312, 2012; L. l. 3, n. 514, 918. Cf. Troplong, della Vendita, cap. 2, art. 1594, num. 166 seqq.

From C. H., the formalities of the law not having been kept, contracts of a minor become liable to rescission. But he is not held to restitution except insofar as he has become richer by the thing received. - C. H. 317, 420, 1163, 1304, 1764, 1765.

From C. L. the acts of a minor are null if they are done without due authority. But they cannot use this nullity as regards an obligation concerning things of their own art or profession, or if they use

fraud, so that they may be had as of age. - C. L. 237 seqq.

From C. A., indeed generally a minor cannot validly be obligated without the consent of the father and other prescriptions of the law. Yet he can freely dispose of things acquired by his own industry, and other things given to him for his own use after attaining puberty. - C. A. 151, 152, 244, 246, 248.

From C. B., a minor needs the consent of his representative for any declaration of will, unless this procures for him a juridical advantage, or unless there is question of things left to his free disposition. Without the aforesaid consent of the representative, the act can be rescinded. - C. B. 108 seqq.

55. The power of the father is exercised 2. over the things of children. By Common Law a son at first was a thing of the father of the family: whatever he acquired belonged to the father. Then peculium was recognized. Peculium is any proper good of the son, separated from paternal goods. It is fourfold: 1. Castrense, acquired from military service or on the occasion of military service; and this whole thing, by perfect ownership, belongs to the son: nevertheless an impubes does not have its administration. - 2. Quasi-castrense, acquired from some civil office, of judge, advocate, physician, teacher, etc., from a benefice or ecclesiastical office; and the perfect ownership also of this belongs to the son; nevertheless the administration belongs to the father, if he himself is impubes. - 3. Adventitium, which comes to the son from elsewhere than paternal goods, nor by regard of the father, for example, what comes to the same son from his mother, from the maternal line, or by regard of the mother; or what is acquired by his own industry and labor, by the liberality of others, by chance and fortune. The dominion of property belongs to the son, the usufruct and administration of this peculium belong to the father, while he lives. Wherefore by Roman Law the father has the usufruct of all these goods of the son; and this usufruct is ended only by the death of the father, otherwise than is held by the More Recent Law. - 4. Profectitium, which either has been acquired from paternal goods, or has been given to the son by regard of the father. And this whole thing belongs to the father, as to property, usufruct, administration. - Inst. l. 2, t. 9, sect. 1, 2; l. 3, t. 29; Lugo d. 5, n. 23 seqq.

56. If the son trades outside the house of the father from goods other than paternal goods, the profit is adventitium. If he labors in the paternal house and is nourished by the father, or trades from the goods of the father, it is profectitium. - "If the son, with the money of the father either received as a loan, or secretly taken away, trades at his own risk, so that he seriously determines to preserve the father unharmed from it in any event, it is certain from the common sentence of all in Laymann, l. 3, tr. a, c. 8, n. 12, that all profit belongs to the property of the son as adventitious peculium. Why so? unless because, although all the profit he obtains by the money of the father, he so obtains it that the whole profit is derived not from the money of the father, barren of its own nature, but from the industry of the son, which makes the money fruitful." Ithur. Cas. 3, n. 6. - L. 488.

57. Therefore the son has perfect dominion, namely property, usufruct, and administration, of Castrense and Quasi-Castrense goods; wherefore concerning them he can dispose according to his own judgment, by donation, testament, and another contract, without any required consent of the father, provided he is pubes. An impubes does not have their administration; and by the authority of a judge he can dispose concerning them; L. Castrense 11, ff. de Castrensi peculio;

L. 2, Cum multa 7, Cod. de Bonis quae liberis. But the reason is that it so conduces to the common good of the Republic, that a son of the family in goods acquired from some public office, just as in goods acquired from war, be of his own right and independent from parents, lest otherwise he be drawn back from service to the common good. Of adventitious goods the son has direct dominion or property, and thus, the father being dead, they belong to him alone: "lest what has come to him by his own labors or prosperous fortune should, by passing to another, proceed mournfully for him," sect. 1, Per quas person. nobis acquiritur, Inst.; but the father has the useful dominion, or usufruct, and administration while he lives. Dominion: "For thus nothing will be derogated from the parent possessing the usufruct of things, and the sons will not grieve when they see things possessed by them from their labors to be transferred to others, either strangers, or to their brothers, which also seems to many to be more grievous"; Administration: For "it is better to restrain youthful heats, lest, being given over to desire, they feel the sad outcome which awaits them after the patrimony has been scattered. For since... parents are compelled to feed them..., why do they desire to rush forth to the selling of their things?" L. fin. sect. Filiis autem de Bonis quae liberis C.; L. Cum oportet 6, C. eod. tit. Yet sometimes also the usufruct belongs to the son, for example if the usufruct were expressly given to the son, etc. Cf. Lugo, De Iust. et Iure, D. 5, S. 2, n. 23. But if the goods are consumable by use, the father can dispose of them once appraised, with the obligation of rendering the appraisal after the time of usufruct has passed; L. 1, ff. de Usufructu earum rerum quae usu consumuntur. Finally, of profectitious goods the total ownership and usufruct belong to the father alone. "For what envy is there, that what has profited from the occasion of the father should return to him?" sect. Sancitum Inst., Per quas personas nobis acquir. Wherefore concerning goods of this kind, profectitious goods, the son can alienate nothing without the consent of the father; L. 3, de Patr. pot.

58. The father of the family and the son of the family are held as one person. Therefore, since no one can contract with himself, if they contract, civilly the agreement is void. Civilly, for naturally they are mutually obligated and obligate. Inst. l. 3, t. 19, sect. 6. - A son of the family cannot make a testament, not even with the father consenting, concerning adventitious or profectitious peculium; but he can, even against the will of the father, concerning castrense or quasi-castrense. Inst. l. 2, t. 12.

59. From the More Recent Laws minors are held incapable by law of guarding themselves and their own goods. Hence, as regards each, he with whom paternal power is represents them. C. B. 1630; C. L. 98, 100. - The administration of all the goods of minor children is in the power of the father, or mother, or tutor, who must supply the incapacity or inexperience of the children until they become of age or obtain emancipation. From C. B. 1638; C. L. 147, goods given to the son with exclusion of the father from this administration are to be excepted. Cf. C. L. 146, 147. - Those of age are altogether free in managing their own affairs, unless in some case the law specifically forbids this to them; and thus they have full administration of their goods; but emancipated persons have it only limitedly. C. I. 323, 310 seqq.; C. G. 488, 476 seqq.; C. A. 149, 187, 251. Cf. C. L. 305 seqq., 311. - Hence he who exercises paternal power manages the affairs of the son, C. I. 224, 242; C. G. 389; C. A. 149, 152; he, not the son, acts in court, enters upon inheritances coming to the son, with an inventory made, accepts donations, C. I. 226,

1059; C. A. 205, 222 seqq., 243, and administers his goods, C. I. 224; C. G. 389; C. H. 159; C. A. 149; but he cannot alienate goods, whether immovable or movable, excepting those which by being kept cannot be preserved or become worse, nor obligate them by mortgage or pledge; nor likewise receive a loan in the name of the son, nor exercise other acts which exceed acts of simple administration, except from a cause of necessity or evident utility, and by decree of the civil tribunal, C. I. 224, 225; C. H. 164; C. G. 389; C. B. 1640 seqq.; C. L. 150.

60. The father, or the mother exercising paternal power, has the usufruct of those things which come to the son by succession, donation, or another lucrative title, C. I. 228, 229, 231; C. G. 384, 386; C. H. 160; C. B. 1640, 1685, unless the goods were left to the son by testament, or given by donation, on the condition that the usufruct not belong to the parents, C. I. 229; C. G. 387; C. B. 1651; or were left to the son by testament, or given by donation, for entering upon some course of life, art, or profession, C. I. 229; or for his education and instruction, C. H. 162; or unless, against the will of the parents, the son accepted a donation or legacy, or entered upon an inheritance, C. I. 229. Excluded also from that usufruct are those things which the son has acquired for himself by labor, profession, separate industry, C. I. 229; C. G. 387; C. B. 1620, 1651, and the goods of the son's succession, as to which the parents have been declared unworthy, C. I. 728; C. G. 730. - To this usufruct there inheres the obligation of feeding, sustaining, educating, and instructing the children. C. I. 230; C. G. 385; C. B. 1602, 1603, 1606, 1656; C. L. 148. - Neither father nor mother has the usufruct of the goods of natural children. They can only administer their goods, but with the burden of rendering an account also of the fruits; Gousset in a. 304; C. G.; C. I. 184. Cf. C. L. 166, 167.

From C. L. 145, 146, 147, to the parents belongs the usufruct of the goods which the son of the family acquires by his labor, his industry, his means, or by any other gratuitous title, unless they have been given with exclusion of this usufruct, or the sons acquire by arms, letters, liberal arts, or acquire by their own labor and industry, but live from themselves with the permission of the fathers.

From C. A. 149, 150, 151, 154, all goods, except administration, belong simply to the son; nevertheless the father can deduct from the revenues the expenses of education. - From C. H. 161, to the parents simply belong the goods acquired by children from the goods of the same parents. From the same C. H. 160, to the parent exercising paternal power belongs the usufruct also of those goods which the son has acquired by his own labor and industry.

61. Usufruct of this kind is ended by the emancipation of the son, or by death, or when minority or the legitimate age has been completed; when a widowed father or mother passes to other nuptials; if the father abuses paternal power, either by not caring for the imposed obligations, or by badly administering the goods, the sentence of the tribunal acceding; likewise it ceases with respect to a spouse by whose fault divorce has legally been pronounced. C. I. 156, 228, 232, 233; C. G. 384, 386; C. H. 167, 112; C. B. 1666, 1673, 1679, 1680. From the same C. B. 1661, 1962, usufruct also has an end by the marriage of the son and by the renunciation of the father. Cf. C. L. 149. - But when the son has become of age, those things which were done by the parents, if they were done according to law, remain ratified; but otherwise they can be made void by him. And, if meanwhile a conflict as regards goods should arise between father and son under paternal power, the latter will be able to have recourse to the tribunal. C. I. 224,

227, 2304; C. G. 1314; C. H. 165; C. A. 271; C. B. 1667, 1668; C. L. 153. - L. 488, 543, 544; Gousset 682.

From C. G. 384, 386, usufruct is granted to the father, and, when he is dead, to the mother remaining unmarried until the eighteenth year of the children or their emancipation.

62. Paternal power is dissolved by the death of the father or son, C. H. 167; C. L. 170; by the adoption of the son, C. H. 167; C. B. 1757, 1765; C. A. 183; by the emancipation of the son, C. I. 220, 311; C. G. 372, 476-479; C. L. 170; C. H. 167; C. A. 172, 252; moreover a son is emancipated by the law itself through marriage, C. I. 310; C. G. 476; C. L. 304; otherwise from C. A. 175. Emancipation is a legitimate act by which a father releases his minor son from his power, so that he may be made of his own right. Emancipation cannot be done before the eighteenth year, C. I. 311. - It is dissolved besides by greater age, C. I. 220; C. G. 372; C. A. 172; C. L. 170. Cf. here n. 24. From C. B. 386, which does not admit emancipation, a declaration of majority can be had in the eighteenth year of age. - It is also dissolved if the father abuses paternal power, with a criminal sentence acceding, C. I. Poen. 392; C. H. 171; C. B. 1666, 1680; C. A. 177, 178. Paternal power ought to consist in piety, not in atrocity. - If the surviving parent is the mother, she does not simply lose it, although she passes to other nuptials. Nevertheless in this case from C. I. 237 she can be removed from the administration of the son's goods. From C. B. 1697, a mother passing to other nuptials loses paternal power in part. Cf. C. L. 155 seqq. - When parents are interdicted, furious, or insane, their paternal power remains suspended, C. I. 220, 229 seqq.; C. A. 179; C. L. 168; C. B. 1676 seqq. - Paternal power having been dissolved, the son of the family is made of his own right. But whether he is of his own right, or whether he is still subject to paternal power, he can validly contract with the father of the family himself, and from the eighteenth year of age he can make a testament, C. I. 763, 1107; C. A. 271, 569; from the sixteenth year, but limitedly, C. G. 903, 904. - Inst. l. 1, t. 12.

63. Can a son of the family retain profits which come to him from his own labor, but not from separate industry, in the paternal house? - Many and grave theologians deny it. The reason is that then the son of the family laboring is not considered to act in his own name, but as a member of the family, and thus every profit ought to yield to the good of the family. Besides, positive law does not favor him, but is altogether opposed to him. Many and grave theologians also affirm it. The reason is that the son is not of worse condition than a servant; therefore there ought to yield to the son at least the wage which would be owed to a servant or outside person laboring. Certainly that would be owed to the son if from his condition he is not bound to labor, and he supplies the place of an outside person, or if he spends extraordinary and wholly undue labor in the paternal house. C. L. 144. Nor indeed in these two cases does positive law seem to stand in the way, since they are extraordinary, and, by legitimate epikeia, are not comprehended in positive Law, which regards cases commonly occurring. But then the expenses which the father made in feeding, sustaining, educating him, etc., must always be deducted. For he was not bound to make them for a son able and willing to gain profit. - Inst. l. 2, tit. 9; L. tr. 3, n. 488, 544, 910; St. Thomas, 2.2, q. 57, a. 4; Ithur. Cas. 3; Gousset 683, 684, 991.

64. Does the son have perfect ownership in movable goods given to him by parents or cognates? - R. Affirmatively, if they are consumable by first use, because they are given absolutely to him for use, unless perhaps some restriction had been added, as if it were money for buying books, for paying board, etc. - "If they are not consumable by first use, as books, garments, etc., the son generally has only useful ownership, because parents for the most part intend to confer nothing else on him." Thus Gury, 546. Yet it seems rather that it must be said that, by the very fact that children can by continuous use consume and destroy these things for their own utility, they have also direct ownership of these things, although perhaps restricted and not altogether absolute, insofar as, according to the mind of the giver, the thing is to be wholly converted only to their utility, as, for example, is to be seen in books, garments, etc.

65. Is a son considered to renounce the usufruct to which he has a right, if, while he sees and is silent, the father receives this usufruct? - R. Negatively, at least speaking generally. The reason is that silence would be equivalent to renunciation only insofar as the son could easily protest. But now, that he can easily do this, reverential fear for the most part stands in the way. - From C. I. 234, if, when the usufruct has ceased, the parents still continue to receive it, while the son remains with them, and without a condition of rendering an account having been established, the parents or their heirs are held only to the fruits existing from the day on which they are demanded.

IV. On the Obligations of Parents Toward Children

66. What is the proper obligation of parents? - Parents are the principle of the existence of children; and children are something of the father. Wherefore, besides love, parents owe providence to children, whether legitimate or illegitimate; namely, they ought to provide for children as to body, as to soul, as to state. L. 336; St. Thomas, 1.2, q. 100, a. 5, ad 4; 2.2, q. 26, a. 9.

67. They owe love. For just as each one ought to love himself, so parents are bound sincerely to love children as something of themselves, flesh of their flesh; and thus, as much as is in them, they ought to care for their good, and to look to them in every matter both as to body and as to soul. This obligation of love never ceases, although another obligation of education ceases with the greater age of the son or with his emancipation.

Aptly St. Thomas, 1.2, q. 100, a. 5, ad 4: "It must be said that natural reason at once dictates to man that he should do injury to no one. And therefore the precepts of the Decalogue prohibiting harm extend themselves to all. But natural reason does not at once dictate that something should be done for another, unless to one to whom a man owes something. But the debt of a son to a father is so manifest that it can be denied by no tergiversation; because the father is the principle of generation and existence, and besides of education and teaching. And therefore it is not placed under a precept of the Decalogue that some benefit or service be bestowed on anyone except parents. But parents do not seem to be debtors to children because of some benefits received, but rather conversely. A son also is something of the father, and fathers love sons as something of themselves, as the Philosopher

says in Ethics VIII. Hence by the same reasons there are not set forth some precepts of the Decalogue pertaining to love of children, just as neither are there some ordering man to himself."

68. They owe providence as to the body; and thus parents sin gravely if they expose those not yet brought forth into the light to the danger of abortion, if they expose those already born in public places of mercy, unless they do this from a grave cause. Besides, they must feed them, unless nevertheless they can feed themselves from elsewhere and are not in need, whether they are legitimate, or illegitimate, or spurious, C. Cum haberet 5, de Eo qui dux.; C. I. 752; C. G. 762; C. H. 139; C. A. 166; C. B. 1602, 1667, 1705, 1708. And if there is question of food necessary for life, they are bound to feed the son, although he has dissipated the portion of goods given to him by the parents, because he is always a son. - To this, however, father and mother are bound together from C. I. 138; C. G. 203; or the father first, as from Common Law, L. 9, C. de Patr. potest.; from Canon Law, C. 2, de Convers. infid.; C. A. 141, 143, 167; C. A. 155; C. B. 1634, 1709, 1739; C. L. 140. - The adopting person also must feed the adopted, C. B. 1766; in a case of necessity from C. I. 211. - But the mother is bound to nurse the offspring with her own milk. For the natural law itself demands this. Nevertheless this obligation of itself does not urge under grave sin, since otherwise no grave disorder is had. But necessity excuses from light fault, if, for example, the mother is weak; notable utility, if, for example, the mother would have to abandon another occupation by which she procures sustenance for herself and her family; custom prevailing among noble families. But then the mother is bound under grave sin to seek a good nurse. - L. 336, 949, 951; C. A. 218; C. B. 1635; C. L. 148.

69. They owe providence as to the soul; wherefore under grave sin parents must teach children those things which are necessary for eternal salvation, imbue them with good morals by words and examples, keep them away from proximate occasions of sinning, correct them with due moderation lest, provoked to anger, they become worse, and coerce them when they do wrong, even imploring the office of a judge if necessary, C. I. 222; C. G. 377; C. H. 155, 156; C. A. 145; C. B. 1631; C. L. 143. For this reason parents sin gravely when they permit children freely to accompany wicked companions, to read wicked books and newspapers, to frequent wicked workshops and schools, unless there is a most grave cause excusing them, and the dangers of these workshops and schools are removed. Leo XIII, Encyclical Letter Sapientiae christianae, Jan. 10, 1890, sect. Locus admonet. - L. 339.

In the absence of parents, ascendants, grandfather and grandmother, are bound to educate children or grandchildren; but in the first place the paternal grandfather, who succeeds in the place of the father, before the maternal. The obligation of education, since it is from the law of nature, extends also to illegitimate children. From civil laws the absence of parents is supplied by a tutor or curator. C. L. 100, 185.

70. The power of the father over the son is not a power of property, as over some thing useful to himself, but is a certain power of jurisdiction over the person of the son and for the good of the son himself, which is properly called and is dominative power, since nevertheless children are something of the father. The power is not only of ruling or directive, but also of urging or coercive. Wherefore the father has the power of educating the son by discipline and correction, according to Eph. 6:4. But this power is circumscribed by due moderation, as the Apostle Paul

also admonishes in the same place. To the point St. Thomas, 2.2, q. 65, a. 2: "The father and the master, who preside over the domestic family, which is an imperfect community, have an imperfect power of coercing, according to lighter punishments which do not inflict irreparable harm, and of this kind is whipping."

71. They owe providence as to state; whence parents must instruct children in some art or letters, according to the custom of the region and the condition of the family. They must take care that children who wish to enter marriage enter an honorable marriage; and, if the chastity of daughters is for this reason in danger, they ought at least from charity to endow them. Indeed there are not lacking those who hold absolutely that the father is obligated to give a dowry to a daughter; which is prescribed in C. H. 1340, 1341 and C. A. 1220, 1222, 1231, whether she contracts a worthy marriage or enters religion; likewise that he is obligated to give a patrimony to a son who wishes to undertake the priesthood, L. l. 6, n. 819. The reason is that, as a father ought to procure for his children an honorable and suitable placement, so he is bound to supply to them the means necessary for obtaining it. Nevertheless from C. I. 147 and from C. G. 204, no action belongs to children against parents unwilling to subtract anything from their patrimony, so that sons or daughters may be able to enter marriage, or by another similar title. Cf. C. B. 1610, 1620, 1621. - If parents squander their goods, and for this reason leave children needy, they certainly are not free from grave sin. Nor can they be excused from sin if they do not apply at least moderate diligence, that they acquire goods by which the children may be fed and may have an inheritance according to their state. But especially are they bound to leave freedom to their offspring as regards the election of a state; and they sin gravely by forcing the unwilling into marriage or religion, or by averting them from such a state. - L. 336, 337, 339, 740; St. Thomas, 2.2, q. 101, a. 2; Ferraris, v. Dos, a. 2, n. 1, 5; Sanchez de Matr. d. 26, n. 7; C. I. 138, 230; C. G. 203, 385; C. A. 139, 148; C. H. 155.

"Possessions... are ordained to the conservation of natural life; and because natural life, which cannot be preserved in the father perpetually, is preserved in the son, as by a certain succession according to the likeness of species, according to nature it is fitting that in those things which are the father's the son should succeed. Therefore it is natural that the solicitude of the father for the son should remain unto the end of his life." St. Thomas, C. G. l. 3, c. 123.

72. Can parents sometimes disinherit children? - R. Affirmatively; yet on account of a just and grave cause of crime against the parents themselves, which merits such a penalty. This is clear first by natural law. For it is altogether equitable that parents be able to punish with such a penalty children gravely injurious to themselves, and to keep them in their proper duty by fear of the same penalty. It is clear besides by positive law. For Roman Law acknowledges this power in parents, and determines several cases in which parents can disinherit children. And on account of the same reason of crime, children can disinherit parents, and brothers disinherit brothers. Novella 115, cap. 3, 4; Novella 22, cap. 47. - The same is had from Spanish Law 848 seqq.; and from Austrian Law 768 seqq.

From Italian Law 725, 1081, and from French Law 727, 955, 1046, 1047, there is not indeed disinheritance properly so called, but generally there is established incapacity and unworthiness of succeeding by reason of crime, and the revocability of a donation made by reason of ingratitude, on

account of certain determined delicts: namely, 1. if they have laid snares for the life of the testator; 2. if by another crime, cruelties, or grave injuries they have been guilty against him; 3. if they have denied him maintenance; 4. if by calumny they have accused him of a grave capital crime, from French Law; and 5. from Italian Law, if they have compelled him to make or change a testament, or have impeded him from making or revoking it. - L. 340, 948, 949; Ferraris, v. Exhaeredatio.

From German Law 1938, 2333 seqq., 2339 seqq., one can by testament exclude a blood-relation or spouse from succession, without instituting an heir. - Various causes of unworthiness for succession are assigned besides; and, once the succession has devolved, any one who has an interest in the exclusion of the unworthy person can oppose those causes. - And on account of certain graver crimes, especially crimes against piety, almost the same as those which constitute unworthiness from C. I. and from C. G., one can by testament take away from his necessary heir the portion reserved to him by law. - When some descendant has been prodigal, or gravely burdened with debt, the testator can reduce the portion reserved by law for that descendant, attributing it to other legitimate heirs, as fideicommissary substitutes. He can also commit the administration to a testamentary executor, and the descendant then has a right to the whole annual revenues.

73. Are parents bound in the forum of conscience to leave to children the legitimate share according to the laws? - Parents, more truly and according to the common doctrine, ought by civil law to leave after death the legitimate share to their children, whether males or females, natural and legitimate, indeed even those natural by law acknowledged and legitimated, as well as legitimate or adoptive, unless a grave cause is present. For the law is just, and indeed obligating in conscience. Parents by the natural law owe providence to children as to body and as to state. Wherefore the positive law determining the legitimate share in reality interprets and defines the natural law. But it does not exclude certain rarer cases of necessity, in which the good itself of the children and of the family persuades that one act otherwise; and this is also confirmed by the practice of those who fear God. - L. 215, 740, 947, 950; H. A. 237; La Croix p. 3, l. 2, n. 1173; Gousset 794.

But there is no doubt that parents can, with attention to the civil laws, make manual gifts, especially remunerative ones, to children; for if these are not prohibited in favor of friends, neither are they prohibited in favor of those joined by blood, or for pious causes. Besides, they can also make gifts of greater moment to the same persons, if they are made from mere revenues; because of these they are full and free owners, nor, by the civil laws themselves, are they bound to increase the patrimony by revenues. Finally, if a just, proportionate, grave cause is present, they can also, if the legitimate share of the children is not injured, make a donation from those things also which constitute the patrimony. The reason is that the law, determining the legitimate shares, gives to parents this faculty, that they freely dispose of the remaining goods in favor of others. Therefore if a father can leave those things to other strangers, he can also give them to the children themselves, if a reasonable cause of acting thus is present, and the legitimate share is not injured. - But this must be noted, which Lugo has, d. 23, n. 147, namely that "parents, if they have donated inofficiously, that is, to the prejudice of the legitimate share of the children, their donations can be revoked by the children. Yet the donation is not invalid, but it can be made void." And this has force also in Italian and French Law; for in each of these Laws it is not said that it is void, but that it will be void. C. I. 821; C. G. 920. - L. 740, 950.

74. The distinguished D'Annibale has these things, Summ. Theol. Mor. P. 2, n. 601, ed. 2; n. 573, ed. 4: "More truly by civil law, parents ought after their death to leave to their children, whether males or females, born from just nuptials, or adoptive, indeed also natural children acknowledged by law, yet not to spurious children, the legitimate share. By civil law; for if they were held by natural law, it would have to be left also to spurious children. Do they therefore sin lethally who leave to children less than the legitimate share, more to strangers, or by giving largely to pious uses; or indeed the whole legitimate share, but not an equal one to each? Namely, if neither the children, from whom they subtract, need the thing subtracted, and they add to others from a just cause.... If it is lawful to estimate the matter from the common sense and affection of nearly all parents, as though from a certain natural law, I think that they are not to be disturbed, regularly: 1. as regards donations or largitions which are made by short hand; for scarcely is there anyone who judges this unlawful to himself, provided this is not some enormous thing, or done in hatred of the children. Nor 2. if they subtract something from females, especially married females, that they may add it to males; and in reality there is scarcely anyone who does not take pains to do this, with whatever art and fallacy applied for eluding the law. Nor finally 3. those who from a grave cause leave more to one of the males. And thus neither will those be disturbed who have received from them, until by sentence of a judge they are compelled to restore."

V. On Schools

75. The family is an altogether natural society, which God Himself constituted, and it is presupposed to ecclesiastical and civil society; for each, without the family, which is the first society and the foundation of the others, can neither be nor be conceived in the present order of things. Hence at once and easily the conclusion is deduced that children belong first to parents, and that the civil state cannot claim them for itself, in order to educate them both corporally and morally, with the work of parents excluded. Those who assert this and do this deny and violate the rights of nature itself. Wherefore parents at the same time have both the right and the obligation to educate children in a Christian manner, according to their own Christian and Catholic religion, which alone is true. The right education of children consists in truth, not in error.

76. Civil society can in no way hinder this; on the contrary it is bound to furnish helping work. For the elements of political society are proximately families, which, since they are imperfect societies, are developed and unfolded by civil society, which is a perfect society. For this alone is sufficient and more than sufficient for fully satisfying human necessities, and for unfolding the powers by which man strives toward the perfection suitable to himself. Therefore, when the family grows into a city or kingdom, it does not lose its preexisting rights, but perfects them. And for this reason, from the civil bond superadded, it ought both to exercise them more easily and to unfold them more fully. In civil society that further perfection is sought which cannot be obtained in domestic society.

77. Therefore the aforesaid right and obligation of Christian parents to educate their own children in the Christian and Catholic religion cannot be suppressed by civil society; nor can civil

society claim it for itself, just as it cannot claim for itself, for example, the care of the economic or domestic order. Hence in the Encyclical Quanta cura of Pius IX, there are expressly condemned those professing "that domestic society or the family borrows the reason of its existence only from civil law, and consequently that all the rights of parents over children, and especially the right of caring for their instruction and education, emanate and depend only from civil law." Aptly Leo XIII: "Paternal power is of such a kind that it can neither be extinguished nor absorbed by the republic, because it has the same and common principle with human life itself. Sons are something of the father, and as it were a certain enlargement of the paternal person: and if we wish to speak properly, not they by themselves, but through the domestic community in which they were generated, enter and participate in civil society." Enc. de Condit. opificum.

78. But how grave this right and at the same time obligation of parents is, of educating children in a Christian manner in the Catholic faith, is easily clear from this: although the inseparability of marriage pertains to the natural order of mutual justice to be observed among men, nevertheless in favor of the faith, divine authority intervening, the right which one spouse has acquired over the other from the contract of marriage, and which naturally is perpetual, is taken away; namely by reason of the higher supernatural end which God most wisely intends. "Marriage," says St. Thomas, 4 D. 39, q. 1, a. 2, "was instituted principally for the good of offspring, not only to be generated, because this could happen without marriage; but also to be promoted to a perfect state, because each thing naturally intends to bring its effect to a perfect state. But in offspring a twofold perfection is to be considered, namely the perfection of nature, not only as to the body, but also as to the soul, through those things which are of the law of nature; and the perfection of grace. And the first perfection is material and imperfect with respect to the second. And therefore, since those things which are for an end are proportioned to the end, marriage, which tends to the first perfection, is imperfect and material with respect to that which tends to the second perfection," and consequently because of the defect of that second perfection, namely of grace and faith, the marriage of infidels, although naturally inseparable, nevertheless has less firmness than the marriage of the faithful. "But always a firmer bond dissolves a less firm one, if it is contrary to it; and therefore the marriage which afterwards is contracted in the faith of Christ dissolves the marriage which had previously been contracted in infidelity." St. Thomas, 4 D. 39, q. 1, a. 5, ad 1.

79. Now if parents have this most noble right and most grave obligation of educating children in the Christian and Catholic faith, children on the contrary have no right to repudiate this education, but are bound to accept it with an altogether docile mind. And this is clear not only by natural reason, but is expressly asserted in Sacred Scripture. In Proverbs, chapter 1, verses 8 and 9, it is said: "Hear, my son, the discipline of thy father, and forsake not the law of thy mother. My son, if sinners shall entice thee, consent not to them." And again chapter 6, verses 20 and 21: "Keep, my son, the commandments of thy father, and forsake not the law of thy mother. Bind them in thy heart continually, and put them about thy throat. When thou shalt walk, let them go with thee; when thou shalt sleep, let them keep thee; and when thou awakest, speak with them." And the Apostle Paul to the Colossians, chapter 3, verse 20: "Children," he says, "obey your parents in all things; for this is pleasing in the Lord."

80. Parents can exercise the aforesaid right over children through themselves, and through others, who are in the place of parents and perform by delegation of parents. These regularly are the teachers of schools. Therefore schools must be chosen by parents for their children, in which they may be educated in a Christian and Catholic manner, according to the religion of the same parents. Besides, parents are bound to watch lest from teachers, from books, from fellow-students, their children undergo danger to their own soul. But if this happens, parents must promptly recall their own children from schools of this kind, perverse schools.

81. In the present state of society, however, without doubt a certain necessity is present for sons of families to frequent public schools, so that afterwards they themselves may be able to procure for themselves suitable aids of life. Even elementary instruction in letters, although it is not absolutely necessary for all, nevertheless is necessary: those who lack it are liable to many difficulties and inconveniences, neither few nor slight, for passing life in a fitting manner, and also for averting harms to faith and morals.

82. Wherefore in a Christian and Catholic nation its rulers are held by grave obligation to establish Christian and Catholic schools, both especially elementary schools, in which the first instruction of boys is had, and also middle and higher schools. For in all schools of this kind, even in middle and in higher schools, graver and most grave dangers can be present for boys and adolescents as to faith and as to morals. And if Governments fulfilled this grave obligation, it would yield to the supreme good of families and of the nations themselves. For as all atheists, indifferentists, free-thinkers, sectarians, Freemasons, heretics, modernists, and all wicked and impious men are to the immense harm of families, so also are they to the most mournful ruin of Catholic nations.

83. The rulers of society wander away from their most grave obligation, even for the public good, by establishing schools positively non-Catholic, in which infidelity, heresy, impiety, and iniquity are taught openly in the mouth and before the eyes of all, or by establishing neutral schools, which in the instruction of boys prescind from the positive teaching office of religion. But since this can scarcely be possible in practice, what in schools of this kind is said, often at least, if not always, concerning religion, is said against the Catholic religion. And although in neutral schools of this kind nothing is said against religion, nevertheless in reality they are not neutral; for by their very silence they keep boys away from religion, and of themselves lead them to indifferentism and atheism. This is confirmed everywhere in our time by patent fact itself.

84. Where there is present at the same time a Catholic school, a positively non-Catholic school, and a neutral school, parents cannot, without grave sin, send their own children to the latter, unless grave damage altogether were imminent for them or their children. This indeed can then be tolerated, yet on this absolute condition, that boys and adolescents not be exposed to proximate danger of eternal salvation. The proximate danger in schools of this kind must be rendered remote. Therefore diligent vigilance must be applied by fathers of families, lest their children suffer harm. They themselves outside school must instruct their own children in those things which it is necessary to know for the Catholic faith and for leading a Christian life, and especially teach them those things which are attacked in the aforesaid schools. But

parents will be able to furnish this either through themselves or through other suitable persons, especially priests, by whose assiduous work they may provide for the religious instruction of their own children. Nor indeed is faith alone to be placed in safety, but honesty of morals also must especially be attended to. And this other danger to morals, certainly no less grave, is in those schools which are mixed, namely which boys and girls of each sex frequent promiscuously together.

85. Moreover, if to these things which have just now been established is added the precept given by Jesus Christ to the Apostles and their successors: "Going, teach all nations... Teaching them to observe all things whatsoever I have commanded you." Matt. 28:19, 20, it is easily understood that the following errors were altogether proscribed by law in the Syllabus:

"45. The entire government of public schools, in which the youth of some Christian Republic is instructed... can and ought to be attributed to the civil authority....."

"47. The best condition of civil society demands that popular schools, which are open to all children of whatever class of the people, and public Institutes, which are destined for teaching letters and the more severe disciplines and for caring for the education of youth, be exempted from every authority of the Church, from her moderating force and interference, and be subjected to the full judgment of civil and political authority, according to the pleasure of rulers and the exact rule of the common opinions of the age."

"48. That method of instructing youth can be approved by Catholic men which is separated from the Catholic Faith and from the power of the Church, and which looks only, or at least primarily, to the science of merely natural things and the ends of earthly social life."

86. The things which have been said hitherto are worth confirming by the doctrine handed down by Leo XIII in his Encyclical Letter to the Bishops of Gaul, Nobilissima Gallorum gens, of the day Feb. 8, 1884. With most grave words the Supreme Pontiff admonishes parents that their children be educated in Catholic and duly instituted schools. "And first indeed," he says, "as regards domestic society, it is of the greatest concern that offspring received from Christian marriage be early instructed in the precepts of religion; and that those arts by which childhood is accustomed to be formed to humanity be joined with religious instruction. To separate the latter from the former is the same as in very fact to will that childish minds be moved to neither side in duties toward God: which discipline is fallacious, and, especially in the first little ages of boys, most pernicious, because in reality it prepares the way of atheism, and blocks religion. Good parents altogether ought to take care that each of their children, as soon as they have begun to have understanding, receive the precepts of religion, and that nothing occur in schools which offends the integrity of faith or morals; and that this diligence be applied in educating offspring is established by divine and natural law, nor can parents be loosed from that law for any cause. But the Church, guardian and avenger of the integrity of faith, which, by authority handed to her by God her Creator, must call all nations to Christian wisdom, and likewise watch sedulously by what precepts and institutions youth, which is in her power, is cultivated, has always openly condemned the schools which they call mixed or neutral, also admonishing fathers of families again and again that in a matter of such moment they apply their mind to taking care. In these things, by obeying the Church, one obeys utility

at the same time, and provision is made for the public safety by the best reason. For those whose first age is not instructed in religion grow up without any knowledge of the greatest things, which alone can nourish in men the studies of virtues and rule the appetites contrary to reason. Such are those notions of God the Creator, of God the judge and avenger, of the rewards and punishments of the other life to be expected, of the heavenly aids brought by Jesus Christ for diligently and safely keeping those very duties. These things not being known, every future cultivation of minds will be unhealthy: adolescents unaccustomed to reverence of God will be able to bear no discipline of living honorably, and, daring never to deny anything to their own desires, they will easily be drawn on to disturbing states."

87. Indeed so true is that which the same Supreme Pontiff asserts in the cited Letters, that all attempts which harm the Church are also pernicious and fatal to the republic itself, because it cannot happen that prosperity accompany a state when the virtue of religion has been extinguished. Therefore let this flourish, and flourish exceedingly, both in Gaul and in Italy and in Spain and in Lusitania, and in Germany and in Austria, and in England and in Russia, in Europe, in America, in the whole world; and in the whole world supreme peace will reign, and with peace the true prosperity of nations and the happiness of men: the beginning of eternal happiness.

VI. On the Obligations of Spouses

88. The obligations of spouses are derived from marriage.

Therefore it is necessary first to inspect the final cause to which marriage is ordained of itself. For in any thing whatever the final cause is the first and fundamental rule of all the other things which are in it. But the consideration of the moral honesty of any thing depends especially on it. Moreover, "through marriage some are ordained to one generation and education of offspring, and again to one domestic life." Hence marriage is the legitimate conjunction of man and woman for one generation and education of offspring and for one domestic life; and "according to this conjunction they are called husband and wife." St. Thomas, 4 D. 27, q. 1, a. 1, sol. 1. Husband and wife constitute one adequate principle of human generation. Therefore the first and fundamental end of marriage, the principal, the more principal end according to St. Thomas, is the legitimate procreation and education of human offspring. St. Thomas, 4 D. 26, q. 1, a. 1; D. 33, q. 1, a. 2. From this flows the other secondary end of marriage, mutual help, which both presupposes that one undivided principle of human offspring constituted, and is ordained to the suitable receiving and education of human offspring. Whence St. Thomas, from St. Augustine, says in the cited place, sol. 2, that marriage is so called "from this, that the woman ought not marry for another reason, except that she be a mother."

89. Hence between man and woman there is a true society, conjugal society. Aptly St. Thomas, Suppl. q. 41, a. 1: "The secondary end of marriage is the mutual service furnished to each other by the spouses in domestic matters. For just as natural reason dictates that men dwell together, because one is not sufficient for himself in all things which pertain to life itself, by reason of which man is said to be naturally political; so also, of those things which are needed

for human life, certain works are fitting to men, certain works to women. Whence nature moves that there be a certain association of man with woman."

90. But this partnership of common life on account of the communication of works, as is clear, cannot be the principal end of marriage, since it presupposes that end, namely offspring. Let the Angelic Doctor be heard, Suppl. q. 49, a. 2, ad 1: "In offspring there is understood not only the procreation of offspring, but also its education, to which, as to an end, is ordained the whole communication of works which is between man and wife, insofar as they are joined in marriage, because fathers naturally store up for children, as is clear from 2 Cor. 12; and thus in offspring, as in the principal end, another as secondary is included."

91. "Marriage has for its principal end the procreation and education of offspring... for its secondary end the communication of works which are necessary in life, and according to this they owe fidelity to each other... It has further another end, insofar as it is among the faithful, namely the signification of Christ and the Church; and thus the good of marriage is called sacrament... The remedy of concupiscence is its secondary end... According as marriage is ordained to its principal end, which is the good of offspring, the wife is joined to the husband by an indissoluble conjunction, or at least a lasting one... But as regards the second end, which is the management of the family and the communication of works, the wife is joined to the husband as an associate." St. Thomas, Suppl. q. 45, a. 1, c. ad 7; a. 5, c.

92. "Moreover, marriage from the intention of nature is ordained to the education of offspring not only for some time, but through the whole life of the offspring. Whence it is of the law of nature that parents store up for children, and that children be the heirs of parents." St. Thomas, 4 D. 33, q. 2, a. 1. "For the inseparability of marriage is not ordained to the good of offspring, which is the principal end of marriage, except insofar as provision must be made for children by parents through their whole life by due preparation of those things which are necessary in life." St. Thomas, l. c., qc. 4, sol. 1.

93. Therefore, since in marriage there is mutually acquired dominion of one over the body of the other, by which man and woman enjoy each other in order to human generation, there arises a mutual strict obligation of the spouses from justice of preserving conjugal fidelity. And, since from the very nature of marriage the conjugal bond is born, even with the other party consenting, the nefarious crime of adultery can never be absent if a spouse breaks the pledged fidelity. There also arises another mutual obligation of cohabitation from the aforesaid dominion and right of possession which one has over the body of the other. Likewise there is had the obligation of mutual love, and the friendship of husband and wife, since they are as it were one thing. Finally, the obligation of parents in the education of children flows from the same source. For it belongs to parents both to give first existence to their own children, and consequently to lead them to due perfection physically and morally, by physical and moral education. For children are something of the father, as the Philosopher says, and as it were one and the same thing with their own parents; and thus parents, in exercising this office of education imposed by nature itself, have a true right, of which they can be deprived only by injury. For as one naturally loves himself, and by this same natural love is inclined by the very force of nature to acquire the perfection due to himself, so also by the same natural love he

pursues what is intimately joined to him and pertains to him, and consequently is stirred to promote its perfection. But children are nearest to parents, and naturally joined to them, as is confirmed by natural instinct itself.

94. Against the fidelity of marriage to be preserved, a difficulty can arise from the fact that perhaps the woman is sterile, and marriage is for procreating offspring. - The response which is brought forward by St. Thomas against the inseparability of marriage from the same head has force. - "Marriage is principally ordained to the common good by reason of the principal end, which is the good of offspring, although also by reason of the secondary end it is ordained to the good of the one contracting marriage, insofar as of itself it is a remedy of concupiscence. And therefore in the laws of marriage what is expedient for all is attended to more than what may be fitting for one. Therefore although the inseparability of marriage impedes the good of offspring in some man, nevertheless it is suitable to the good of offspring simply, and on account of this the reason objected does not follow," namely that the inseparability of marriage is contrary to the good of offspring because some man, from a certain accidental cause, cannot receive offspring from some woman, who nevertheless could conceive from another, and who also could be impregnated by another man. St. Thomas, 4 D. 33, q. 2, a. 1, ad 4. Moreover, as is clear, even simple adultery would yield to the gravest detriment of the conjugal state and of offspring. Whence among all peoples it is a detestable crime.

95. Hence marriage is defined in C. 11, de Praesumptionibus and Inst. l. 1, t. 9, sect. 1: The conjunction of male and female retaining an undivided habit of life. It brings an undivided habit of life, "that is, not temporary, but of itself to endure until death. The habit of life signifies both in the first place a mutual right with a relative obligation over the body of the other in order to generating and educating offspring, or the right of coition, as they say; and then the communion of bed, table, and dwelling in union of souls through mutual love and in some union of goods. Hence marriage brings to each party both an exclusive and perpetual right with a relative obligation over the body of the other in order to generating and educating offspring, from 1 Cor. 7:4; and the communion of bed, table, and dwelling in union of wills and goods." Gasparri, de Matrim., n. 205, vol. 1, Paris ed. 1891, p. 119.

And Austrian Code, art. 44: "Family relations are established by the contract of marriage. In the contract of marriage two persons of different sex declare, in the manner willed by law, the will to live in an inseparable partnership, to procreate children and educate them, and to furnish reciprocal assistance." - C. L. 1054.

96. These things having been laid down, the obligations of spouses now appear sufficiently and more than sufficiently. These, generally, are some as regards persons, others as regards goods, others as regards the body. Here we shall speak only of the obligations as regards persons, which properly pertain here, and as regards goods, which rather look to the Treatise on justice, passing over those as regards the body, of which there is treatment in the Commentary on the sixth and ninth Precepts of the Decalogue.

97. The obligations as regards persons are some mutual, others proper to only one or the other. The mutual obligations are: mutual love, mutual help as to body and as to soul, the conjugal

debt, and consequently common dwelling, common table, common bed. To the husband belongs marital power over the wife, and the chief paternal power over the children; and he himself is bound to feed the wife according to his own condition. To the wife, as mother, belongs educating the offspring, although dependently on the husband, and having care of the family matter, also dependently on the husband, from whom she has the right of receiving suitable sustenance. - The head of the wife is the man, and thus the wife is under the power of the man in those things which pertain to marriage, that is, which pertain to the undivided habit of life. Eph. 5:22 seqq.; C. A. 91. Wherefore the wife, without the consent of the husband, cannot be obligated by vow, St. Thomas, 2.2, q. 88, a. 8, ad 3; L. l. 3, n. 234; regularly cannot be obligated by contract; cannot travel without the consent of the husband, and regularly ought to follow the domicile of the husband, C. I. 131, 134, 135; C. G. 214, 217, 220, 221, 222; C. H. 58; C. A. 91, 92; C. B. 1554; although the husband changes domicile without cause; provided the wife can follow him without grave detriment either of soul or of body, and, from C. L. 1186, not into a foreign nation. By the same C. L. 1187, the wife cannot publish a writing without the consent of the husband. - C. Pervenit 1, de Coni. lepr.; Sanchez, de Matr. l. 1, d. 41, n. 2, 4; L. 251, l. 6, n. 977; Suppl. q. 64, a. 6, ad 1; Quodl. 4, a. 11.

98. The wife has the administration of the goods of the house; but she must furnish reverence, service, and obedience to the husband in those things which regard the governance of the house and good morals. Nevertheless she is his associate, not his maidservant. Wherefore, if she herself is rich or noble, she is not forced to furnish to the husband those things which are not of her dignity, for example to cook food, sweep the house, etc. Yet if she does not obey the husband in a grave matter, she sins gravely, and a certain moderate coercion is permitted to the husband. 1 Peter 3:5 seqq.; L. 351, 352, 356, l. 6, n. 972; Sanchez, de Matr. l. 6, d. 6, n. 14; C. I. 131; C. G. 313; C. H. 57; C. B. 1354, 1356, 1357; C. L. 1185, 1189; Leo XIII, Enc. Arcanum, Feb. 10, 1886.

99. The man in turn must love and protect the wife, according to Eph. 5:25; C. I. 132; C. H. 57; C. G. 213; C. L. 1185; feed her, dwell with her; and thus it is not lawful for him to be absent from her for a long time, except from a grave cause, Gen. 2:24; C. 1, de Coni. lepr.; C. I. 130, 132; C. G. 212, 214; and not even to enter upon a long pilgrimage, against the woman's will, C. 8, de Voto. Yet for the most part the husband is not bound to lead the wife with him, with great inconvenience and expenses, when it happens that he must travel about for the sake of business. C. 9, sect. In tanta, de Voto. But the husband sins gravely if he afflicts the wife with contumelious or defamatory words; if he impedes her concerning the precepts of God or of the Church without just cause; if he gravely beats the wife; if he neglects the governance of the house and the family matter. Col. 3:18, 19; L. 356. - Sanchez, de Matr. l. 9, d. 5, n. 17; St. Thomas, 2.2, q. 26, a. 11.

100. In those things which pertain to the mutual help of life, man and wife are of equal right, since marriage is entered for the sake of mutual help. Hence they mutually owe to each other love, fidelity, assistance, aid, according to Eph. 5:25; Tit. 2:4; Matt. 19:5; 1 Cor. 7:3 seqq.; C. I. 130; C. G. 212; C. H. 56; C. A. 90; C. L. 1184; and if anything adverse happens to one, the other ought to be a participant. Wherefore a woman must follow the man migrating elsewhere for

the sake of health, or as a punishment, and the man must follow the woman, L. 353, l. 6, n. 957, 977; and to the other who is in need, even driven into exile by his own fault, or enclosed in prison, indeed even separated from him, provided it was not by his own fault, if the other has means, he must furnish support; and the man must feed the wife, even if he married her without a dowry, or the dowry perished by chance. C. I. 132, 133, 142; C. G. 214; C. B. 1360, 1361; Sanchez, de Matr. l. 9, d. 4, n. 20; d. 5, n. 8, 14.

It is lawful for neither, against the will of the other, to enter religion, C. un. Extr. de Voto; and one who passes, against the spouse's will, to religion can be recalled, C. 3, 12, de Conv. coni.; nor is it lawful for the man, against the wife's will, to receive orders, indeed not even tonsure, C. 4, de Temp. ord. in 6, except if he has justly and by law departed from her as regards habitation. L. l. 6, n. 969.

101. Note. Children and the wife can receive support from one burdened with debts, who is not solvent, since he is held to feeding them from strict piety, and also from legal justice; nor is he less bound to feed them than to pay other debts. Indeed they can do this even if the father of the family contracts other debts, provided nevertheless they do not have sustenance from elsewhere. Nor indeed after the father's death is a son bound to pay these debts of the father, if the father left no goods to the son: for that obligation was altogether personal to the father. - "Yet the wife cannot use for the sustenance of the family monies given by the husband for paying debts, except in the case in which the family is gravely in need; for then the man is first bound to assist this family, and therefore the wife then uses her own right. Thus Laymann, who adds that wages of workers for the necessary uses of the debtor are to be preferred even to hypothecary creditors." L. 695, 354.

102. Can spouses sometimes depart without the consent of the other? - R. 1. "It is certain that spouses are held from an obligation of justice to cohabit in the same house, table, and bed." St. Alphonsus, l. c., n. 938. Hence it is inferred that one spouse cannot, with the other spouse unwilling, depart elsewhere for a long time, unless just causes are present, namely on account of the public good, for feeding and protecting the family, for avoiding harm to be inflicted by enemies, etc., and unless he cannot bring the other spouse to another place, so that the other may cohabit with him, without grave inconvenience. C. Pervenit 1, De Coniugio Leprosorum; C. Quod super 8, De Voto, in fine. - 2. "The man can undertake a brief pilgrimage for the sake of devotion, even with the wife unwilling; yet the wife cannot do this without the consent of the husband, since she herself is subject to his will, and it does not befit the state of women to go on pilgrimage." St. Alphonsus, l. c. - 3. "By mutual consent spouses can indeed be separated from each other, provided that danger of incontinence and harm to the offspring to be educated are absent, from that saying of the Apostle, 1 Cor. 7: Do not defraud one another, except perhaps by consent for a time, that you may give yourselves to prayer, and return again to the same thing, lest Satan tempt you." St. Alphonsus, l. c. - It is confirmed from the clear doctrine of St. Thomas, Quodl. 4, art. 11, where he moves the question: "Whether a man can take the cross, with his wife unwilling, if there is fear concerning her continence." The Holy Doctor responds: "It must be said that those things which are of necessity are not to be omitted on account of those things which are of one's own will; whence also the Lord, Matt. 15, reproved the Pharisees, who taught that the commandment concerning honoring parents was to be

omitted, so that certain voluntary offerings might be offered to God. But from necessity it is incumbent on the man that he bear care for the wife, because the head of the woman is the man, as is said in 1 Cor. 11:3. But that he take the cross for crossing the sea is subject to his own will. Whence if the wife is such that she cannot follow, on account of some legitimate impediment, and there is fear concerning her incontinence, it is not to be counseled to him that he take the cross and dismiss the wife. But it is otherwise if the wife voluntarily proposes to contain, or wills and is able to follow her husband."

103. "The obligation of these acts, by which spouses are bound, is founded in the very conjunction of bodies and the contract of marriage, which by natural and divine law ought to be perpetual and ordained to an undivided society of life and to offspring procreated, fed, and educated. Whence this obligation is grave, and pertains to the virtue of piety, since it is founded in the conjunction of bodies, seed, and blood." Strugll 20. - C. I. 130-133; C. G. 212-214.

VII. The Rights and Obligations of Spouses Concerning Goods

104. If Natural Law is inspected, marital society does not impede both the husband and the wife from retaining the property, usufruct, and administration even of the goods which they had before marriage and which they acquire during marriage. Nevertheless they must concur in the expenses necessarily to be borne on account of common burdens. But it is fitting that the husband either have all administration of goods, or at least aid the wife as much as is necessary for supplying her weakness. - But if positive Law is inspected, in this matter the power of the husband is broader. Hence, by positive Law, various goods of the wife are distinguished. - St. Thomas, 2.2, q. 57, a. 4.

105. The goods of the wife are some dotal, the fruits of which the man enjoys for sustaining the burdens of marriage; others are paraphernal, namely besides the dowry, which the wife has besides the dowry, and which she specially reserves to herself; others common, which by the agreements of the spouses or the determination of law are brought into a certain society. - Before entering marriage spouses can determine under what conditions their goods are to be subject, with certain statutes of law observed. If they have omitted to do these things, the law will supply.

106. Of dotal goods, generally and speaking per se, direct ownership remains in the power of the wife. But the husband has their administration and usufruct. Dotal goods, during marriage, cannot be alienated, nevertheless speaking regularly or ordinarily; for they can be alienated from a grave cause of necessity or utility of the family, and with the consent of each spouse. If the dowry during marriage is increased or perishes, it is increased or perishes for the wife; when marriage has been dissolved, it is to be restored.

Extra-dotal goods are the wife's by full right. Common goods belong by equal right to each; nevertheless the husband has their administration, and receives their fruits for the necessities of the family. - Finally the wife has no ownership of the goods of the husband.

107. From Roman Law. The wife has direct ownership of her own dowry, but the husband has the usufruct and administration. When the man dies, she is preferred to all personal creditors of the husband, and even in life she can juridically seek back the dowry if she fears lest the man become unable to restore it. If the dowry consists in money, or in other things consumable by use, or in appraised things handed over, indeed full ownership of the dowry is assigned to the man, but with the obligation of restoring the value, ownership being transferred in favor of the wife into all the goods of the husband pro rata or according to the quota of her dowry. - The wife has full ownership and administration of paraphernal goods, so that concerning these the husband, when she is unwilling, can dispose of nothing. Hence as regards them the wife in no way depends on the husband. - The property and utility of common goods belong to each spouse; but the administration of the same belongs to the husband alone. But this community of goods can admit various conditions or restrictions, and therefore attention must be paid to the various dispositions of places. - Gury 549; Elbel 69; L. 489; Troplong, della Prescrizione, c. 3, n. 483 seqq.

108. From More Recent Law. We can distinguish first the goods of the wife, the goods of the husband, and common goods.

As regards the goods of the wife, these likewise are either dotal, or extra-dotal, or paraphernal. - Dowry is the goods brought to the husband for sustaining the burdens of marriage. But any goods whatever of the wife not constituted as dowry are held as paraphernal. C. I. 1388, 1425; C. G. 1540, 1575; C. A. 1218. - That there be a dowry it is necessary: 1. that it has been constituted expressly under this name, C. I. 1388; C. H. 1336. Wherefore those things are not dotal which are given to the woman by contract of marriage, unless something else has expressly been provided. But it is otherwise from C. G. 1541. The dowry, however, can comprehend all goods, even future goods, C. I. 1389; C. G. 1542; C. A. 1218, 1227; C. H. 1336, 1337. - 2. That the instrument be drawn up by a notary and, if the dowry is constituted by the spouses themselves, before marriage, C. I. 1382, 1391; C. G. 1394; for after marriage the dowry can neither be constituted nor increased by them. C. I. 1341; C. H. 1338; and from C. G. 1543, neither by others. Cf. C. A. 1225; C. H. 1344. - 3. That the nuptials have been entered from Civil Law. L. 3, de Iure dot.; C. I. 93; C. G. 165; C. A. 44; C. H. 42.

109. He who constituted the dowry must furnish it from his own goods, even if proper goods are not lacking to the woman, C. I. 1392, 1393, 1394, 1395; C. G. 1544, 1545, 1546; C. A. 1224; cf. C. H. 1540, 1341; and he furnishes warranty against eviction, C. I. 1396; C. G. 1547. But the man is not bound to caution for the dowry, unless he is obligated to it by a convention made, or is compelled by sentence of a judge, if the dowry is exposed to danger and the dowry was constituted by him who, the dowried woman lacking it, would be compelled to furnish support. C. I. 1400; C. G. 1550, 1563; C. A. 1245. Cf. C. H. 1345, 1349, 1358.

110. Of those things which are given for the sake of dowry, some pass into the full ownership of the man, others do not, and constitute a permanent dowry. - Into the full ownership of the man pass things which are consumed by use, C. A. 1227; things whether movable or immovable which are given to him in payment, C. I. 1403; C. G. 1553; movable things, if they have been given after being appraised, C. I. 1401; C. G. 1551; but not likewise immovable things, unless this has been openly expressed, C. I. 1402; C. G. 1551; C. A. 1228. From C. H. 1346, if nothing

is determined in the contract of marriage, the wife preserves ownership of all her dotal goods. Cf. C. B. 1227, 1228. - Of those goods which constitute a permanent dowry, natural and direct ownership remains in the power of the wife; civil and useful ownership passes to the husband. C. A. 1227, 1228, 1230. Wherefore, by force of the natural and direct ownership of the wife, the increase or loss of the dowry will belong to the wife. By force of the civil and useful ownership of the husband, the man has the administration and usufruct of dotal goods; whence he administers dotal goods as his own, he acts in court for them, C. I. 1339; C. G. 1549; C. H. 1357, 1360, and all things contained under the name of fruits are his from the beginning of marriage, C. I. 1399; C. G. 1549; C. A. 1227; and if counted money was promised, interest is owed to him by the law itself, although delay was stipulated for payment, C. I. 1397; C. G. 1548. But the husband must furnish that diligence in administering dotal things which he furnishes in his own things, and he must fulfill all obligations of a usufructuary, C. I. 1408; C. G. 1562; but he is bound to apply the fruits to feeding the family, for the fruits are assigned to him for this reason, namely for bearing matrimonial burdens. - The woman can obtain by office of the judge the separation of dotal goods, if the dowry is in danger, or the affairs of the man tend toward evil, or she has been judicially separated from him, C. I. 1418; C. G. 1563; this having been obtained, she herself, in place of the husband, administers the dotal goods, C. I. 1424; C. G. 1449; C. H. 225, 1365; but she must provide together with the husband for domestic necessities and the instruction of the children, C. I. 1423; C. G. 1448. Cf. C. A. 1241, 1263. - It can be established in the contract of marriage: 1. that the wife receive each year a part of the fruits for small expenses, C. I. 1399; C. G. 1549; 2. that the surviving spouse receive some gain over the dowry, the legitimate share of the children being saved, C. I. 1398. - L. l. 3, n. 539.

111. Dotal goods regularly, while marriage continues, cannot be alienated, and an alienation made can be revoked even by the very husband who consented to the alienation, C. I. 1407; C. G. 1560. - Dotal goods, namely all from C. I. 1405, only immovable from C. G. 1554. - Regularly, for they can be alienated from a grave cause of necessity or utility, by decree of the tribunal and the consent of each spouse, C. I. 1405; C. G. 1558; C. H. 1358 seqq.; or if alienation has been permitted in the contract of marriage itself, C. I. 1404; C. G. 1557. - They cannot be alienated for any cause whatever from C. I. 1405, which distinguishes nothing; except the cause of establishing some son, from C. G. 1556. But alienation comprehends also exchanges, servitudes, mortgages, C. I. 1404, 1405; cf. C. G. 1554, 1559. - While marriage continues; wherefore also after separation from C. I. 1405; cf. C. G. 1449. But if, while marriage continues, the woman legitimately contracted a debt or any obligation, after marriage has been dissolved even dotal goods are bound to the creditors from C. I. 1407, but otherwise from C. G. 1558, 1560. Cf. C. A. 1260.

112. Marriage having been dissolved, the dowry ceases, and is to be restored. - The dowry is to be restored to the wife, or to her heirs. C. A. 1229; C. H. 1365. Things of which only the civil and useful ownership was in the power of the husband are to be restored immediately in their own species, as they then are, C. I. 1409, 1411, 1412; C. G. 1564, 1566, 1567; C. H. 1367; and if by fault of the husband they have become worse, the detriment is reckoned to him, C. I. 1408; C. G. 1562; C. H. 1360, 1375. - But of things of which the husband had full ownership, only the

price is to be restored within a year, C. I. 1401, 1410; C. G. 1551, 1565; C. H. 1347, 1366, 1370. From these the woman can retain for herself linens and the things which are necessary for her ordinary use, their actual price being deducted, if, after an appraisal of the same had been made, they were first given, C. I. 1411; C. G. 1566. Cf. C. H. 1374. - Besides, the fruits of the last year of marriage must be restored, in proportion to the time. The year is computed from the anniversary day of the marriage celebrated. But the widow can, according to her judgment, either demand these fruits, or support for the whole year of mourning. Besides, in this year dwelling and mourning garments are owed to her, C. I. 1415, 1416; C. G. 1570, 1571; only mourning garments, C. H. 1379. Cf. C. A. 1242, 1243. - Finally, when marriage has been dissolved, gains also or dotal increases are owed to the surviving spouse from the goods of the deceased, if there was an agreement concerning them in the contract of marriage. C. I. 1398.

113. Paraphernal or extra-dotal goods are those which outside the dowry the wife reserves to herself. C. H. 1381. - These are by full right the wife's, and thus she administers them and enjoys their usufruct, C. I. 1427; C. G. 1576; C. H. 1382. Yet she cannot alienate immovables, nor appear in court for them, without the express consent of the husband, or, if the husband resists, without the sentence of the tribunal. C. I. 134, 136; C. G. 215, 217, 1576, 1538; C. H. 1387; cf. C. A. 91. The same must be said from C. G. 1536, if the wife is wholly separate in goods. - But if the husband administers these goods by express or tacit mandate of the wife and receives the fruits, he must restore only the fruits which then exist, when the woman asks, or dies; but he must restore all the fruits which he received if a condition was added to the mandate that he render accounts of the fruits, or if the woman at least by an extrajudicial act opposed him. C. I. 1427 seqq.; C. G. 1576 seqq. But from C. H. 1384, 1389 seqq., if paraphernal goods are handed over by the wife to the husband to be administered, they are then equated with dotal goods, whose ownership remains in the power of the wife. From C. A. 1238, 1239, unless the wife opposes, by a presumption of law the administration of the free patrimony of the wife is deemed entrusted to the husband as legitimate procurator. But he is responsible only for the substance of the thing, or for the capital; but he is not bound to give an account of fruits received, unless this has been expressly agreed upon. - To paraphernal goods belong, and are the wife's, those goods which, during marriage, she acquires from her own goods, or from her singular industry, or from her extraordinary labor, especially if she exercises trade in her own name, or also something by subtracting from those things granted to her for food, clothing, recreation, etc.; then also those things which have been given to her with the express condition that they not yield to the husband. C. A. 1237. - L. l. 3, n. 541.

114. As regards the goods of the husband. - The wife has no ownership of the goods of the husband. But, since the wife is the associate of the man, and the man must feed the wife according to his condition, the wife by her own right can take for herself those things which are necessary to herself on this account. Lugo, de Iust. et Iur., d. 16, n. 72; Lessius, de Iust. et Iur., l. 2, c. 12, n. 85; and if it has been received from the custom of the region that the wife spend something from the goods of the husband, she can also do this, Lugo, l. c. Wherefore the wife can take not only those things which are necessary for the body, but also those which pertain to lightening the soul and to the decency of her state. Lugo, l. c., n. 68, 70. Nor indeed can she do this only for herself, but also for the children received from that marriage, for the

utility of the family, or for removing some damage from it, and this even with the husband unwilling. Wherefore she can subtract things from a prodigal husband, in order to reserve them for the family for the future, or from an avaricious husband for making moderate alms. Lugo, l. c., n. 65; Lessius, l. c., n. 85. - From the very nature of conjugal society the wife has administration of domestic things, of provisions, furniture, etc., Lugo, l. c., n. 64; Lessius, l. c., n. 85. - From C. I. 1432, if the wife administered the goods of the husband, she is subject to the same law to which he is subject in the administration of the paraphernal goods of the wife. But when the man is absent or furious, the wife administers his goods, and can spend them, according to the powers of the patrimony, for the sustenance and preserving the dignity of the family, although perhaps the man, if present or composed of mind, would not have spent them. - From C. H. 1442, 1444, the wife administering all the goods of the marriage has the same faculties and obligations as when the husband administers them. Yet she cannot alienate and burden immovables. - Lugo, l. c., n. 16, 70; Lessius, n. 12, 86; L. 541.

115. As regards common goods. - From C. I. 1433, 1435, 1436, 1438, 1439, 1441, in the matrimonial contract itself, although a dowry has been constituted, the spouses can enter together into universal society, not indeed of goods, but of the fruits proceeding from those goods themselves, whether movable or immovable, whether present or future. Yet this society cannot comprehend debts and credits existing before the marriage, nor those which are later deferred by title of succession or donation while the communion itself endures. - The effect of this communion is to render common and divisible those things which are acquired by the spouses together or separately, during the communion, whether by common industry or by parsimony made from the fruits or incomes of the spouses, with the debts of the communion itself always deducted. - Goods placed in common are administered by the husband, who cannot alienate them except by onerous title, or subject them to mortgage; and if he leases them, he must observe the laws established for leasing which is done by a usufructuary. - But the society ceases by the death of either spouse, by the declared absence of one, by definitive separation of persons, by judicial separation of goods.

116. From C. H., when a contract concerning goods is lacking, by which they can also establish among themselves a separation of goods, the marriage is deemed entered under the regime of legal society of gains, 1315, 1432. But if this society is excluded without the rules by which goods are governed being expressed, then the dotal regime is observed, and nevertheless the husband receives all the fruits of the society of gains, just as if it existed, 1364.

Now, by the society of gains, husband and wife make their own, by half part, once marriage is dissolved, the gains and benefits indistinctly obtained by either spouse during marriage, 1392. - By the law itself are determined the proper goods of each spouse and the common gains, 1396 seqq., 1401 seqq., and also the burdens and obligations of this society, 1408 seqq. - The husband administers the society according to the established laws, 59, 1412 seqq.; he can make moderate donations for the sake of piety and beneficence, but cannot reserve the usufruct to himself, 1415. - The society is dissolved by the dissolution of marriage, by the absence of the other spouse, by separation of persons or goods, 1417, 1433. - The society having been dissolved, after an inventory has been made, and after dotal and paraphernal goods have been restored, and the other burdens of

the society satisfied, what remains is divided equally between husband and wife, or their respective heirs, 1418 seqq. Cf. ibid. 1435, 1436.

117. From C. G. 1393, even if spouses do not establish that certain goods will be common, nevertheless, if any other agreement is lacking, legal Communion has place by force of law. For the agreements which can be entered by spouses before marriage constitute three classes, or a threefold regime, namely the dotal regime, concerning which it has already been spoken, the regime of community, and the regime excluding community. - Moreover, Community is either legal or conventional, according as it is constituted by law or by a special agreement of the contracting parties. - 1391, 1460 seqq., 1497 seqq., 1540 seqq.

118. Legal community coalesces: 1. from all movable goods which the spouses possessed on the very day of the marriage entered, or which then come to them by title of succession or donation; 2. from all fruits and any revenues whatever of immovable goods possessed by the betrothed before marriage, or coming to them during marriage; 3. from all immovable goods which were acquired from common goods during the time of marriage. - Conventional community consists in other agreements of the betrothed, by which legal statutes can be restricted or relaxed. These lacking, the community is governed by the disposition of law alone. - Under the regime of community, the husband alone has the administration of common goods. Indeed he can sell, exchange, and hand them over into mortgage even without the consent of the wife. Yet he cannot give immovables by gratuitous title, nor movables by universal title, or as regards their universality, or quota, or half, third, or fourth part. He can dispose of some movable thing by gratuitous title, provided he does not reserve the usufruct to himself. - But when the community has been dissolved, goods and burdens are divided into two parts, unless the wife or her heirs prefer to renounce the goods, and thus exempt themselves from the burdens. Debts are to be paid by each spouse, or by their heirs. - The husband also has the administration of the proper or personal goods of the wife. 1400, 1401, 1409, 1422, 1428, 1441, 1453, 1467 seqq., 1497 seqq.

119. The regime excluding community can be constituted by the spouses in two ways, namely 1. by declaring that they enter marriage without community; 2. by establishing that each shall be altogether separate as regards his own goods. In the former case the man receives all revenues of the goods of the wife and alone administers all things. But if they are consumed by use, he is bound to render their value. But in the latter case the woman has the administration and usufruct of all her goods. Each spouse, however, concurs toward the burdens of marriage by special agreement; but if no convention exists, the wife must concur up to the third part of her revenues. Wherefore in this third regime, just as also in the second, some dowry is to be supplied by the wife, by which she may partly assist the burdens of marriage; but a dowry of this kind can be alienated by the man. 1530 seqq., 1536 seqq.

120. From C. A. 1233, 1234, for a community of goods between spouses a special contract is required. But it is understood only for the case of death, and gives to the spouse a right to half part of the goods constituted in community which remain after the death of the other spouse. Cf. art. 1262, 1266.

121. From C. B. there is a twofold regime of goods, legal and conventional. The legal matrimonial regime of goods. By the contract of marriage the goods of the wife, even those which she herself acquires during marriage, are administered by the husband, who has the usufruct of the same, but must sustain the expenses of marriage. Excepted are goods reserved to the wife either by law, namely garments, precious jewels, and instruments of labor, and goods acquired by labor or by personal exercise of a lucrative profession; or by contract, namely those which were declared such by the contract of marriage; by succession, legacy, donation made with that reservation. The wife has administration and usufruct of these reserved goods. - The administration and usufruct of the husband having ceased, the husband is bound to restore the goods to the wife, and also to render an account of the administration. The wife can demand this cessation if her goods are in danger. - C. B. 1363 seqq.

The conventional regime of matrimonial goods. The betrothed can establish a convention of goods both before marriage and after the marriage has been contracted, and they can dissolve or modify the regime of goods. If by the contract of marriage the administration and usufruct of the husband is excluded, or if the community of goods is dissolved, then separation of goods is had. But community can be either universal of goods, or particular of acquisitions, or particular of movables and acquisitions. The husband administers the community, and from the goods of the community sustains the burdens of marriage. The community having been dissolved, after the debts have first been paid, those things which remain are divided into two equal parts between the two spouses, or the descendants of either and the widowed spouse. - C. B. 1432 seqq.

122. From C. L. It is lawful for the betrothed before marriage to make a contract concerning goods, within the limits of law, 1096. Conventions of this kind will not be valid unless they have been drawn up by public writing, 1097. If no convention is made, the marriage is deemed contracted according to the custom of the kingdom, 1098. The woman can reserve to herself the right of receiving part of the fruits of her goods, provided it does not exceed a third part, 1104. - The convention of marriage can be made according to the custom of the kingdom, of community of acquisitions, of separation of goods, of the dotal regime, 1099 seqq.

The convention according to the custom of the kingdom imports community of all present and future goods not excepted by law, 1108 seqq. Ownership and possession of these goods is with each spouse, administration in the power of the husband, 1117 seqq. The community having ended, its goods are divided between the spouses and their heirs, due equality being observed. First satisfaction must be made to the woman, then to the man, 1123, 1124.

The convention of separation of goods does not exclude acquired goods from community without an express declaration, 1125. Each spouse preserves ownership of proper goods and their free disposition, yet with that restriction for the woman which is made by law, 1127, 1128.

The convention of community of acquisitions does not comprehend goods which are had at the time of marriage, or which are afterwards had by succession or by another gratuitous title, 1130 seqq.

In the dotal regime the husband can alienate movable goods, but is bound concerning their value, 1148. Immovable goods are inalienable except for cases permitted by law, 1149 seqq., nor can they be

prescribed during marriage, 1152. Marriage having been dissolved, dotal goods are to be restored to the woman and her heirs, 1156 seqq.

123. Besides these things which have been constituted by the various laws, all those agreements must be observed both by the man and by the wife, which in the contract of marriage have been entered either tacitly according to the laws of their own region, or expressly by private will; provided nevertheless that these agreed covenants are opposed neither to good morals nor to the laws. C. C. 1338; C. A. 1217; C. G. 1387; C. H. 1315.

124. What can the wife do as regards entering various contracts? - The wife cannot, without the consent and authority of the husband, give, alienate, or subject to mortgage her own immovable things, contract a loan, cede or demand capitals, become surety, transact, or act in court concerning these acts, C. I. 134; C. L. 1192, 1193; cf. C. G. 215, 217; C. A. 91; nor undertake the management of another's affairs, C. I. 1743; cf. C. G. 1990. - But the woman needs no consent or authority of the husband or of another when the man is a minor, interdicted, absent, or expiating a punishment longer than a year, or absent, or when she is juridically separated by fault of the husband, or when she exercises trade, C. I. 135; cf. C. G. 220, 222. - He who contracts with a wife, without the consent and authority of the husband, when there is need of this, is bound to the wife both civilly and naturally, and the wife likewise is bound to him. But to the wife and her heirs, and to the husband while marriage continues, and also to those having cause, restitution in integrum is given; unless it is proved that what was paid to the wife yielded to her advantage and utility. C. I. 134, 137, 1157, 1300; C. G. 217, 225, 1304, 1312; C. L. 1200, 1201. - From C. H. 1304, the wife, when the contract has been rescinded, is not bound to restore the thing received by contract unless she has become richer by it. Cf. also art. 1163. - From C. B. 1365-1371, 1395-1400, 1405-1407, the wife can freely dispose of goods reserved to herself; but as regards goods subject to the husband's administration and usufruct, she needs the husband's approval.

125. Can a wife sometimes become surety for the husband? - R. Affirmatively, namely in order to provide for domestic necessities. But otherwise negatively. Thus commonly. The reason is that the former is sometimes required by the very good of the family, but the latter is excluded by this same good. Whence it follows that the wife is held to paying debts legitimately contracted by the husband in the name of the wife, she knowing and consenting, on account of the good and advantage of the family itself. L. 354. - From C. I. 1405; C. G. 1558, the authority of a judge is required.

126. What is the law if a man and woman have contracted an invalid marriage? - If each was conscious of the nullity, there is indeed no marriage, and thence no right can be claimed from positive law, whether as regards the dowry of the wife, or as regards the legitimacy and hereditary succession of children, C. 10, Qui fil. sint legit.; C. I. 116; C. G. 202; C. A.

The son, however, during his life can demand support from the father just as if he were legitimate. C. B. 1703. - If both were ignorant of the nullity, the marriage is just as if it truly were valid; whence rights flow from it as from a true marriage, C. 2, 8, 14, Qui fil. etc.; C. I. 116; C. G. 201; C. A. 160; C. B. 1699; L. l. 7, n. 425. If one was conscious, the other ignorant, of the nullity, the civil rights stand

only for the spouse who contracted in good faith; but the children are legitimate as regards both. C. 14, Qui fil.; C. ult., sect. Si quis, l. de Cland. desp.; C. I. 116; C. G. 202; C. A. 160. Cf. art. 1265, 1266; C. B. 1701, 1702. - Schmalz. l. 4, t. 17, n. 13, 18, 57; Lugo, d. 24, n. 8; L. l. 7, n. 425, 432.

VIII. On the Equality of Woman with Man

127. "It is natural that the soul rule the body, and reason the inferior powers. And therefore, as the Philosopher teaches, whenever any two things are so related as soul to body and reason to sensuality, natural dominion belongs to him who abounds in reason, and that one is ruling; but the other is subject, namely that which is deficient in reason." St. Thomas, in Ethics, l. 7, lect. 3.

128. Hence the Apostle Paul himself deduces the subjection of woman from her inferior physical and rational condition. "Let the woman learn in silence with all subjection. But I permit not a woman to teach, nor to have dominion over the man, but to be in silence. For Adam was first formed, then Eve, and Adam was not seduced; but the woman, being seduced, was in the transgression." 1 Tim. 2:10, 14.

129. Concerning the equality of man and woman the Angelic Doctor has these things in 4 D. 32, q. 1, a. 3: "Equality is twofold, namely of quantity and of proportion. Speaking of the first equality, husband and wife are not equal in marriage, neither as regards the conjugal act, in which that which is nobler is due to the man, nor as regards the management of the house, in which the wife is ruled and the man rules. But as regards the second equality they are equal in both, because just as the man is bound to the wife in the conjugal act and in the management of the house as to that which is the man's, so the wife is bound to the man as to that which is the wife's."

130. Marriage, recalled by Christ to its pristine indivisibility, most greatly exalts the dignity of woman. It is the conjunction itself of man and woman containing an undivided habit of life. Yet if the question concerns eternal salvation to be attained and the means necessary for it, since man and woman are equally destined for eternal life, in this matter they are mutually independent and equal in duties and rights. For in Christ there is neither male nor female, Gal. 3:28. Therefore woman has been emancipated from man as regards the moral and supernatural order of her life; she can indeed be helped by man, but she cannot be impeded by him as regards the sanctity of her life. From the Blessed Virgin Mary, Mother of God, woman has been ennobled, and she can rise to eminent sanctity, as can a man, as is clear from the fact of holy women and holy men.

131. But if, on the contrary, the question concerns the domestic order, both of conjugal society and of parental and herile society, woman is not independent of man, and in domestic society the equality, independence, and emancipation of woman cannot be admitted. For woman was made as a helper for man, Gen. 2:18; 1 Cor. 11:9; whence the man is her head, and she is subject to him, 1 Cor. 11:3; Eph. 5:24; and therefore she is not independent and emancipated in that threefold society of domestic society, conjugal, parental, and herile. And, as regards paternal power in particular, which is exercised over the persons of children, it resides indeed

both in the father and in the mother; but because of the natural subjection of wife to husband, it exists principally in the father, whence it received the name paternal power. This is also confirmed by all positive laws, ancient and modern.

132. If we go out from the domestic order, and the question is asked concerning civil society, certainly nothing prevents the instruction of woman from being perfected in letters and arts, and consequently from being made better as regards the comfort of life. Nor does anything prevent women in the same civil society from being admitted to exercising businesses and offices for which they are fit, and from being compensated also with an equal stipend, yet without any detriment to the duties of wife and mother. Yet since, both physically and morally, the powers of women and of men are neither the same nor developed in the same way, they are altogether to be excluded from those businesses and offices for which by nature they are not fit, and which cannot be exercised by them without the aforesaid detriment to the duties of wife and mother.

IX. Obligations of Blood-Relations and Tutors

133. What are the obligations of other blood-relations? - As regards other blood-relations, ascendants and descendants, the obligations are generally the same, with due proportion, as those of parents with respect to children, and vice versa; for all these, by reason of generation, one from another, are mutually bound by the strict bond of piety, especially if, when parents are lacking, ascendants undertake the care of grandchildren. Theologians commonly teach that they ought to undertake this care in defect of parents and tutors, so long as the latter are minors, and as far as the former conveniently can. Other things being equal, the paternal grandfather is bound to undertake that care before the maternal grandfather, as the doctors commonly teach.

As regards brothers and sisters, they ought to pursue one another with mutual love, not only with a common affection, as other men, but with a special affection on account of the close bond of blood. They ought also to succor one another as regards the necessities of life, not only in extreme, but also in grave necessity. L. 340.

The remaining consanguineal and collateral relatives are likewise bound to furnish one another love and help in necessity, according to the order of degrees of consanguinity. The reason is that the conjunction of blood and descent from the same stock and principle of life introduces this special obligation of piety. Whence, in defect of parents, or quasi-parents, and of ascendants, collateral consanguineals also succeed to the obligation of furnishing support to one in need, in ordinary necessity and beggary, if they can, or unless others are present who wish liberally to relieve a similar necessity. Struggl. 20.

"It must be said that from that which is proper to himself someone ought more to satisfy his parents, or those from whom he has received greater benefits." St. Thomas, 2.2, q. 62, a. 5, ad 4.

Because conjunction with other consanguineals is not so great as with parents and children, so that piety is gravely injured against them, a certain greater damage inflicted upon them is required, but

less against brothers and sisters than as regards others less closely joined. But against more remote relatives there is absent a special grave malice against piety.

134. What of support to be furnished as regards various consanguineals and affines? - By the law of piety some ought to provide for, or nourish, others if they are in necessity. To furnishing support there is obligated in the first place the spouse; secondly descendants; thirdly ascendants; fourthly the son-in-law and daughter-in-law; fifthly the father-in-law and mother-in-law; finally brothers and sisters; and indeed this obligation is reciprocal. C. I. 132, 138-142; C. G. 203, 205-207, 212; C. L. 172; C. H. 143 seqq.; C. B. 1601 seqq.

Ascendants are bound in the order of proximity, C. I. 138; C. H. 144; C. L. 173. But descendants are bound in that order in which they would be called to the legitimate succession of the needy person, C. I. 142; C. H. 144. - Support is owed to brothers and sisters if they are in very grave necessity, C. I. 141; C. H. 143. Cf. C. L. 174. In those places in which the civil law does not oblige brothers and sisters to furnish support to brothers and sisters, nevertheless natural charity and piety gravely urge, if brothers or sisters are constituted in grave necessity. - But as regards other more remote consanguineals, besides brothers, if they are in grave necessity, the obligation is still present, although light, "since toward them also there is some obligation of piety, although not so strict." L. 339, l. 3, n. 946; Lugo, de Iust. et Iur., d. 24, n. 176. Yet the obligation of piety is present more strictly toward other consanguineals of the direct line. - The mother-in-law and daughter-in-law lose support if they pass to other nuptials, or if the spouse from whom the affinity arose has died, leaving no descendants. C. I. 140; C. G. 206.

Parents cannot deny support to children because, with the parents unwilling, they contracted nuptials with unworthy persons. L. l. 3, n. 337, 949. "Sanchez, etc., say that the father is bound to furnish support not only to the son, but also to that son's wife, although he married her without a dowry and against the will of that son's father. Besides, Azor, etc., hold that the father ought to nourish the son even if the son had wickedly consumed the portion already previously handed over to him." L. 336, 337. "But it is certain that parents are bound to furnish support to children, even spurious children, and even those born from condemned intercourse, if they cannot be sustained from elsewhere." L. 951. - Nor indeed generally is it lawful to deny support because he who seeks it has come to want through his own fault, except to brothers and sisters from C. I. 141; and from C. B. 1611 only strict sustenance is owed. - From the same C. B. 1963, 1969, if, when the inheritance has devolved, an heir yet to be born must be awaited, the mother, who cannot provide for her own sustenance, can demand from the inheritance itself support suitable to her social condition until the birth. Likewise the heir is bound to furnish support to the members of the deceased's family for a month from the devolution of the inheritance.

How much must be furnished is to be estimated from the necessity of the petitioner and from the faculties of the giver. C. I. 143; C. G. 208; C. H. 146; C. L. 178, 179. Support comprises food, clothing, dwelling, and other things necessary for life, and, according to circumstances, instruction suitable to the person. C. I. 846; C. H. 142; C. B. 1610; C. L. 171. The option is given either of receiving the needy person at home, or of supplying him a pension, unless the judge has established something else. C. I. 145; C. G. 210; C. H. 149. - But because this obligation of furnishing support is from charity and piety, not from justice, he who does not furnish it is not bound to restitution; nor is

he obligated toward the heirs of the dead man who had a right to it. C. I. 144, 146; C. G. 209; C. H. 148-150, 151. It is otherwise from C. A. 171; C. L. 176. - L. 339, 356, 946, 949, 951.

The obligation of furnishing support can vary, according as the conditions of him who furnishes it, or of him who needs it, have varied. C. I. 144; C. G. 209. It wholly ceases when he who needed support has died, although it was owed to him by sentence of a judge, C. I. 146, or by donation or legacy, because support is personal. Therefore if by legacy it was owed for ten years, and before that he to whom the support had been left died, the right of support does not pass to his heirs. - La-Croix, l. 3, p. 1, n. 709 seqq.

135. What of damages to be repaired? - The question is generally raised: whether a superior is bound to repair damage caused by his subjects? - R. Affirmatively, in the external forum, according to the various laws in force in various regions. Generally this obligation of repairing damage, on account of another's act, is either from negligence in the custody and vigilance to be employed, or from the choice of persons whom we deputize to exercise an industry in our place. Cf. C. I. 1153; C. G. 1384; C. H. 1903, in which express mention is made: 1. Of the father, and, he being dead, from C. G., failing him from C. L., of the mother, in relation to minor children living with them; and in C. I. and in C. H., of tutors in relation to those of whom they are administrators, likewise living with them. 2. Of the master and of the mandator in relation to servants and mandataries in the exercise of the functions to which the former destined them. 3. Of the instructor and artisan in relation to pupils, during the time in which they are under their vigilance. - But concerning the husband in relation to the wife, nothing is established. - Such an obligation, whether in parents, or in tutors, or in masters and mandators, or in preceptors and artisans, ceases, from both Italian and French law, whenever they prove that they could not have prevented the act for which otherwise they would have to answer, or, from C. H., that they employed due diligence. - C. G. 1424.

From C. B. 828 seqq., children before the completed seventh year do not answer at all for damage inflicted. After the seventh year and before the eighteenth year, they answer for it if necessary discretion was not lacking. - But those who ought to watch over them must repair the damage, if they have omitted to employ due diligence. The same is established concerning him who entrusts some business to another, if this other inflicts damage on another in the execution of that business, unless the mandator employed ordinary diligence.

R. Negatively, generally speaking, in the internal forum. The reason is that the quality of superior brings only the burden of rightly governing subjects, but by no means an obligation from a debt of justice of preventing damages caused by one's subjects, and much less those caused by others who are not subjects; unless either from a special contract, or from a special office, he ought to prevent them. - Hence a private schoolmaster who does not correct pupils who steal or detract from others, although he ought to imbue them with good morals and receives pay for this reason, is nevertheless by no means bound in restitution to those from whom the pupils steal or whom they detract, since nothing was transacted with them. - Generally speaking; for those who are over others are bound for damage if they do not prohibit it in that matter or office in which they ought to be over them; for example, if a pharmacist's apprentice gave poison instead of medicine, provided they are not without grave fault. The same altogether holds if damage happens to another from your animal or your thing

with your fault; if, for example, your dog, untied, bit someone entering, or your house, collapsed from age, killed several. - Inst. l. 1, t. 7; l. 4, t. 5, 8; Dig. l. 47, t. 5; C. A. 1308, 1309, 1314-1316; Gousset 963 seqq.

136. What are tutor and curator, and to whom are they given? - To those who cannot govern themselves and their own things, if they are not under paternal power, there is given a tutor or curator. C. A. 187; C. B. 1773. - Tutor and curator differ among themselves: 1. Because a tutor is given principally to the person, secondarily to things. But a curator is given either to things only, or principally to things and only secondarily to the person, at least speaking regularly. C. A. 188, 209; C. B. 1793, 1794, 1909. - 2. They differ because a tutor cannot be given for a definite thing and cause. But a curator can be given for definite things and determined causes. And thus C. I. 980; C. B. 1961 assign a curator to an inheritance accepted with benefit; C. A. 274, 690; C. L. 157 give a curator to the future offspring about to be born, to an inheritance, and to an inheritance when legacies burden it entire and the heir refuses to administer. C. B. 1911; C. L. 55 seqq. give a curator to the goods of an absent person. Cf. C. B. 1913, 1914. - 3. He who is under tutela can do nothing at all. He who is under cura, if he is an emancipated minor, can, with the assistance of the curator, exact lots and act in court, C. I. 318; C. G. 482; if he is an adult declared incapable, or deaf and mute or blind from birth, he can do all things with the assistance of the curator. C. I. 339, 340; C. G. 513; C. A. 269, 270. - 4. They differ from the Common Law, because a tutor is regularly given to a pupil or one under puberty, and to him who is compared to one under puberty. But a curator is given to a minor or one after puberty up to the twenty-fifth year of age. Inst. l. 1, t. 13, 23; Ferraris v. Minor, n. 10 seqq.

From More Recent Law, a tutor is given to a non-emancipated minor and to one interdicted from the administration of goods. But a curator is given to a son soon to be born; to a minor called to an inheritance; to an adult declared incapable because of infirmity of mind, or prodigality; to an absent person; to a deaf-mute, or one blind from birth. C. I. 236, 241, 245-247, 277, 314, 315, 329, 330, 339, 340; C. G. 405, 450, 492, 505, 509, 513; C. B. 1773, 1895, 1901, 1909-1914; C. L. 55, 65, 317, 337, 349, 356. - From C. H. 199, 200, no distinction is had between tutor and curator as regards the name; but as regards the thing it is preserved. For a tutor is given both to the person and goods, and only to goods. Subject to tutela are non-emancipated minors, the insane, deaf-mutes, prodigals, and the interdicted. - Almost the same is had in C. A. 187, 188, 269, 270, 275. - In any tutela, however, a protutor also is to be chosen, whose office it is to supply the place of the tutor. C. I. 265; C. G. 420 seqq.; C. H. 227 seqq.; C. A. 211, 215; C. B. 1701, 1799. - L. 917; C. L. 187 seqq.

137. Who designate a tutor; who can be tutors? - R. to the first. Those who can give a tutor are: the parent who dies last, whether by testament or by public instrument, C. I. 242; cf. C. A. 196, 197; C. H. 206; the family council, if the parent has not designated one and those whom the law designates are lacking, C. I. 245; cf. C. A. 198, 199; C. H. 204, 211, 212, 231; the council of tutela and the judge in certain cases, C. I. 248, 261, 262; C. A. 189, 190, 199, 204. - The family council is constituted for legitimate children; the council of tutela for illegitimate, namely recognized, children, C. I. 249, 261. - C. B. 1774 seqq., 1852 seqq., 1858 seqq., 1895.

R. to the second. Since the tutela of minors is a public office, filled with many cares, not all can or ought to assume it, nor can or ought all refuse it, but only persons capable by law and designated by

law. C. I. 268 seqq.; C. G. 427 seqq.; C. H. 202, 203, 237 seqq., 244 seqq.; C. A. 192 seqq., 201; C. B. 1963 seqq. Tutela and cura by law belong to the spouse, the father, the mother, the paternal grandfather, the maternal grandfather, C. I. 252, 330; C. G. 402 seqq.; C. B. 1776 seqq.; and, failing these, to nearer consanguineals, C. A. 198. Cf. C. I. 200, 201, 227 seqq. - Inst. l. 1, t. 14; 200, 253; C. B. 1785 seqq.; C. H. 231.

138. What are the offices of tutor and curator? - The tutor has care of the person of the minor, and of his education, especially religious education, and he represents him in civil acts, and merely administers his goods. C. I. 277-296, 318; C. G. 450-457, 458; C. H. 261 seqq.; C. A. 188, 205, 216, 243; C. B. 1793, 1801 seqq.; C. L. 269 seqq., 258 seqq. Hence he cannot exceed the limits of administration. C. I. 296 seqq., 301; C. G. 456 seqq., 482; C. A. 229, 248; C. L. 269, 275; C. B. 1804, 1831. - The curator furnishes assistance and authority to him who is under his care. C. I. 318, 339, 342. - Therefore the power of tutor and curator is confined within definite limits, and in any matter of graver moment depends on the family council and even on the homologation, or confirmation, of the tribunal. C. I. 296, 297, 301; C. G. 457-1407; C. H. 269 seqq., 293 seqq.; C. A. 216, 222, 263 seqq.; C. B. 1821 seqq.; C. L. 74 seqq., 263 seqq.

Therefore both tutor and curator are bound to employ great fidelity in their own office, as a good father of a family, and if they fail gravely in fulfilling it, they sin gravely, even against justice by force of quasi-contract, and are bound to compensation of damages. C. I. 277, 302; C. G. 450, 469; C. A. 209, 210, 243; C. B. 1805, 1833, 1948; C. L. 220 seqq.; L. 341, 391, 918.

The tutor, unless he is the paternal or maternal grandfather, must give caution, from which, however, the family council can dispense him. C. I. 292. Cf. C. B. 1844; C. H. 252 seqq. From C. A. the tutor is not obligated to caution. Besides, at the beginning of the tutela he must draw up the state and inventory of the minor's goods. C. I. 281; C. G. 451; C. A. 222, 223, 224; C. H. 262; C. B. 1802.

Each year, while the tutela endures, unless he is the paternal or maternal grandfather, he must render an account of his administration to the family council, C. I. 303; or to the subrogated tutor, C. G. 470; or to the pupillary judge, C. A. 238, 239. Cf. C. H. 279 seqq.; C. B. 1837 seqq.; C. L. 249 seqq. - When the tutela has been completed, he is likewise bound to render an account of his administration, C. I. 302; C. G. 469; C. H. 281; C. B. 1890, and he is liable for less diligent administration, unless he is freed by legitimate prescription. C. I. 303; C. H. 287; C. B. 1835. - Inst. l. 1, t. 21.

139. Note: A tutor, or protutor, cannot buy or rent the goods of the minor, nor can he accept a cession of the minor's rights. No convention can be made between the tutor and the minor, nor can any testamentary disposition useful to him be made, before the account of the tutela has been rendered and approved. - Yet he has a right to compensation of expenses made by reason of the tutela, and to a suitable remuneration of his office. - C. I. 300, 307, 769, 1457; C. G. 156, 450, 472; C. H. 269, 270, 978, 975, 276, 285, 755, 571; C. A. 266, 271; C. B. 1785, 1789, 1805, 1834-1836; C. L. 272, 353 seqq.; L. 917.

A tutor or curator cannot make gratuitous donations or remissions from the goods of the pupil; he is constituted not for destroying, but for protecting. Except a remunerative donation; for thus he can,

for example, add something to the stipend owed for liberal service, by a liberal donation. - Lugo, d. 23, s. 10, n. 12; L. 341; C. H. 275; C. B. 1804.

140. What are the obligations of the minor? - The tutor is in place of the father. Hence the obligations of minors toward him are similar to those which would be owed to the father himself. But the obligation of the minor toward the curator is less; nevertheless, as regards the administration of goods he ought to be subject to him, and to bear a grateful mind. Yet the minor, whether toward the curator or toward the tutor, is not obligated so strictly to love, reverence, and obedience as toward parents. For his dependence on them is far less than on parents. - C. L. 280; C. H. 265; C. A. 217.

141. What is the value of the acts of tutor and curator? - Those things which are done according to the laws, whether by tutor or by curator, are valid and firm, and therefore by no means subject to rescission, although they were not useful but harmful to him who was under tutela or cura. C. I. 1304; C. G. 1314. - On the contrary, those things which were not done according to the laws, although usefully managed, can be revoked through restitutio in integrum. Through restitution, for meanwhile they are valid. C. I. 1107, 335, 1300; C. G. 502, 1125, 1304; C. H. 1291; C. B. 1829 seqq.

142. How are tutela and cura ended? - They are ended, on the part of the tutor or curator, by his legitimate excuse, removal, death, or by the businesses committed to him now having been completed. On the part of him whose tutor or curator he is, by his majority of age, or by the cause of interdiction or incapacitation having ceased, or by his death. C. H. 278; C. A. 249, 251, 253, 255; C. B. 1883, 1892, 1895, 1912, 1914; C. L. 78.

X. On the Obligations of Masters and Servants

143. What is the nature and origin of servitude? - "Then someone has dominion over another as over a slave, when he refers him over whom he has dominion to his own utility, namely to the utility of the one having dominion." St. Thomas, 1 p., q. 96, a. 4. Therefore servitude properly pertains to dominion of property, not over the person, which is not a thing and cannot be appraised by price, but over works, which can be appraised by price and consequently sold and hired. Servitude is perfect if someone owes another all his works; imperfect, if he does not owe all, or not perpetually, or only under certain conditions.

144. Servitude, or the dominion of servitude, is a certain natural consequence of the condition of human life after original sin. Cf. St. Thomas, in Arist. Polit., p. 1, lect. 3. For in the state of innocence there would not indeed have been dominion of servitude, but only of governance and direction. St. Thomas, 1 p., q. 96, a. 4.

145. Absolute servitude of a man, so that a man would be fully in the dominion of property of another man as regards all his works and as regards life itself, is altogether repugnant to natural law. For no man is master of his own life, and no private man can at his pleasure dispose of the life of another man. Besides, the rights of man are altogether inalienable; and

thus, for example, any man has from nature itself the strictest duty and consequently right of tending to his ultimate end by those means which God himself has constituted.

146. But perfect servitude of works only is indeed not consonant with human dignity and the cultivated development of civil society. And thus the Church always labored that this perfect servitude might be abolished among nations. In many places it has already been abolished; but outside Europe it still remains. Yet if just titles are present, and the inalienable duties and rights of man remain preserved, it is not prohibited by natural law. Otherwise even simple service would be prohibited by the same natural law. As service is not opposed to the essential equality of men and to personal dignity, so neither is perfect servitude, by which someone furnishes all his free works for the utility of another.

147. But this servitude can justly be induced by the free will of the slave himself, who can freely dispose of his works for a definite or indefinite time, or for his whole life, for their lawful use, in favor of another and for his utility. It can also justly be induced through a just condemnation to such a penalty. And if a certain whole city, having been subjected in a just war, has been condemned to this penalty, then, as is clear, the same penalty would consequently be extended to born children, as to parts of the same community. Indeed, neither does injustice against natural law appear if servitude, as formerly occurred, is induced by the title of birth. For, if the master is he who sustains the slave and his offspring, it is equitable that some compensation be granted to him, to be given surely by the offspring itself, since it cannot be given by the parents; for all their labors pertain to the master. Hence at least, with civil law intervening for the good of the offspring itself, the title of birth can be made honorable for inducing servitude. Cf. Molina, de Iust. et Iure, tr. 2, disp. 120, 121; Lugo, de Iust. et Iure, d. 6, s. 2.

148. What does a slave owe to the master? - "Regularly, when servitude is just, and the slave is justly and legitimately possessed by the master, and is sustained according to the prescription of equity, all gains and emoluments proceeding from the slave's own labors and industry are acquired for the master; and therefore a slave who attributes the same gains and emoluments to himself, and disposes of them with the master ignorant and reasonably unwilling, is guilty of theft." S. O., June 20, 1866, Coll. S. C. de P. F., v. 1, n. 1293. But as regards other labors, those which he acquires by the liberality of another are his, because he acquires them as a man. Likewise he lawfully contracts marriage, even with the master unwilling, because it is a natural right of all. C. 1, de Coniuge servor.

149. Is the commerce in Black persons lawful? - "It is not lawful to capture by force or fraud Black persons and other forest-dwellers, hostile to no one, and, when they have been so captured, to buy, sell, or make other contracts concerning them. Their possessors are bound to compensate their damages and to manumit them. Nor indeed is it lawful for possessors of Black persons and other slaves, by private authority, to kill, burn, wound, treat cruelly, or expose them to danger of death; and they are bound to impede them from living in concubinage. But they can retain them in servitude, even after baptism, if they do not retain them unjustly." S. O., March 20, 1686, Coll. S. C. de P. F., v. 1, n. 230; Gregory XIV, Dec. 3, 1839, Coll. cit., n. 891. Christians cannot buy either fugitives or those unjustly reduced into servitude, unless these freely consent to be sold. S. O., Sept. 12, 1776, Coll. cit., n. 515. Those who are in legitimate

servitude can be given, exchanged, or sold by their masters, unless they are sold to those by whom they would be treated inhumanely, or, if baptized, exposed to danger of the faith. S. O., Apr. 29, 1840, Coll. cit., n. 900. They themselves cannot flee, unless perhaps they are solicited by the master to some sin, or treated inhumanely. S. O., June 20, 1866, Coll. cit., n. 1293.

150. What is the distinction of slaves and servants? - Servants are distinguished from slaves. Slaves are those who by the law of nations and civil law, contrary to natural liberty, are subjected to another master, so that they can be possessed, alienated, and sold after the manner of patrimony. Schmalz., l. 4, t. 9, n. 1 seqq. "The appellation of slaves flowed from this, that our commanders were accustomed to sell captives, and by this to preserve them and not kill them." L. 239, de Verb. sign. But servants are not slaves, but free persons, who freely enter a contract of service, hiring their works for a definite or indefinite time into the service of a master and his family. Hence servants are of the family, and therefore are also called familiars or domestics. Servants are under the governance of the master, and masters have rights and obligations toward servants. But although those are not properly understood as servants and of the family who furnish offices of service for only one or another hour in the day, yet they are understood sufficiently as familiars who through the whole day have a stable seat in the master's house and serve him, but who by night sleep in their own house. - St. Thomas, 2.2, q. 102, a. 3.

Therefore servants are also distinguished from workers. For the latter hire their works to some master for a definite time and labor, but they are not received into his house and family, nor are they properly and per se subject to his governance.

151. Whether and whence is there a society between master and servant? - If only the contract of works between servant and master is inspected, no society is had between them. But if it is inspected that the servant lives by day and night in the house of the master, and is adopted as a part of the family, then surely a society is now had, since there is now had a certain common good for the utility of individuals.

No human society can consist without some authority, and therefore subjection correlative to it is required by nature itself. "Because the conjunction," says Suarez, de Legib. l. 3, c. 1, n. 44, "of man and woman is natural, therefore in it there is found a head, which is the man.... Similarly in the other conjunction of parents and children the father has by nature power over the son. And in the third, which is of slaves to a master, it is also clear that the power of governing is with the master, as Paul teaches, Tit. 2, Eph. 6, Col. 3, saying that slaves ought to obey their masters as God. For although the conjunction of servitude is not altogether from nature, but through human will, nevertheless, that being supposed, subordination and subjection are owed by the law of nature under the title of justice. But the subjection of children also has the natural bond and foundation itself, namely natural origin, whence it is also more perfect from the title of piety."

From the contract of works there is born an obligation of commutative justice, for the servant to furnish his works to the master, and for the master to pay the stipulated wage. But from the fact that the servant is adopted into a part of the master's family, the master has the right and office also of ruling and governing the servant unto the common good of the family, and the obligation of

observance and obedience rests upon the servant in those things which pertain to the domestic order. And thus St. Thomas, 2.2, q. 65, a. 2, not from some pact or from commutative justice, but from the order of society, although imperfect, recognizes in the master, besides dominion of property over the works of the servant, dominion of jurisdiction extending to the person even to moderate correction of him.

152. What are the obligations of masters? - Masters are bound to: 1. Treat their servants benignly, that is, by addressing and commanding them decently and humanely, and by furnishing good and sufficient food, by not burdening them with excessive works, by not exposing them without due precautions to harmful and dangerous works, and by caring conveniently for the sick. And generally they are bound to fulfill the offices of charity of neighbor toward their own servants more than toward others, because servants labor for them and, as it were, live for them, and are of the family. This is clear from natural law and from Sirach 33:31: If you have a faithful servant, let him be to you as your own soul; treat him as a brother. Eph. 6:9: And you, masters, do the same things to them (the slaves), forbearing threats, knowing that both their Lord and yours is in heaven, and there is no respect of persons with him. - 2. To govern conveniently, by having due account of the goods of religion and salvation; to instruct and correct conveniently: for the master is the head of the servant, as of the whole family; but it belongs to the head to direct where there is need. It also seems clear from the words of Paul, 1 Tim. 5:8: But if anyone does not have care of his own, and especially of his domestics, he has denied the faith and is worse than an unbeliever. But servants are reckoned among domestics. Elbel, n. 950. - 3. To pay a just price: for the matter concerns an obligation of justice and natural equity; and defrauding such a wage is numbered among sins crying to heaven. 1 Tim. 5:18; 1 Reg. 30:13; L. 342; St. Thomas, 2.2, q. 102, a. 3.

Almost the same are the obligations of other masters toward workers who labor in their factories and workshops.

You will resolve: Masters can sin, and indeed also gravely: If they do not grant servants time to learn the rudiments of the Christian faith, or do not send them to catechism and sermon; if they do not see to it that at the due time they assist at Mass, confess, and communicate. - If they hire, or retain in the house, servants addicted to illicit sects, irreligious, impious, blaspheming, speaking shameful things; if they do not admonish and correct those sinning gravely, or do not dismiss those unwilling to promise amendment, unless perhaps they greatly need them and cannot find others. - If they do not watch, as far as lies in them, that slaves abstain from sins; if they permit them an occasion of sinning; if by depraved example or solicitations they induce or entice them into sin. - If they do not pay the promised or just stipend, or delay it too much; if they do not care for sick servants and immediately expel them, or dismiss them before the fixed time without a just cause. - Catholic Epistle of Blessed James 5:4; C. B. 618; L. 342.

For understanding the gravity of the sin as regards the aforesaid admonition, correction, and vigilance omitted, and the scandal that followed, it is often necessary to disclose the condition of master. For as regards outsiders, grave fault is often absent.

153. What are the obligations of servants? - Servants are bound to furnish to masters: 1. Reverence; for thus the Apostle, 1 Tim. 6: Let slaves deem their masters worthy of all honor. Consequently

they can sin even gravely who ridicule masters, despise them, or manifest their hidden defects. - 2. Obsequium and obedience in all those things to which they have obligated themselves by force of contract and by force of positive laws, Austrian Code 1172, German Code 616, 617, and in those things which look to good morals; for by force of service there arises a relation of superiority and subjection between master and servant. Therefore if the right of governance belongs to the master, the obligation of obeying corresponds to the servant. Thus Eph. 6:3: Slaves, obey your carnal masters with fear and trembling in the simplicity of your heart, as Christ. And 1 Pet. 2:18: Slaves, be subject in all fear to masters, not only to the good and modest, but also to the difficult. Hence those sin more or less by reason of the matter who, when something is commanded them, murmur, answer insolently, waste time uselessly, neglect to carry out the commanded labor, or labor for themselves with damage to the master; and, in one word, all those who do not furnish such obsequium as ordinarily is accustomed to be required and furnished by such persons. - 3. Fidelity; according to the words of Paul to Titus 2:9: Slaves are to be subject to their masters..., not defrauding, but showing good fidelity in all things. Hence they sin, and often gravely against justice, who do not have care of things entrusted to them, who by their own fault allow them to become worse, who steal expensive victuals, or those not usually given to them, whether for eating, or for giving or selling to outsiders, who manifest the secrets of the family, especially if damage follows from this. - Leo XIII, Enc. Quod Apostolici, Dec. 28, 1878; St. Thomas, 2.2, q. 102, a. 3.

For understanding the gravity of the sin by reason of irreverence and disobedience against observance and dulia, and of infidelity against justice, the condition of service must be manifested in confession. Otherwise the grave malice which is present either is not declared, or is not sufficiently expressed in its lowest species.

Almost the same are the obligations of workers toward their own patrons.

154. Note: "Wage is owed to servants sick for a brief time, for example for a few days, because the time of the year for which they are hired must be taken morally, or a short time lacking must not be attended to; for a small time in respect of the whole year must be accounted as nothing. But it is otherwise if the servant is sick for several months, because wage is by no means owed for an office not furnished. L. 346. Nor is the master bound to expenses to be made for care, or for remedies and the work of a physician. On this all agree, if the expenses are notable; indeed St. Liguori, n. 864, after Lugo, also admits this at least as probable if the expenses are light. - But no wage is owed to workers, even those sick for a brief time, because these are hired by the day..., therefore they are to be compensated only for individual days, indeed for half a day, if they fail for half." Gury, Cas. 972. - C. B. 616, 617.

The master cannot dismiss a servant before the established time without a grave cause. The reason is that the contract of hiring is truly onerous, obliging each party according to the measure of the matter. Therefore, just as the servant cannot desert the master without grave cause, if the latter, by defect of the servant, would have to suffer grave damage, so likewise neither can the master cast off a servant hired for a year without grave cause. A master dismissing a servant before the time without sufficient cause is bound to repair the damage arising therefrom. But if the servant departs before the established time, per se he has a right to salary almost pro rata for the time of service, yet a little less;

but if the master suffers grave detriment from the departure of the servant, he can retain a proportionate part of the stipend. - L. 342, 345; C. H. 1584; C. B. 620 seqq.

Servants can rightly receive salary from a master burdened with debts, if they have furnished service in good faith. For it is the just wage of labor, and the master gives his own thing. "But whether they are bound to depart, if they notice that the master is rendered unable by such service to satisfy his debts? Navarr., etc., affirm. Molina, however, denies, and not improbably, says Laymann. For they do not sin against justice if, having been asked by the master, they serve and receive wage; nor against charity, if others will not be lacking for service." L. l. 3, n. 694. And this most of all if the master needs the servant.

155. Are servants bound to restitution when culpably they do not prevent damages which are brought upon the master? - Either servants are hired for guarding the family property, and for watching over and preventing any damage from being brought upon it, such as administrators, guards, etc., who are usually called by this name rather than by the name servant; or they are hired for merely furnishing their labor and work in things necessary to the family, who commonly are properly called servants. - In the first case they are bound to restitution and compensation of damages. For they are bound to prevent the damage of the masters from office and contract, and therefore from strict commutative justice.

In the other case, some say that even servants are bound to compensation of damages, whether those are brought in by outsiders or by other servants. Their reason is that, by force of service itself, the master commits his things into custody to each servant. Others more commonly and more probably say that they are bound if theft and damage are committed by outsiders; they are not bound if it is committed by other servants or domestics. The reason is that from the very fact that they are admitted into the family they are indeed judged to undertake the obligation of defending it against outsiders, but by no means also against other familiars. Finally, others say that servants are not bound to restitution or compensation of damage. For although they are obligated from charity to prevent that damage, nevertheless they are not obligated from justice. For they are hired indeed to furnish their labor and work in things necessary to the family, but by no means also to guard and defend the goods of the family. Special servants and administrators are placed over custody and vigilance over domestic things or the family, and especially over the care and custody of stores; and to these the keys to the things to be guarded are handed over. Therefore servants are bound to restitution or compensation of damage only when that care and custody of the family property has been committed to them by a special office, either explicitly or implicitly, for example when a key is given to them for drawing something from some place, because for that time the custody of that place is entrusted to them. - This variety of opinions standing, the confessor ought prudently to abstain from urging the obligation of restitution. - Lugo, d. 19, n. 106; L. l. 3, n. 344, 573.

156. Can servants, judging that the salary is below the work furnished by them, use occult compensation? - R. Affirmatively, if the masters do not pay the stipend established by convention, or diminish it. For then they openly injure commutative justice. Ithur., Cas. 1, n. 2. - R. Negatively, at least generally speaking, outside the aforesaid case. It is proved: 1. from proposition 37 condemned by Innocent XI. 2. For although they agreed about a lesser price, nevertheless the contract, as just in conscience, must be stood by. At least generally speaking,

because many except: 1. If the servant is compelled by force or fear to consent to an unequal price. 2. If, compelled by necessity, he consented to it, provided, however, that the master otherwise would not already justly have found other servants at the same cheap price, or that he did not admit this petitioner from mercy. Indeed, if a servant, with no wage established, serves from the master's mere charity, so that he may be nourished by him, he can claim nothing, "as happens with boys whom nobles or Bishops are asked to admit into their family; for then it suffices if the masters furnish them food, clothing, and dwelling, since such is the custom." L. 348. 3. If unwillingly he is burdened with undue works. 4. If he increases his works from the will of the master, either express or tacit; for the worker is worthy of his wage; but it is otherwise if altogether spontaneously he himself increases his works, because then he is judged to donate the works in order to conciliate to himself the master's favor. L. 342, 348, 502.

157. Note: What has been said of servants must be said likewise of other workers and of merchants. - What is just compensation can be left even to the judgment of the servant, if he is prudent and of timorous conscience. But in practice the matter is often not without danger of hallucination. - The danger is also practically to be forestalled, lest if he is detected to have stolen the master's money, he be dragged about as a thief and condemned to prison. - L. 524.

XI. On Masters and Workers

158. The things which have been said of masters and servants must be understood, with due proportion, of patrons and workers, as we have already said, whether these are craftsmen or tenants, who for some definite time, or for some determined work, labor for the utility of others. Moreover, the first duty of all is that they enter a just pact, with due equality preserved between labor and stipend. Then the contract entered must be faithfully observed. Accordingly, the worker ought to furnish the promised work; the patron is bound to pay the promised wage. Patrons and workers can indeed enter a contract of hiring of work or labor for a fitting wage. They can also enter between themselves a contract of partnership, so that the patrons confer capital into the partnership, the workers labor, and then receive proportionate fruit. Each contract is lawful; but neither can patrons compel workers, nor workers patrons, to one rather than to the other; the matter must be determined by free convention of patrons and workers.

159. Masters and patrons are bound per se not to burden workers with longer and graver labors, nor to expose them to dangerous labors, unless the reason of the common good requires otherwise and due precautions are employed.

They are bound to treat workers well, with urbanity and Christian charity. Besides, they must leave them liberty of fulfilling the offices of religion, and therefore by no means ought to compel them to work on Sundays and feast days, unless grave necessity urges; and then at least they must grant them time, as far as can be done, for hearing Mass.

They are bound to pay a just wage, according to the pacts entered, and at its time. They are bound not unjustly to impede them from laboring, and from being able suitably to sustain themselves by their labor. Likewise, from charity they ought to succor them when they are placed in necessity,

before other outside poor persons, since the workers are more joined to them and are of no small utility; for the profit which they receive is owed in great part to the labor of workers.

Masters and patrons, as superiors, are bound to avert dangers of body and soul from workshops in which many workers labor. Of body, by providing for their health with suitable safeguards; of soul, by prohibiting blasphemies, shameful conversations, perverse journals, obscene images, and that men and women, especially the younger, not be together promiscuously.

160. Workers in turn are bound with due skill and diligence to furnish the promised work, with the conditions of the freely entered convention observed. Conditions, that is, lawful and just. Therefore, if they do not labor during the time established by the contract, or if in labor they do not employ at least ordinary and moderate diligence, they are bound to restitution, and must also repair the damage that followed. Nor indeed in any way can they, against the aforesaid just contract, cease from labor, with damage to the master, and much less induce other workers to the same cessation, in order to obtain a diminution of the time of labor and an increase of salary. This is manifest injustice. When the time of the contract has elapsed, and the promised work has been furnished, if they wish to renew the contract under better conditions, lawful and just, and cannot obtain this otherwise by lawful and just means, then they surely can, if they wish, cease from work, yet without impeding by threats and force others willing to labor, and without disturbing public order.

And here it must be noted that the better conditions which workers can demand in entering a new contract can be unjust and just. Patrons are not bound to accept unjust ones; but they are not always bound to accept just ones; for if they also offer just conditions, they are evidently not then bound to accept the just conditions which the workers propose; and those same workers cannot impede other workers willing to labor under those just conditions of the patrons.

161. Therefore workers act unjustly if, contrary to the pacts entered, they cease from labor; and much more if by threats and force they compel other workers also to desist from labor; but most of all if they disturb the peace of the city; so that by these means they themselves may furnish the smallest work with the recompense of the greatest wage. - Patrons likewise would act unjustly if, contrary to the pacts entered, they dismissed workers; and much more if they also compelled others by threats and force to dismiss them, so that workers may furnish the greatest work for the recompense of the smallest wage. - To impede this struggle between patrons and workers, it is necessary that patrons embrace workers with Christian charity, and that workers tolerate labor with Christian patience and revere patrons.

162. In this matter the civil prince can furnish many things rightly and usefully by his authority: "If it ever should happen that some disturbance threatens because of a withdrawal of craftsmen, or works interrupted by agreement; that the natural bonds of the family are relaxed among proletarians; that religion is violated in the workers, by not sufficiently granting convenience for the offices of piety; if danger threatens integrity of morals in workshops from sex mixed together or other pernicious enticements of sin; or if the masterly order presses the order of workers with unjust burdens, or afflicts them with conditions foreign to the person and to human dignity; if health is harmed by immoderate work, and not accommodated to sex and

age: in these causes the force and authority of the laws must plainly be employed within definite limits. These limits are determined by the same cause which demands the help of the laws: namely, no more is to be undertaken by laws, nor is progress to be made farther, than the healing of inconveniences or the repulsion of danger requires." Leo XIII, encyclical letter de Conditione Opificum.

163. For determining the just quantity of salary, attention must be paid not only to free convention, but also to the nature of labor. Now indeed "to labor is to exercise oneself for the sake of obtaining things which are for the various uses of life, and especially necessary for the protection of oneself. In the sweat of your face you shall eat bread. Therefore labor in man has two notes, as it were, implanted by nature: namely that it be personal, because the active force inheres in the person and is entirely proper to him by whom it is exercised and for whose utility it is born; then that it be necessary for this reason, that the fruit of labors is needed by man for protecting life; but nature itself of things, which must especially be obeyed, commands that life be protected. Now, if it is considered only from that part by which it is personal, there is no doubt that it is free to the craftsman to define more narrowly the measure of the stipulated wage; for as he gives his works by will, so also by will he can be content with a small wage for the works, or plainly with none. But one must judge far otherwise if with the reason of personality there is joined the reason of necessity, separable from it in thought, indeed, but not in reality. In fact, to remain in life is the common duty of individuals, which it is a crime to fail. Hence there necessarily arises the right of finding things by which life is sustained: but the faculty of these things is supplied to every lowest man only by the wage acquired by labor. Therefore let it be that the worker and the master freely consent to the same agreement, and by name to the measure of salary; nevertheless there is always underlying something from natural justice, and this greater and older than the free will of those making the pact, namely, that the wage ought not to be unequal to nourishing the worker, frugal indeed and well behaved. But if the worker, compelled by necessity or moved by fear of a worse evil, accepts a harsher condition, which, even though he does not wish it, must be accepted, because it is imposed by the master or by the contractor of works, that indeed is to undergo force, against which justice cries out."

164. But since the price of things which are necessary for life is various, it is clear that the just wage to be paid to the worker is to be attended not only from the labor furnished, according to common estimation, but also from this varying price of things. Therefore the just wage of workers depends on various causes.

The work which is furnished by workers for the convenience and utility of others is the work of a human person, proceeding from human liberty; hence, although it is considered as a certain quasi-thing, it is something nobler than merchandise, and it assumes the nature of merit and of right to reward. Therefore the wage which is rendered to them, and which is usually called salary and stipend, although it is considered as a certain price, exceeds the price of things, and takes to itself the nature of reward and remuneration. But that work, from the provident disposition itself of nature, must be furnished by the worker so that by that work he may procure for himself the things necessary for life. Therefore the salary which is given to the worker for his work furnished is not as it

were an exchange of thing with thing, of merchandise with price; nor consequently is it given only for the work itself furnished for the utility of another, but it is also given for the person himself, for the necessity of the person, for the merit of the person.

165. Therefore the wage of works ought to suffice for the worker to be nourished, from the intention itself of nature, which supplies industry and labor to man for seeking those things which are necessary to himself for life. Hence primarily the justice of the wage is to be estimated which consequently, since it ought to suffice for daily sustenance, supposes a daily office on the part of the worker. Daily sustenance is certainly not to be taken strictly, as for an animal, but more broadly and suitably, as for a man, so that in it there is comprehended, with due proportion, with the whole time of human life inspected, and the condition of workers in civil society, both food and dwelling and clothing and other things, in the various necessities occurring in human life from sickness, from old age, etc., altogether indispensable for life itself. And these things besides are to be estimated with due moderation; for the worker is supposed not to be vicious and a squanderer, but well behaved and frugal. But the daily office is to be understood only morally, and likewise suitably to the labor itself to be exercised, harder or lighter. Hence, as it certainly does not comprehend the twenty-four hours of the day, so neither is it confined to one or another hour. But since those things which are necessary for life have varying price according to varying time and place, hence also the just salary of workers will be various according to the various circumstances of times and places.

And from this again it is clear that the work of man is not properly merchandise, nor properly is its wage a price. Nevertheless there is no doubt that that work is also as it were merchandise, considered in itself and not in relation to the person whose act it is, and consequently its wage is taken as a quasi-price. Hence the wage of works is estimated variously also under this head, according to the various customs of regions, from the works themselves, that is, from their intrinsic excellence, general necessity, utility, labor, and danger. Hence it is estimated differently in physicians, schoolmasters, painters; differently in architects, masons, diggers. But by no means is it estimated from their peculiar necessity and utility; for this pertains to the hirer, for example, if the boy to be instructed is endowed with great talent.

166. Therefore, as prices of things, so again wages of works can be increased and diminished. But they are increased and diminished from those same causes by which prices of things increase and decrease: from the fact that there are many who furnish works, few who hire them; from their daily duration, longer or shorter; from the labor expended in them; from the danger which is incurred in them; from the required skill; from the spontaneous offering of them. Consequently the wage of works will be just if it at least reaches the lowest wage which, in such a place and time, is customarily given to such workers. - And if one furnishing his works furnishes them to another or to others as a quasi-partner, it is equitable that he also receive something from the profits.

But the wage of works can by no means be increased or diminished from the various conditions either of the person to whom they are furnished, or of the person who furnishes them. For justice inspects the equality of thing to thing, not the various circumstances of persons. And thus a greater wage is not to be paid because a less skilled locator furnishes them with greater labor, time, and

danger than others; or because he is in want, has a wife, and also has children; whence that absurd family salary is exploded. This is besides exploded also from the very established breadth of the just wage of workers, if these, namely, are well behaved and frugal, and live with due parsimony, which at the beginning is indeed necessary, and then ends in a small patrimony to be acquired.

XII. Obligations of Teachers and Students

167. Concerning obligations, a few things must first be said concerning Rectors of Colleges and pupils; then concerning the obligations of teachers and students.

168. The chief obligation of Rectors of Colleges and Boarding Schools is to see to it that pupils learn the rudiments of the Christian faith and are duly instructed in the offices of Religion; then that they are imbued with honest morals and become accustomed to the frequency of the sacraments; finally that they give work with progress to useful studies. - The reason is that for this end parents place their sons to be educated in Colleges and Boarding Schools. Therefore the Rectors of Colleges and Boarding Schools enter into the obligations of parents, who owe their sons especially corporeal and spiritual education. And although parents should fail in their office in this matter, nevertheless the Presidents and Rectors of Colleges and Boarding Schools cannot therefore be negligent in this matter; for they are obligated to have that care and diligence by force of the very office undertaken, which is a certain participation in paternal power itself.

169. Pupils of Colleges are bound to exhibit to their superiors love, and cult, reverence and obedience, in those things which look to their authority and care; likewise necessary support. - They owe love, because Superiors of Colleges have care of them as it were paternal. Hence "they are called fathers because of the likeness of care." St. Thomas, 2.2, q. 102, a. 1, c. They owe honor and cult. For their Superiors are truly constituted in dignity and truly have the office of governing. "By reason of excellence honor is owed to them, which is a certain recognition of someone's excellence. But by reason of the office of governing, cult is owed to them, which consists in a certain obsequium; namely, while someone obeys their command, and repays in his own measure the return for their benefits." St. Thomas, 2.2, q. 102, a. 2. Cf. also a. 1 and q. 103, a. 2. They owe obedience: for obedience is owed to all superiors. Obey, says the Apostle, Heb. 13:17, your prelates, and be subject to them. For they watch as if about to render an account for you. - Finally they owe support, or an honorarium or pension; for many expenses must be sustained, and their very work and care is estimable by price and most worthy. Let the priests who rule well, says the Apostle, 1 Tim. 5:17, 18, be held worthy of double honor, especially those who labor in word and doctrine: for the worker is worthy of his wage.

170. Acts of this kind, of love and obedience, are formally acts of the virtues of charity and obedience; but insofar as they proceed from the cult of Superiors, "they are contained in a certain way under observance." St. Thomas, 2.2, q. 104, a. 3, ad 1. But honor and cult properly look to the virtue of observance, which obligates subjects and superiors mutually, as the virtue of piety obligates those joined by blood mutually. For the relation of subject and superior

founds a special obligation to certain acts of virtues, just as the conjunction of blood founds a similar obligation. Whence also the virtue of observance reductively pertains to the fourth precept of the Decalogue. But there are two kinds of men toward whom the virtue of observance obligates us. The first kind is of Superiors who have spiritual power over us, such as the Supreme Pontiff, Bishops, Pastors, or also Confessors. The second kind is of secular Superiors, who have temporal power over us, such as Kings, Princes, Leaders, or also Masters of a house, or fathers of families with respect to servants. Likewise Rectors or Superiors of Colleges. Struggl., tr. 7, q. 2, a. 4, n. 23. Finally the stipend owed pertains to commutative justice.

171. Since, therefore, the reason of superiority can be various, obedience likewise can be manifold: ecclesiastical, civil, sacramental, by force of the sacrament of penance to be received with respect to the Confessor, voluntary by reason of vow, domestic or economic, etc.

173. But by the natural law itself, in seminaries, colleges, and boarding schools, pupils are bound to denounce corrupters who bring great spiritual damage to others; nor can they be absolved unless they consent to a denunciation of this kind.

174. But here it is asked whether Superiors of Colleges and Rectors of Seminaries can, for the right discipline of the College or Seminary, establish rules or statutes obliging in conscience? - R. Affirmatively; for they have true authority, at least economic, and they have true care of the common good, for which it is especially expedient that determined rules to be observed be present, at least under a penalty to be undergone by transgressors. Yet this faculty, as is clear, is limited. For it extends only to those things to which their prelacy is ordained. St. Thomas, 2 Sent., D. 44, q. 2, a. 3. Busembaum apud St. Alphonsus, l. 3, n. 361, says: "Students sin... if they do not obey in things pertaining to studies and good morals... if they do not observe the laws of their Gymnasium, or the statutes of the Academy, if indeed these oblige to sin."

175. Between teachers likewise and students there are in a certain way also the same obligations as between parents and children. The reason is that parents, whose proper right and obligation is the education and instruction of children, substitute teachers for themselves, who therefore in this matter hold their place toward the children.

Therefore teachers and preceptors owe to students love, good example, right education, correction, true doctrine. - Hence they are bound to perfect themselves in the science which they teach, for duly instructing others; to promote the progress of students in letters, as far as lies in them; to avert them as far as they can from others who are defiled with depraved morals, and whom they must in no way admit in their schools. - They can fail also gravely when they neglect the instruction of students, or punish them unjustly or indiscreetly; but especially if they seduce them by impelling them to sins; if they do not teach good morals; if deliberately they teach false things as true, or things harmful to salvation; if they retain pupils imbued with evil morals, who are pernicious to others, etc. - But they can fail gravely both by reason of office and by reason of the stipend which they receive. - L. 361.

If a teacher has undertaken special care of the education of his students by quasi-contract, by contrary sins, for example of scandal, not only charity but also justice is violated. Whence the condition of teacher must be explained in those things.

Students are bound in turn to exhibit to teachers love, reverence, and obedience, on account of the superiority and care of the same, while they are instructed by them in good morals and arts. The reason is clear: for the reciprocal obligation of students toward teachers imports this, since teachers would plainly be obligated in vain to instruct them, or to imbue them with good morals, unless students likewise were obligated to follow the admonitions and precepts of teachers. - But students sin, gravely or lightly from the very gravity or lightness of the matter and its various circumstances, if they do not obey teachers in things pertaining to studies and good morals; if they do not exhibit honor and reverence to teachers; namely, if instead of studying diligently they waste time in idleness, play, or other foolish things against the will of their teachers; if they detract from teachers, or ridicule them, mock them, afflict them with curses, calumnies, troubles, etc. - C. 1, ult., de Magistr. etc.; Clem. 2, e. t.; L. 361; St. Thomas, Quodl. 3, a. 10.

The condition of student must be explained in grave sins against due reverence and obedience. Otherwise grave malice against observance is not declared.

176. Does someone lawfully accept the office of Rector or Professor in the Universities of modern Governments, in which incorrect doctrines are handed on by other Professors?

R. Affirmatively, provided he himself reproves the false doctrines of the other Professors and in no way favors them; and fulfills his office of Rector or Professor according to the norm of Christian doctrine. The reason is that cooperation in such a University is merely material and very remote, since, if one refuses, and he an honest and Catholic man, many others will not be lacking, and they either unworthy or certainly less worthy and fit. Besides, a grave cause of cooperation of this kind is had: namely, not only on the part of the person himself, that is, the reception of an honorarium for the sustenance of himself and his own, but also, and especially, on the part of society itself, namely, the evil of the young to be impeded, and their good to be promoted; which certainly would be greatest if honest and Catholic men themselves would strive before evil and impious men to direct public schools, and to teach publicly in them. - S. O., March 21, 1866, Collect. S. C. de P. F., n. 1294.

All public Doctors and Teachers of any discipline whatever, from Trent, S. 25, c. 2, de R., and from the Constitution Sacrosancta of St. Pius V, are bound, before they enter upon the office of teaching committed to them, to emit the profession of faith according to the formula prescribed by Pius himself, as also those to be promoted to the scholastic grades of doctor, etc.

177. May someone lawfully study in a University or other school of a modern Government, in which false doctrines are handed on by the professors, and receive in it the academic grades of Bachelor, Licentiate, Doctor?

R. Affirmatively, if there are no other Catholic schools, and provided there is no danger of perversion as regards faith and morals, and any false doctrine which is heard against Religion is reproved from the heart, and nothing is done by words or works to sustain it. The reason again is that material and sufficiently remote cooperation can be excused from a legitimate cause, which here is the reason of learning doctrine, the impossibility which is present of going to other schools, and which would be had for obtaining academic grades. - Leo XIII, to the Romans, Aug. 16, 1878; Instruct. S. C. de P. F., Jan. 16, 1841; June 30, 1875; S. O., Nov. 24, 1875; March 14, 26, 1895; Collect. S. C. de P. F., v. 2, n. 1449, 1890, 1260.

178. "Teachers and pedagogues sin: ... if they deny the insignia of the doctorate to the worthy, and confer them on the unworthy; which Navarrus says is mortal, especially in Theology, Canon Law, Civil Law, and Medicine; for in Philosophy Cajetan perhaps judges it to be only venial." Busembaum apud St. Alphonsus, l. 3, n. 361.

"Let no one hereafter be presented with the laurel of Theology and Canon Law who previously has not completed the established course in scholastic philosophy. But if he is presented with it, let him be presented in vain." Pius X, encyclical Pascendi, Sept. 8, 1907.

If someone in the same year is enrolled simultaneously in the Theological Faculty and that of Canon Law, even if in diverse Institutes, let him exist deprived of every right to receiving grades. But if he is presented with any grade, let him be presented in vain. S. C. Stud., July 11, 1896.

Academic grades obtained at Rome or elsewhere in Catholic Universities or Pontifical Institutes are to be judged altogether valid in other places without new confirmation or new taxes being exacted. - Monit. Eccles., v. 21, p. 398 seqq.

XIII. On the Obligations of Inferiors and Ecclesiastical Superiors

179. What are the obligations of inferiors as regards ecclesiastical superiors? - Subjects are bound to exhibit to their spiritual superiors love, honor, and obedience in those things which look to their jurisdiction and care; likewise necessary support. It is proved: 1. This is clear from many places of Sacred Scripture, 1 Tim. 5:17, 18; Heb. 13:17, etc. 2. As regards love, reverence, and obedience: because they are superiors, having true jurisdiction; as regards support: because the worker is worthy of his wage. As to those who apply their work to the common utility, that is, to Princes, soldiers, and others of this kind, stipends of sustenance are owed by the people, so also to those who minister to worship unto the salvation of the whole people, the people owes stipends of sustenance. - Trent, s. 25, c. 17, de R.; Leo XIII, encyclical Sapientiae christianae, Jan. 10, 1880; St. Thomas, Quodl. 6, a. 10; Quodl. 10, a. 12.

180. You will resolve: Therefore all Christians are bound under grave fault to obey the Supreme Pontiff in things pertaining to faith, to morals, and to Christian discipline; for in these he is the Vicar of Christ on earth. In the same way diocesan subjects are bound to obey Bishops, according to the reason of the matter, in those things which look to their jurisdiction.

181. What are the obligations of ecclesiastical superiors? - Spiritual superiors in turn are bound to exhibit to subjects love, spiritual care, doctrine, and good example. It is proved: 1. This is clear from many places of Sacred Scripture; cf. the Epistles to Timothy and to Titus, and the Council of Trent, s. 23, c. 1, de R. - 2. It is evinced from their office itself. - Whence neglect of souls as regards their Christian instruction and administration of the sacraments, as regards their due admonition and correction, in ecclesiastical superiors is not only against charity, but also against justice, and for the most part a mortal sin, according to that saying of Ezek. 34:2, 4: Woe to the shepherds of Israel: that which was weak you have not strengthened, and that which was sick you have not healed, etc. - L. 357 seqq.

XIV. On the Obligations As Regards Civil Authority

182. Since domestic society is an imperfect society, and does not furnish sufficiency for the necessities of human life, while nature does not make the imperfect except that it may tend to the perfect, it is clear that, by the very connate sociability of human nature, civil society is born from the natural development of families. Consequently, as the family is an immediately natural society, so also the commonwealth obtains its origin immediately from nature itself; and consequently political principate also, considered absolutely and according to itself, is immediately from God, as from the author of nature. Indeed, by nature itself man is ordained both to imperfect society, or the family, and to perfect society, or the commonwealth, which consequently is something flowing from human nature itself. Suarez, de Legib. 3, c. 1, n. 3. But no human society can be or be conceived without authority ruling and governing it. Suarez, de Legib. l. 3, c. 2, n. 4. Whence the Apostle, Rom. 13:1: "Let every soul be subject to higher powers; for there is no power except from God; but those which are, are ordained by God." Whence, there is no power except from God. Whoever have the right of commanding do not receive it from elsewhere... Whatever power there is anywhere, nature itself testifies that it proceeds from God. Leo XIII, encyclical Immortale Dei.

183. "But it is of interest to attend in this place that those who are to preside over the commonwealth can in certain cases be chosen by the will and judgment of the multitude, with Catholic doctrine neither opposing nor resisting. By which choice indeed the prince is designated; the rights of principate are not conferred; nor is command mandated, but it is established by whom it is to be carried." Leo XIII, encyclical Diuturnum illud teterrimumque bellum.

184. Civil society, therefore, is a perfect society of the natural order, which supplies perfect sufficiency of life. Leo XIII, encyclical Immortale Dei; St. Thomas, in 1 Polit., lect. 1. Perfect sufficiency, by supplying the defect of the individual person and of domestic society as regards the perfect cultivation of human life. "For every communication of men is ordered to something necessary for life." St. Thomas, in l. c. Therefore that will be the perfect commonwealth in which are found all things necessary for developing human life; this happens by observance of public order, for the common good of the associates, namely that they live in peace and justice with sufficiency of goods which look to the conservation and convenience of bodily life, and with that probity of morals which is necessary for this external peace and happiness of the commonwealth and the suitable conservation of human nature. Suarez, de Leg., l. 3, c. 11, n. 6. For indeed "a city is not blessed from one source and a man from another, since a city is nothing other than a concordant multitude of men." St. Augustine, Epist. 155. Therefore, just as God is the simply ultimate end of the whole of human life, so God is also the ultimate end of civil society; and consequently the operation of the whole commonwealth ought finally to tend to that end, by ordering the life of men through laws to virtues. St. Thomas, l. c. and 1.2, q. 96, a. 3; Suarez, de Leg., l. 3, c. 12.

185. Now indeed from the very nature of civil society sketched out, it is easily deduced what in it is the obligation of the prince or public power, and of subjects.

Princes are bound to have diligent care of the common good. Consequently they are bound to avert evils, as far as can be done, from society, evils which arise from wars with foreigners and from internal seditions by the work of sects of Freemasons, socialists, and others of that kind.

"Command must be carried for the utility of citizens, because those who are over the rest are over them for this one cause, that they may protect the utility of the commonwealth. Nor must it in any way be committed that civil authority serve for the advantage of one or of a few, since it has been constituted for the common good of all." Leo XIII, encyclical Immortale Dei; encyclical Diuturnum.

Therefore the most grave obligation of princes is that they rightly perform their own office. And the obligation is the graver, the more sublime their dignity is. "Let princes take examples from God, best and greatest, whence authority is theirs; and proposing to themselves his image in administering the commonwealth, let them be over the people with equity and faith, and to that severity which is necessary let them apply paternal charity." Leo XIII, encyclical Diuturnum.

186. Therefore princes are bound to make laws that are just and useful to the common good, to administer justice without respect of persons, and to urge the execution of public decrees and sentences, according to the threefold office of political power, legislative, judicial, executive or coercive; and consequently they are bound to inflict due punishments on malefactors, especially as regards those crimes which directly tend to common damage. But since princes cannot exercise by themselves the three listed offices of authority, they ought to entrust them to distinct and fit magistrates, removing the unworthy and inept from public offices of this kind.

187. Certainly those laws are not just which decline from natural, divine, or human right. The following propositions have been condemned:

"56. The laws of morals have no need of divine sanction, and there is by no means need that human laws be conformed to the natural law, or receive the force of obliging from God." Syllabus.

"57. The science of philosophical matters and morals, and likewise civil laws, can and ought to decline from divine and ecclesiastical authority." Syllabus.

"The will of the people, manifested by what they call public opinion or in another way, constitutes the supreme law, loosed from all divine and human right; and in the political order completed facts, by the very fact that they are completed, have the force of right." Pius IX, encyclical Quanta cura.

188. On the contrary, from the Angelic Doctor, 1.2, q. 96, a. 4, laws will be just which are ordered to the common good, which do not exceed the power of him who bears them, which impose burdens on subjects according to equality of proportion in order to the common good. It is also necessary that laws be imposed on men according to their condition. "Human law is placed upon the multitude of men, in which there is a greater part of men not perfect in virtue. And therefore by human law not all vices are prohibited, from which the virtuous abstain, but only the graver ones, from which it is possible for the greater part of the multitude to abstain, and especially those which are to the harm of others, without the prohibition of which human society could not be conserved; thus by human law homicides, thefts, and things of this kind are prohibited." St. Thomas, 1.2, q. 96, a. 2.

189. But princes ought especially to have care of religion, and consequently to preserve the rights of the Church. For the common good of society is most greatly promoted, the public order of society is preserved undisturbed, and laws are observed holily, if the offices of religion are observed inviolate. Free-thinkers are in error, and in the greatest error; consequently they are opposed to the true good and progress of society. The good and progress of society cannot be in error. Therefore, by right and merit, the following three propositions were proscribed by Pius IX in the encyclical Quanta cura:

"The best arrangement of public society and civil progress altogether requires that human society be constituted and governed with no respect had to religion, as if it did not exist, or at least with no distinction made between true and false religions."

"The best condition of society is that in which the duty of coercing with established penalties violators of the Catholic religion is not recognized by the Government, except insofar as public peace demands."

"Liberty of conscience and of worship is the proper right of each man, which ought to be proclaimed and asserted by law in every rightly constituted society; and the right belongs to citizens to every kind of liberty, to be confined by no ecclesiastical or civil authority, by which they may be able openly and publicly to manifest their own concepts, whatever they may be, whether by voice, by print, or by another manner."

Aptly Leo XIII, encyclical Immortale Dei: "Nature and reason, which command individuals to worship God holily and religiously, because we are in his power and because, having proceeded from him, we ought to return to the same, bind the civil community by the same law. For men joined in common society are no less in the power of God than individuals, nor does society owe less grace to God than individuals do; by him as author it came together, by his nod it is conserved, by his benefit it received the innumerable abundance of goods with which it abounds. Therefore, just as it is lawful for no one to neglect his duties toward God, and the greatest duty is to embrace in mind and morals religion, not what each one may have preferred, but what God has commanded, and what by certain and by no means doubtful indications it has been established is the one true religion out of all; in the same way commonwealths cannot, without crime, bear themselves as if God did not exist at all, or cast aside care of religion as alien and in no way profitable, or take to themselves indifferently out of the many kinds whatever pleases them. Altogether they ought to use, in worshiping the Divinity, that custom and manner by which God himself has shown that he wills himself to be worshiped. Therefore the name of God ought to be holy among princes; and among their chief duties must be placed to embrace religion with favor, to protect it with benevolence, to shield it by the authority and nod of the laws, and to establish or decree nothing which is contrary to its safety. They owe this also to the citizens over whom they preside. For all we men have been born and received unto a certain supreme and ultimate good, to which all plans are to be referred, placed in the heavens, beyond this fragility and brevity of life. But since the fully completed and perfect happiness of men depends on this, therefore it is of such interest to each individual to attain that end which has been mentioned, that nothing can be of greater interest. Therefore civil society, born for the common utility, in guarding the prosperity of the commonwealth, must so consult citizens that in obtaining and attaining that supreme and unchangeable good which they spontaneously seek, it not only never bring any inconvenience, but bring all opportunities whatsoever that it can. The chief of these is that work be

given to religion to be preserved holily and inviolate, whose offices join man to God." Leo XIII, encyclical Immortale Dei.

Certainly civil society has God as parent and author. Therefore it is necessary that it revere and worship his power and dominion. Wherefore society cannot be atheistic, nor consequently be affected in an equal way toward various religions, toward the true and the false; it cannot lavish the same rights promiscuously on each.

190. Besides, the prince is bound effectively to protect the rights of citizens and especially of property; otherwise the peace of society is disturbed by dissensions. He is bound to promote agriculture, industries, arts, and commerce of various things, so that citizens not only not lack, but even abound in things necessary for life. And, since the poor are never lacking, he is bound to excite and foster works of public charity and beneficence. Likewise he is bound to advance the sciences, so that perfect material and moral sufficiency of life may truly be found in civil society.

Therefore socialism, which contends that things and advantages are to be divided equally among citizens, "and its proposal concerning reducing possessions into common ownership must be altogether repudiated, because it harms those very persons who are to be helped, is repugnant to the natural rights of individuals, and disturbs the offices of the commonwealth and common tranquillity. Therefore, when relief of the people is sought, this ought to remain and be held first as a kind of foundation, that private possessions are to be preserved inviolate." Leo XIII, encyclical de Conditione opificum.

191. The explored smallness of his powers impels and exhorts man to wish to join to himself another's help. By this natural propensity man is led to public civil society, and to entering other private societies with citizens; for private society looks only to the utility of those associated. The prince ought to protect and assist all these societies, if they are not contrary to the good of civil society; much more if they are very useful to it, as are all religious associations or religious Congregations. But these, since by common rule and manner of living they profess the perfection of the evangelical counsels, and consequently depend on the authority of the Church, if they are prohibited and expelled by civil society, not only the rights of nature, but also the rights of the Catholic Church are violated. Therefore with right and merit proposition 85 was condemned in the Syllabus:

"The laws are to be abrogated which pertain to protecting the state of religious families and their rights and offices; indeed the civil government can furnish aid to all those who wish to defect from an undertaken institute of religious life and to break solemn vows; and likewise it can utterly extinguish the same religious families, as well as collegiate churches and simple benefices, even of right of patronage, and subject and vindicate their goods and revenues to the administration and judgment of the civil power."

But if associations of this kind pursue anything from their own institute which openly disagrees with probity, justice, and the safety of the commonwealth, they must be opposed by fitting laws. "For these causes the public power will by right impede those associations from coming together; by right it will also dissolve them when they have come together." Leo XIII, encyclical letter de Conditione opificum.

192. "Then those most salutary and equally most true things which look to civil society and the interchange of rights and duties between sacred and political power. For just as there are two greatest societies on earth, the one civil, whose proximate end is to obtain for the human race a temporal and worldly good, the other religious, whose office it is to lead men to that true happiness for which we were made, heavenly and eternal, so there is a twofold power. Both obey the eternal and natural law, and in those things which are contained by the order and command of either one, each consults for itself. But whenever something of that kind must be constituted concerning which it is right that each power constitute something, although by diverse causes and in a diverse way, nevertheless each must constitute something, a concord of each is necessary and agreeable to public utility; if this is removed, there will altogether follow a certain doubtful and changeable condition, with which the tranquillity neither of the Church nor of the commonwealth can consist. Therefore when something has been constituted by agreements entered, then surely what belongs to justice, the same belongs to the public matter, that concord remain intact; because just as mutual offices are furnished by one to the other, so a certain fruit of utility is received and rendered on both sides." Leo XIII, encyclical epistle to the Bishops of Gaul, Nobilissima Gallorum gens, Feb. 8, 1884.

193. Now indeed subjects are bound also to exhibit love, reverence, and obedience to secular superiors. For in the civil order they are true superiors, bearing the place of God himself toward us in the temporal order. This is confirmed from Sacred Scripture, Rom. 13:1 seqq.; 1 Pet. 2:13, 17. For this reason the Catechism of the Council of Trent compares and joins an obligation of this kind with that by which we are bound toward paternal and ecclesiastical authority. For, p. 3, on the fourth Commandment, sect. 15, after it taught that parents and ecclesiastical superiors must be honored with due honor, it adds: "The same must be said of Kings, Princes, Magistrates, and the rest to whose power we are subject. For if we give any cult to them, it is referred to God; for the excellent grade of dignity has the veneration of men, because it is after the likeness of divine power; in which also we venerate the providence of God, who has attributed to them the management of public office, and uses them as ministers of his power." Whence it is clear that reverence must be exhibited not only to Princes, but also to their officials according to their office and dignity. - Encyclical letter of Leo XIII Quella lunga, June 29, 1881; St. Thomas, 2.2, q. 104, a. 5, 6; Quodl. 8, a. 7; Quodl. 10, a. 12.

Therefore it is not fitting to speak rashly of those who perform a public office, nor malignly to carp at their deeds; although it is lawful to scrutinize them and to speak and write publicly about them, insofar as the laws permit this, so that they may be judged rightly and the public utility may be provided for. Therefore they sin against charity and justice who announce in public sheets, or publish in conversations and discussions, the hidden crimes of some persons, which do not harm others, in order that they may drive them from some office. They injure due observance who inflict insults on them, whether by words or by writings, and who deny to them the due signs of honor. - Kenrick, tr. 8, n. 164, 165.

194. "To despise legitimate power," says Leo XIII, "in whatever person it has been established, is no more lawful than to resist the divine will; and if any resist this, they rush into voluntary

destruction. He who resists the power resists the ordinance of God; but those who resist acquire damnation for themselves." Encyclical Immortale Dei.

"The order of justice requires that inferiors obey their superiors. For otherwise the state of human things could not be conserved." St. Thomas, 2.2, q. 104, a. 6.

"Just as the actions of natural things proceed from natural powers, so also human operations proceed from the human will. But it was necessary in natural things that higher things move lower things to their actions by the excellence of natural virtue conferred by God. Whence also in human things it is necessary that superiors move inferiors by their will from the force of authority divinely ordained. But to move through reason and will is to command. And therefore, just as from the natural order itself divinely instituted lower things in natural things necessarily are subject to the motion of higher things, so also in human things by the order of natural and divine right inferiors are bound to obey their superiors." St. Thomas, 2.2, q. 104, a. 1.

XV. On the Election of Deputies

195. Since all are bound to love their own fatherland, all are also bound, as far as lies in them, both to promote the common good of the fatherland and to avert common damage from it. Since this, in the present regime of society, depends especially on good deputies elected to national, provincial, and municipal assemblies, all who have such a faculty from the law are bound, by reason of the common good and consequently from legal justice, to concur in the election of these deputies, unless they are legitimately excused, and to elect fit deputies. Unless they are legitimately excused; the matter is per se grave, and consequently only a cause of grave damage to be undergone can per se excuse. Per se; for in practice various circumstances must be attended to, from which the obligation can be grave or light, or even all obligation can be absent. But this obligation, when it is present, is not from commutative justice, but only from legal justice, and consequently, if it is not fulfilled, no obligation of repairing damage arises from it.

196. Indeed there is an obligation of electing a worthy man, not the more worthy; but a grave obligation is present of electing a worthy man, with an unworthy man passed over, from whose election grave damage of society can be feared. There is indeed no precept of electing the more worthy, but there is a precept of not electing an unworthy man; for by electing him someone cooperates by his own votes in the damage to be brought by him, besides the scandal which by his depraved example he furnishes to others. Yet the election of an unworthy man is not always forbidden. It is lawful if someone otherwise would undergo very grave damage, for that election is not intrinsically evil. For to receive the office of deputy is not something intrinsically evil; and cooperation in the abuse of such an office is material and remote. Likewise it is lawful if an unworthy man is elected in order to remove another worse and worst man from that office. Cooperation is then had to impede a greater evil. And consequently it will also be lawful if a worthy man cannot be elected unless an unworthy man is elected together with him. Likewise it is lawful if it is hoped that the unworthy man will profit more than he will harm.

197. "It is of interest to public safety to contribute work wisely to the administration of urban matters; and in it especially to study and effect that provision be made publicly for forming adolescents to religion and to upright morals, in that way in which it is fitting for Christians; on these things greatly depends the safety of individual commonwealths. Likewise, for the work of Catholic men to run farther from this narrower field and embrace the very sum of the commonwealth is generally useful and honest. We say generally for this reason, that these our precepts touch all nations. But it can happen somewhere that, for greatest and just causes, it is by no means expedient to undertake the commonwealth and to be occupied in political offices. But generally, as we have said, to will to touch no part of public affairs would be as much in fault as to bring no zeal, no work, to the common utility; and this the more because Catholic men are impelled, by the admonition of the very doctrine which they profess, to conduct the matter integrally and from faith. On the contrary, if they are idle, those will easily receive the reins whose opinions bring by no means a great hope of safety. And this would also be joined with harm to the Christian name, because those who are badly disposed toward the Church would have very much power, and those who are well disposed, very little. Wherefore it is evident that Catholics have a just cause of approaching the commonwealth; for they do not approach, nor ought they to approach, for this cause, that they approve what is not honest at this time in the systems of public affairs, but that they may transfer these very systems, as far as can be done, to the public good, having their mind sincerely and truly destined to introduce the wisdom and virtue of the Catholic religion, as the most healthful juice and blood, into all the veins of the commonwealth." Leo XIII, encyclical letter Immortale Dei, Nov. 1, 1885.

198. Deputies legitimately elected, and truly fit, by reason of the common good, from legal justice, are bound to accept the office brought to them, unless they are excused by a grave and just cause. But Deputies and Senators, since a certain part of public rule has truly been committed to them, not only ought they not to consent to depraved laws to be borne to the damage of religion and to the damage of the public good, but they are also bound to impede them by their presence and by their vote. Therefore it is not lawful for them to vote for depraved laws of this kind, nor is it lawful for them to be absent. And if by culpable absence they are the cause why depraved laws are made to public damage, they are guilty both of violated legal justice, by which they are bound to promote the public good by the special reason of their office, and of violated commutative justice, from a quasi-pact with their electors.

As regards the election of Deputies, the things which St. Thomas has from St. Augustine, 1.2, q. 97, a. 1, pertain to the matter: "If a people is well moderated and grave, and a most diligent guardian of the common utility, a law is rightly borne by which it is lawful for such a people to create magistrates for itself through whom the commonwealth is administered. But if little by little the same people, depraved, has a saleable vote, and commits rule to disgraceful and criminal men, rightly is taken away from the people such power of giving honors."

199. Is it ever lawful not to obey temporal authority? - Laws unjust by contrariety to human good do not oblige in the forum of conscience. Laws unjust by contrariety to divine good it is in no way lawful to observe. St. Thomas, 1.2, q. 96, a. 4. But in those things which are lawful and which pertain to civil power, obedience must be given to civil Princes, even difficult ones, and

also to those who abuse their authority. From these most pure sources, namely Scripture and Tradition, says Gregory XVI in the Brief of June 9, 1832, we are most openly taught that obedience which men are bound to furnish to powers constituted by God is an absolute precept, which no one can oppose. - Pius VI, Brief Pastoralis, July 5, 1796; St. Thomas, 2.2, q. 69, a. 4; q. 102, a. 1; q. 104, a. 5, 6.

XVI. On the Obligation of Paying Taxes

200. By the name tax is understood generally that which is paid for making the common expenses of the commonwealth. A tax is called direct if it is imposed on persons by reason of their goods; it is called indirect if it is imposed on things by reason of some act which regards them, for example, transfer of ownership, sale, succession, transport of merchandise from one place to another, etc. For making the common expenses of the commonwealth. Therefore those things which are paid also to public administrations for transporting letters from place to place, for journeys of persons on railroads, etc., do not have the character of taxes; and they are to be paid by force of the contract entered with the public administration, and consequently from commutative justice.

201. The public authority of the commonwealth altogether has the right of imposing taxes. For it has the obligation of caring for and promoting the common good. Consequently it has the right to exact from subjects those things which are necessary for the aforesaid end, and subjects have the obligation of giving them.

202. Yet it is necessary that taxes be just. But they will be just if they are imposed by public and legitimate authority; if they are imposed from a just cause of necessity or utility of the common good; if they do not exceed the measure of this necessity and utility; if they are distributed with due proportion according to the faculties of citizens.

203. The laws of taxes oblige, as other civil laws do, which oblige per se from legal justice by reason of the common good. Yet it cannot be denied that in tax laws legal justice is intimately connected with commutative justice. Certainly from legal justice prince and subjects are bound, each for his own part, to contribute necessary safeguards to society. But commutative justice commands foreigners to compensate the damages which they bring upon another's society by carrying away and selling merchandise; it commands both subjects and foreigners to compensate the necessary expenses in the construction and custody of roads, bridges, aqueducts, etc., which they use. And it cannot be denied that a certain tacit contract or quasi-contract is present between prince and subjects, when, for example, subjects demand several and certain greater conveniences, and the prince then sustains the necessary burdens for procuring them; surely subjects in such a case owe him, from strict justice, to supply the necessary expenses?

204. That laws of this kind per se oblige in conscience is expressly clear from the Apostle Paul, Rom. 13:5-7: "Therefore be subject of necessity, not only on account of wrath, but also on account of conscience. For therefore you pay taxes: for they are ministers of God, serving unto this very thing. Render therefore to all their dues: to whom tax, tax; to whom tribute, tribute."

But that per se also laws of this kind look not only to legal justice, but also to commutative justice, is also clearly apparent from the Roman Catechism, on the seventh Precept of the Decalogue, n. 10: "In this crime of rapacity are included those who do not pay, or divert and transfer to themselves, the customs, taxes, tithes, and other things of this kind which are owed to the Prelates of the Church and Magistrates."

205. Nevertheless, since collectors of these taxes are publicly constituted, this seems to be the mind of legislators, that payment of taxes not be judged owed unless it is exacted. Likewise, since a grave penalty is imposed on those not paying, at the established time, taxes owed by law, without their first having to be sought by the collectors, many and grave doctors have tax laws generally as merely penal laws. Yet from this it does not follow that someone ought not to pay just taxes when the time established by law has arrived, or when they are legitimately sought by collectors; but it follows only that unless the law to be observed is urged, or unless they are legitimately sought, he is not indeed bound in conscience to pay them, but is bound to undergo the penalty if he is detected not to have paid the tax and the penalty is imposed. Therefore someone sins only when, the tax owed by law not having been paid, or the duty as regards taxes sought by collectors not having been paid, he would afterwards be unwilling to pay the fine and undergo the penalty. And this opinion is confirmed also by common practice and persuasion, namely that these laws do not oblige in conscience to paying taxes spontaneously. Wherefore, with at least a doubt standing concerning the obligation, no one seems to be disquieted also under this head if he has not paid taxes not sought by collectors, or other taxes not first to be sought. Indeed, even if someone merely eludes the vigilance of collectors, by hiding things or not manifesting them, namely so that they do not exact or urge, as even the timorous are accustomed to do, or by declaring a smaller value of things in order to diminish the tax, provided, however, lies and frauds are absent, which are always illicit, for deceiving public officials and collectors and for not paying, and provided at least the just price, the lowest true price of the things, is declared. - L. l. 3, n. 614-617; H. A., tr. 10, n. 81; St. Thomas, Quodl. 6, a. 10; Lugo, de Iust. et Iur., d. 36, s. 4; Lessius, de Iust. et Iur., l. 2, c. 33; Ithur., Cas. 2; Struggl. 32; Elbel 303-306; Kenrick, tr. 6, c. 3, n. 20-22, 25.

206. You will resolve: The following are to be condemned: 1. Those who violently resist ministers exacting customs. These sin against obedience: He who resists the power resists the ordinance of God. Rom. 13:2. They also sin against legal justice; for the law which regards taxes, even if it is held as merely penal, nevertheless grants to rulers a certain right of exacting a fine if subjects are detected in fraud. - 2. Those who through right and wrong exercise defrauding as a kind of trade, and wander day and night armed even with the mind of resisting. Men of this kind become rebellious citizens and most pernicious to society. - 3. Those who, although they never resist and do not have the mind of resisting, nevertheless with all zeal and work devote themselves to the art of defrauding taxes, and have it as a profession of life. These not rarely are exposed to dangers both of temporal goods and of life and of soul. Besides, it is one thing sometimes not to manifest one's things or to hide them so that a tax may not be exacted; it is another thing to exercise the art of defrauding taxes, which certainly is prohibited, since this is altogether damaging to society, both on account of the very defrauding of taxes and on account

of several other crimes which are naturally associated with it. - All these incur confiscation, Dig. l. 39, t. 4.

207. Do officials sin against justice whenever they do not exact a just tax? - R. Affirmatively, per se generally, and indeed gravely in grave matter. The reason is clear, since they obligated themselves to watch rightly, and diligently to exact taxes otherwise just. Therefore, if they fail in their office, they are bound to restitution toward the Prince or the commonwealth. Generally, because according to many, those placed over exacting customs are not always to be condemned when now and then they act more benignly in a light matter, especially with the poor, or also with those who otherwise diligently pay; because in such a case the Princes themselves are reasonably presumed to remit it. - "Besides, if toll-collectors detect defrauders and only dissemble, probably they are not bound to repay the fine. The reason for this is that toll-collectors by force of their office are bound only to exact the custom for the good of the Prince, but not to enrich him by fines. Besides, a fine is not owed from elsewhere before the sentence of a judge, nor before this does the fisc have a right to the fine. Whence also guards paid to observe lest tolls be declined through hidden passes, if by their own fault they permit passage, are bound from justice to repay the loss of the toll, but not of the fine." Struggl. 30. Others, however, affirm that they ought also to repay the fine, because by omitting the denunciation to which they are bound by reason of office, they are the cause why the fisc does not exact that to which it has a right. - But those are to be condemned who corrupt those placed over exacting customs by unjust means, so that they may not perform their office by exacting an otherwise just tax; for they sin at least by cooperating in the sin of these, and are bound to restitution. - L. l. 3, n. 583, 614-617; l. 4, n. 237; Struggl. 32; Gousset 1000.

XVII. On the Obligation of Performing Military Service

208. Civil society has the right and obligation of conserving itself for the common good of citizens. But it cannot conserve itself without military force, by which it may defend itself against internal and external enemies who endeavor its damage and ruin. Hence there is the right and obligation of the prince of constituting soldiers, by establishing, in some way at least, an army. For unless the army is stable and always prompt and ready for protecting the commonwealth, there would almost continually be, especially at present, internal disturbance of order and invasion of an external enemy; and the loss of proper autonomy will certainly have to be feared, as is clear also from continual fact itself.

209. An army can be had in a twofold way. For soldiers can be taken from their spontaneous offering; and they are voluntary soldiers, or mercenaries, because they are freely hired for a determined time by an agreed wage. And this first mode is altogether lawful. Besides, soldiers can be taken by a law of conscription, and they are called conscript soldiers. This mode also is lawful if voluntary soldiers are not had, because they are altogether necessary for the security of the commonwealth. Whence it is clear that so many ought to be taken for performing military service as are necessary for the safety of the commonwealth; otherwise either the safety of the fatherland would not be sufficiently consulted, or a most grave burden would be imposed on citizens without sufficient reason of the common good. Wherefore, according to

the varying necessity of the commonwealth, conscription can be universal, of all young men fit for military service, or particular, of those chosen by lot among all fit young men. Judgment concerning the necessary number of soldiers certainly pertains to the moderators of society. There are those who hold that conscription, whether universal or particular, is unjust; but as it is easy to assert this, so it is impossible to prove it; for the reason of the common good renders a stable and well-instructed army altogether necessary. But what is said, that it is opposed to distributive justice because only families having fit young men would undergo such a burden, has no value. Could families not having fit sons also undergo such a burden? If they cannot, then it is not opposed to distributive justice, since this imposes burdens proportionate to powers. Otherwise one would have to say also that all taxes are unjust, because those who have nothing pay no tax. And is there not, beforehand, an equal hazard for all, since it can happen to all families either to have or not to have fit sons? And if, as regards families, some having, others not having sons fit for military service, distributive justice is injured, would not this also be injured as regards the young men themselves, of whom some are apt, others altogether inept for military service? And then, military service having been removed, the nation surely will not endure one day in its own being, and will be absorbed by a more powerful nation which seeks to extend its domination.

210. The obligation of performing military service is from commutative justice for hired soldiers, who consequently are bound to restitution and to repairing damages if they themselves do not observe the conditions of the contract entered. But for conscript soldiers it must be observed only from legal justice, since it arises by reason of the common good. Yet there are not lacking those who also have the laws of military service as merely penal laws. If somewhere this truly is the common interpretation of these laws, even of the timorous, since custom is a legitimate interpreter of laws, they can in fact be had as penal. But clerics will always be immune from following military service, by reason of the privilege of their state, and sons of a family who are necessary for sustaining the family by the natural law itself.

211. Therefore, as designated soldiers are bound to undergo the burden of military service, so deserters are bound per se to return to camp from obedience or from legal justice. Per se; for except: 1. if they would meet excessive danger of salvation, as regards faith and morals; 2. if, on returning, they would be punished with death, the galleys, or other most grave penalties; 3. if the war is evidently unjust, or the usurpation of the kingdom evidently unjust. - But deserters are certainly bound to no restitution whenever the law does not require others in their place, because they in no way injure commutative justice, nor do they inflict damage on any other. But it is otherwise if from the law others would have to undergo the burden of military service because of them. For they are not only the occasion of a burden of this kind, but the true cause; namely cause together with the law. The law alone is not the cause of that damage; if they had observed the law, others would not be conscribed. Therefore the law and their deed against the law are the true and efficacious cause of that damage inflicted on others.

212. To what are those bound who hired themselves for others and then deserted military service? - Per se they are bound to restore the price received to him from whom they received it, because the reason is lacking for them to receive money, which is paid out only on account of the

burden of military service. Yet this holds only where he who hired a soldier in place of himself is exposed to the danger of undergoing military service. For this danger being excluded, although the deserter does not undergo the burden of military service, he freed the hirer from this burden of military service, which the hirer truly intended in that hiring.

213. To what are those bound who, not yet enrolled for military service, withdraw themselves from it without just causes? - Hired soldiers who by contract and an agreed wage obligated themselves to military service are bound from commutative justice to follow it. But if they do not furnish it, they are bound to restitution and reparation of damage. - Conscript soldiers who corrupt magistrates or physicians so that they may be declared unfit by them are certainly bound to restitution if others therefore must undergo military service in their place. For they are cooperators as mandating, or counseling, or in any other way, in injustice; for magistrates and physicians are obligated from quasi-contract. - Those who deceive magistrates by lies, frauds, or previous mutilation, according to the more common opinion, are obligated to restitution. The reason is that other exempt young men have a strict right that such means not be employed to their detriment; and those required by lot cannot decline the burden of military service, legitimately imposed on them, without strict injury, since the law, or lots established by law, constitutes a strict right, requiring some and exempting others from military service. Bouvier, de Restitutione, quaest. 2, art. 2. - Therefore they are not bound to restitution if by law all fit young men are assumed for military service; because then they themselves inflict damage on no one. - Practically speaking, restitution often is not to be urged in the preceding cases, either because those who employ the aforesaid frauds do not believe that they sin against justice and are by no means persuaded of the obligation of restitution, or because it is morally impossible to repair the damage inflicted. - One who would betake himself to another fatherland to escape military service, so that he would pass his life there, would sin in no way, because while absent he would not be bound by the law of his fatherland, since a law cannot be extended outside its own territory. But those already designated for military service who withdraw themselves from it, or obtain exemption without true causes, if no one is to be required by law in their place, sin against legal justice, yet they are bound to no restitution. - Gousset 1002.

XVIII. On the Tyrant and on Rebellion

214. A tyrant is either of regime or of usurpation. The first is a prince who, possessing the principate legitimately and justly, exercises its power wickedly and unjustly. The latter is a prince who possesses the principate illegitimately and unjustly, by reason of wicked usurpation made by force or fraud.

215. A tyrant of regime, from the fact that he abuses his authority, does not therefore, per se, lose it. Wherefore no obedience indeed is owed to his unjust laws, and by passive resistance subjects can defend themselves against them; but to deprive a tyrant of the kingdom, or to kill him, is lawful to absolutely no one. - To deprive the king of the kingdom. "Too pernicious in this matter," says St. Alphonsus, "was the principle of John Gerson, who dared to assert that the monarch can legitimately be judged by the whole nation if he rules the kingdom unjustly...

a principle, I say, not only false, but most pernicious." The reason is that subjects, by the very fact that they are subjects, cannot arrogate to themselves power above the prince by judging and punishing him. Hence the objection is dissolved which is made from the Angelic Doctor, 2.2, q. 42, a. 2, ad 3, where he says: "that tyrannical rule is not just, because it is not ordered to the common good, but to the private good of the ruler... And therefore disturbance of this rule does not have the character of sedition," which is opposed to the common good. For indeed, although that disturbance of rule does not have the character of sedition, it does not therefore follow from the Angelic Doctor that it is lawful. For from the same St. Thomas, 2.2, q. 60, a. 6: "just as it would be unjust that someone should compel another to observe a law which was not sanctioned by public authority; so also it is unjust if someone compels someone to undergo a judgment which is not borne by public authority... and therefore it is unjust that someone be judged by him who does not have public authority."

216. And from these things it is clear much more that it is lawful to absolutely no one to kill a tyrant. Nor likewise is it valid to object from the Angelic Doctor, 2.2, q. 70, a. 1, that "as it is lawful to resist robbers, so it is lawful to resist bad princes." For St. Thomas is treating there of just defense, in the case of actual unjust aggression, namely of one condemned unjustly to death. Wherefore the objection taken from procuring the common good is also of no value. For it is not sufficient for the honesty of an action that the end be good, but the means also must be good. And the means assumed in the case is intrinsically evil.

217. Aptly Leo XIII, encyclical Quod apostolici muneris: "If at any time it should happen that public power is exercised rashly and beyond measure by princes, the doctrine of the Catholic Church does not permit rising up against them by one's own force, lest the tranquillity of order be disturbed more and more, and lest society take greater detriment from this. And when the matter has come to such a point that no other hope of safety shines forth, it teaches that remedy is to be hastened by the merits of Christian patience and by urgent prayers to God. But if the decrees of legislators and princes have sanctioned or commanded something which is repugnant to divine or natural law, the dignity and office of the Christian name and the apostolic sentence persuade that God must be obeyed rather than men."

218. Therefore from a twofold head it is illicit to rise up against a legitimate prince: because one rising up by his own force violates the rights of justice, and because from this violation of justice a greater damage of the commonwealth follows, against the common good, under pretext of which that insurrection is attempted to be made honorable. "Wherefore," says Gregory XVI absolutely, Ep. a. 1832, "both divine and human rights cry out against those who by the most disgraceful machinations of treason and seditions strive to withdraw from fidelity to princes and to cast them down from command." Therefore rebellion against legitimate princes, possessors of the supreme authority or principate, is altogether illicit. It is a manifest denial of due obedience; for the legitimate right of authority exacts the office of obedience on the part of subjects. Besides, it is manifest injury against commutative justice; for a legitimate prince cannot be despoiled of the right to authority which he legitimately possesses. Each crime is proscribed in proposition 63 of the Syllabus, which is condemned thus absolutely: "It is lawful to refuse obedience to legitimate princes, indeed even to rebel."

219. The same certainly must be said, in proportionate reason, of a tyrant of usurpation after he is already in peaceful possession of the kingdom. Before the usurper comes into this possession, it is clear from what has been said that subjects are bound, according to their powers, to defend the legitimate prince, nor can they in any way help the usurper to despoil the legitimate prince of supreme authority. But after the usurper has now despoiled the legitimate prince of this authority, and he himself now possesses it peacefully in fact, he himself is certainly bound to restore it while he possesses it; but by reason of the common good subjects are bound to obey him, because the commonwealth cannot ruin itself, if that usurper truly provides for the public good by his laws, just as the obligation rests upon him and at the same time he has the right of doing this, by reason namely of the usurped authority itself, not of the legitimacy of the usurper. For although that authority is detained unjustly, nevertheless it cannot be deprived of its own force and its own proper effect. Therefore subjects are bound to obey those laws which conduce to the common good, to public order, and to public peace; but they cannot furnish obedience to laws which would tend directly to confirming the usurper in the unjust possession of supreme authority. Yet the usurper can become legitimate, in various cases, in various ways: by consent of the people, by spontaneous cession of the legitimate prince, by natural prescription; for society cannot always endure in a violent state.

220. But if subjects are bound to observe the common good, public order, and peace, how indeed could they promote sedition, which is opposed to the common good, public order, and public peace? How could they themselves, private persons, kill the usurper? "A fight which is lawful," says St. Thomas, 2.2, q. 42, a. 2, "is done for the common utility. But sedition is done against the common good of the multitude." And St. Alphonsus: "It belongs to subjects to obey, not to judge concerning the prince, who is subject to God alone concerning the things of his dominion, nor depends on any other earthly power. If subjects could bear judgment concerning the title or possession of the prince, those who are affected with a depraved mind would never lack a pretext to find for stirring themselves against the prince... Neither prince nor private person can be despoiled of his life and things, unless first he is heard, or at least condemned by his legitimate judge. But subjects can never have the right of bearing judgment upon their actual lord." The contrary opinion, which even now some sustain at least speculatively, is soon called by the Holy Doctor "improbable, false, most false." And then the same St. Alphonsus adds: "But he who occupies the kingdom of another without any title and possesses it without any reason is neither its lord nor prince, but a thief and usurper. Let him indeed be, I answer, a thief, usurper, and not prince nor lord. I ask: is he a man like others? And if he is a man, he cannot himself be deprived of life or goods by those who do not have the right to despoil him of life or goods. The doctrine of the Holy Fathers is common, that it is never lawful for any private person to kill a man, although private, and however wicked he may be, unless he has public authority, or unless this is necessary for protecting his own life... But St. Thomas gives the reason for this, saying: To kill an evildoer is lawful insofar as it is ordered to the safety of the whole community, 2.2, q. 64, a. 5. Then he adds that killing evildoers is permitted only to princes, who have public authority and to whom care of the common good has been committed: But care of the common good has been committed to princes having public authority, and therefore it is lawful for them alone to kill evildoers and not for private persons." Homo Apost., tr. 8, n. 13.

221. "But it is altogether false that in the community of subjects there is present a certain superior authority, independent from the prince, so that in a case in which the prince governs the kingdom perversely, the whole community can despoil him of kingdom and life. Too pernicious in this matter was the principle of John Gerson, who dared to assert that the monarch can legitimately be judged by the whole nation if he rules the kingdom unjustly; for he said that, since the nation is the whole of the kingdom in respect to the prince, who is only a part, supreme authority must necessarily exist with the nation itself. A principle, I say, not only false, but most pernicious; for in this way there would be two supreme powers in the kingdom, whence most enormous schisms and the desolation of the kingdom would occur. St. Thomas recognizes no other supreme authority except that which princes have, to whom care of the common good is attributed. Care of the common good has been committed to princes having public authority. Wherefore, even if the prince were perverse and burdensome to the people, nevertheless the people is bound to furnish obsequium and obedience to him, since subjects can never have the right of judging concerning the deeds of the prince, and much less of condemning him to losing life or kingdom." St. Alphonsus, l. c.

222. Therefore it is not valid to object that a tyrant cannot be deposed by the proper authority of some private person, which is the crime of treason, but can be deposed by the common judgment of the whole nation. The whole nation certainly could do this if it retained the principate itself, which is contrary to the hypothesis; but if it does not retain the principate itself, it would do that by no authority, and it would indeed be treason not of one, but of all.

223. Nor likewise is a better objection taken from the fact that public power is for the public good. For even private ownership of things is for the good of the proprietor himself and of others. If someone abuses it to his own evil and that of others, he does not therefore lose ownership of his things. And the reason is that the title or cause of having dominion, whether of property or of jurisdiction, is not the use of it. Therefore, so long as that title or cause remains, each dominion remains.

224. Lastly, it cannot be objected that society can cast out a tyrant by force not by the right of punishing, but by the right of defense. For for this no jurisdiction is needed; but the right of proper conservation, which belongs to society just as to individuals, seems to suffice, and this certainly prevails over the right existing in such tyrants to possession of authority. - But these things, speciously said, in reality are nothing. For if the question concerns individuals, legitimate defense will not be lawful to them except in the act of unjust aggression, and by repelling force with force, with the moderation of blameless defense. But if the discourse is of the whole commonwealth or society rising up against a tyrant and moving war against him, to undertake war against him, whether offensive or defensive, besides a just cause, public authority is needed, which, from the hypothesis, is in no private person nor in the whole nation. For the question concerns a prince in whom supreme authority is found absolutely. Besides, just defense is not lawful except with the moderation of blameless defense, which is held to be most sufficient and most efficacious by passive resistance, by not obeying wicked laws. Therefore, speculatively speaking, it is illicit to disturb a tyrant from possession of authority, and to deprive him of kingdom and life. But practically all agree that it is illicit from

the fact that greater damages follow, and greater detriment of the public good is had from the consequent disturbance; then true sedition is had, which from its kind is a mortal sin. St. Thomas, 2.2, q. 42, a. 2, ad 3.

And, as the distinguished adversaries themselves confess, there exists much hallucination in that matter practically; and the people does not rise up to disturb a tyrant without a ruin greater than the tyranny following.

225. This condemnation is had concerning tyrannicide: The Sacred Synod of Constance, a. 1414-1418, declares and defines that this sentence: "Any tyrant whatever can and ought licitly and meritoriously to be killed by any vassal or subject of his, even by secret ambushes and subtle flatteries and adulations, notwithstanding any oath given, or confederation made with him, without waiting for the sentence or mandate of any judge whatsoever" is erroneous in faith and morals; and it reproves and condemns it as heretical, scandalous, and giving a way to frauds, deceptions, lies, betrayals, and perjuries. It declares besides, decrees, and defines that those pertinaciously asserting this most pernicious doctrine are heretics.

Fourth Commentary: On the Sixth and Ninth Precepts of the Decalogue

You shall not commit adultery.

Nor shall you desire his wife (your neighbor's).

Exod. 20:14, 17.

Preliminary Notes

1. By the sixth precept of the Decalogue all things are prohibited which are repugnant to the ordered propagation of the human race. For all these, in their own way, are reduced to adultery, as to the primary act repugnant to this ordered propagation. But by the ninth precept all interior concupiscence is prohibited concerning those external works which already had been previously prohibited by the sixth precept. Each of these precepts prohibits lust, which is: the inordinate appetite or use of venereal things. St. Thomas, 2.2, q. 154, a. 1; L. 412, 414. Therefore the malice of lust consists in this: that man uses venereal things, that is, the motion of the genital spirits and semen, which by nature and by God as author of nature is ordained to the due propagation of the human race, inordinately for pleasure or for another perverse end.

Inordinately, that is, outside marriage, or contrary to the laws of marriage within marriage.

Now then: 1. Lust, of whatever genus or species, is per se a grave sin. The reason is: 1. Because it fights gravely against nature. For the use of the venereal matter from its nature was instituted and is necessary for the conservation and propagation alone of the human race; therefore it cannot be usurped outside marriage; indeed, not even in marriage except in the due mode, without grave disturbance of right order. 2. Because it is prohibited under grave obligation by God the Author of nature, as is clear from innumerable places of Sacred Scripture. And thus the Apostle Paul, in the Epistle to the Galatians 5:19, says: manifest are the works of the flesh, which are fornication, uncleanness, immodesty, lust... which I foretell to you, as I have foretold: that they who do such things shall not obtain the kingdom of God. - L. 414; St. Thomas, 2.2, q. 153, a. 2, 3.

2. Directly voluntary lust in any genus never admits smallness of matter. The reason is that any delectation directly sought necessarily introduces subversion, in a most grave matter, of the natural order established by the Creator. This is clear also from proposition 40 condemned by Alexander VII, which lies thus: It is a probable opinion which says that a kiss had for carnal and sensible delectation, which arises from the kiss, is only venial, the danger of further consent and of pollution being excluded. - Sporer, de Matrim., n. 689-690; L. 475, 476; St. Thomas, 2.2, q. 153, a. 2, 3.

3. But indirectly voluntary lust admits smallness of matter, because then there is no consent or intention toward venereal pleasure, but only toward the cause, which is lightly sinful, since it influences venereal delectation only lightly. G. 412 (Gury, Comp. Theol. mor., t. 1, n. 412); L. 482, 483. And indeed, since that cause per se influences that pleasure only lightly, and therefore ineffectively, there is had indeed a permission of it, in no way a willing of it. But if

someone not only permits that venereal pleasure, but also actually wills and intends it, in that cause, he will be guilty of grave fault; because in reality he wills and intends a venereal thing, which is gravely illicit.

4. Moreover, lust is directly opposed to chastity, which taken generally is: the moral virtue which moderates the inordinate appetite and use of venereal things. A part of chastity, and indeed the most perfect part, is virginity, which imports two things: namely integrity of body, and integrity of mind, or the purpose of preserving that integrity of body forever. Virginity is lost physically in a girl by the opening or breaking of the virginal cloister, and in a male by the effusion of semen; but morally it is lost, more or less, both by a woman and by a male, through voluntary pollution, or merely venereal delectation, or only through consent to these, although in reality neither pollution nor venereal delectation takes place. Yet as regards the political state and in the face of the Church, a girl remains a virgin so long as the cloister of virginity has not been violated by intercourse, and a male so long as he has not carnally known a woman. Whence "a nun who before profession or consecration voluntarily polluted herself, although she loses, as was said, virginity according to virtue, nevertheless since she does not lose it according to state, because she rejoices in an intact virginal cloister, needs no dispensation for making profession and for receiving the veil granted only to virgins. And for the same reason, the same woman can without scruple accept a legacy left to virgins alone, and pronounce herself a virgin in order to marry, etc. Azor, citing Bonac. and others, teaches that a virgin secretly violated in the cloister cannot put herself forward for requesting the veil of consecration, even if from this she is going to incur infamy; but that she can exercise the offices proper to a virgin, indeed offer herself for them, lest she be defamed; because, he says, ecclesiastical institutes do not oblige with so much rigor. But with peace to Azor, a most learned man, this reason proves that in a similar danger of infamy she can not only put herself forward for the aforesaid offices, but also request the veil of consecration, as he holds, citing Suarez and Pell., because that likewise is from an ecclesiastical institute." Tamburini, Explic. Decal., l. VII, c. 5, n. 2, 3; Sporer, after tr. V, append. ad VI praecept., n. 6; Struggl, tr. 7, q. 4, art. 1, n. 2; Billuart, tr. de Temper., Dissert. 4, de Cast., etc., art. 1, 2, 5; Dissert. 5, de Luxur., art. 1, 2; St. Thomas, 2.2, q. 152.

2. Note 1. In order that the object of lust be rightly understood, in this matter a twofold delectation must be distinguished: one venereal, which is also called carnal, another sensible. Venereal delectation, or delectation concerning a base thing, can be either merely spiritual, namely that which is in the mere will, without any base commotion in the body, or not merely spiritual but at the same time carnal, as if there is present a base commotion in the body. La-Croix, l. 3, n. 890-892. This venereal and carnal delectation is felt in the genital parts through the commotion of the genital spirits and semen; on the contrary, sensible delectation is felt in other senses from their application to their own object, and from the proportion of this object to its proper sense. If venereal delectation is intended either directly in itself, or indirectly in the cause, it is called sought; but if, after it has followed besides the intention, free consent of the will is added, the delectation is called admitted.

Sensible delectation is twofold: one is purely such, the other is sensible-venereal. Purely sensible delectation is that which arises from an object which of itself precisely is not apt to move to venereal

delectation; as, for example, the delectation which arises from the touch of silk, the smell of a flower, the hearing of music, the taste of sugar. Sensible-venereal delectation is that which arises from an object which of itself in some way is apt to move to venereal delectation, as, for example, the delectation which arises from touch, from the embrace of a woman, from her kiss, etc. L. 412, 413, 415.

Venereal delectation deliberately voluntary among persons to whom intercourse is illicit properly looks to lust and is a grave sin from its whole genus, not admitting smallness of matter. The reason is that venereal delectation of itself is ordained to the generative act and the propagation of the human race, which is a most grave matter; and if besides it is notable, it contains from its intrinsic nature the proximate danger of pollution, which is directly repugnant to generation. This is confirmed from proposition 40, condemned by Alexander VII, already cited in n. 1, 2. For that condemnation of the proposition is to be understood: 1. of warmer and lingering kisses, which from their nature proximately dispose to venereal delectation; by no means, however, of lighter kisses and those transitorily impressed, which only remotely dispose to venereal delectation; 2. of even lighter kisses, but had for the sake of carnal or venereal delectation. For in that proposition carnal and sensible are joined, so that by the name sensible delectation you understand carnal delectation itself, or delectation which is sensible and at the same time carnal. If, therefore, those kisses are grave on account of the proximate danger and on account of the intended end of venereal delectation, venereal delectation of itself is grave. Hence "he sins gravely who spontaneously consents to light carnal motions spontaneously occurring." L. 415.

Purely sensible delectation, as such, does not properly pertain to lust, but to sensuality, and of itself it is not evil, but indifferent. Nor indeed can another malice be found in it except that which generally is in an act which is not referred to a rational end; such certainly would be the case if someone not only acted with that delectation, but also for the sake of that same delectation, positively excluding a further honest end and resting in it.

Finally, sensible-venereal delectation either from its nature proximately disposes to venereal delectation, or only remotely. If proximately, it is a grave sin on account of the proximate danger of venereal delectation. If remotely, it does not per se exceed venial sin, if it is directly intended, on account of the inordination which is directly intended in it, yet not a grave one, since the proximate danger of venereal delectation is absent. Whence, from some sensuality only, to look at a beautiful woman, to touch her face or hand, or to give her a light kiss, another depraved intention or danger of consent to another grave thing being excluded, is only a venial sin. Struggl, tr. 2, q. 2, n. 15, 4, 5, 6, 7; Tamburini, Expl. decal., l. 7, c. 8, n. 1 et seqq.; Sporer, de Matr., n. 686, 688, 691; Billuart, Dissert. 5, de Luxur., art. 1, 2; Ithurriaga, Cas. 51, n. 3 seqq.; Cas. 18, n. 1 seqq.

The theologians commonly warn, however, as regards practice, that "from sensual delectation to venereal, especially in the sense of touch or sight, the progress is easy." Billuart, de Temp., diss. 5, art. 2; L. l. 3, n. 416; l. 6, n. 854.

3. Note 2. In order that it may also be rightly understood how virginity is a part, and indeed the most perfect part, of chastity taken generally, and is not confused with it, a threefold chastity must be distinguished: conjugal, vidual, virginal. Conjugal chastity is that which in marriage moderately uses lawful pleasures. Vidual chastity is that which, after the death of a spouse or

after virginity lost from some other source, thenceforth abstains from the appetite and use of venereal things by a firm purpose. Finally, virginal chastity is that which proposes perpetually to abstain from all carnal pleasures, both illicit and those lawful in marriage. St. Thomas, 2.2, q. 151, 153.

4. Note 3. Finally, that what has been said concerning the nature of virginity may be rightly understood, it must be known that some place the virginal cloister in women in a certain membrane, which is called the hymen and is situated at the entrance of the vagina, and this, having been torn by male intercourse or by another extraneous cause, is abolished; but others wish it to be nothing other than the compression or folding together of the orifice of the female vessel, which is dilated by the congress of a man or by another extraneous cause, and thus the vessel is opened. But although the hymen is commonly found in virgins, nevertheless its presence or absence is not indeed a certain sign of virginity; for several cases of virgins are cited who have lacked it. Billuart, Diss. 6, art. 3; Milne Edwards, Lecons sur la Physiologie, Paris 1870, tome 9, pag. 59, 65, 66; Debreyne, Moechialogie, l. P., ch. 1, art. 2, sect. 2; Longet, Physiologie, Paris 1850, t. 2, pag. 139; Ant., p. 113, 115 (Antonelli, Medicina Pastoralis, second edition, pag. 113, 114, 115).

5. Lust is one kind interior, another exterior. The former is the voluntary occupation of fantasy, intellect, and will through joy, morose delectation, or desire concerning a venereal thing for the sake of pleasure. The latter is the very use of venereal things for the sake of pleasure, and it is multiple in species; for one kind is in non-consummated acts, another in consummated acts, which differ in species from the former; and both this kind, which is in consummated acts, and that which is in non-consummated acts, is subdivided into other species according to the specific diversity of objects. - But consummated acts in this matter are those acts which reach all the way to the effusion of prolific humor. Acts which do not reach this term are non-consummated acts, which properly are acts of sensuality and immodesty. - St. Thomas, 2.2, q. 151, a. 4; q. 154, a. 1, ad 5; q. 155, a. 2, 3, 4; L. 412.

We shall explain these various species of lust step by step here in various chapters and articles.

Chapter I: On the Non-Consummated Acts of Lust

6. The non-consummated acts of lust are base looks, hearings or conversations, to which base readings are reckoned, base smells and tastes, and finally touches.

Article I: On Obscene Looks

7. Proposition. A voluntary and deliberate look at very obscene things, which from their nature proximately dispose to venereal delectation, unless it is done from a just cause, is, per se speaking, a mortal sin; but a look at less obscene things, which from their nature dispose only remotely to venereal delectation, unless it also is done from a just cause, per se speaking, is only a venial sin. - It is proved. The reason of the first part is that someone so acting exposes himself to the proximate danger of venereal delectation, which is gravely sinful; and therefore

he sins gravely. The reason of the second part is that although the object is in some way obscene, and therefore the action concerning it is illicit, nevertheless it does not bring proximate danger of venereal delectation; and therefore that action is not gravely illicit. - Billuart, Diss., art. 16; L. 420 seqq.

8. Corollaries. 1. Looks at obscene pictures, if they are made in passing and from mere curiosity, and if the proximate danger of consent to base delectation is absent, are not held as mortal sins. But a man looking lingeringly at the private parts of a depicted woman does not seem able to be excused from mortal sin, because a look of this kind per se gravely influences base delectation; unless it is done for the briefest time, or at a great distance, or unless the age of the picture has diminished the force of the art, or if the pictures represent only infants, because painted things do not move as natural things do; unless perhaps on account of the frailty of the one looking one must judge otherwise. And this can more easily be admitted on account of custom as regards images and sculptures representing angels naked, or almost naked, as many are in Christian temples. - Therefore those sin gravely who paint or publicly expose obscene images, that is, with the private parts uncovered or covered with a thin veil; it is otherwise if, with other parts uncovered, the private parts are covered. Yet except if something of this kind must be painted for teaching or learning anatomical or obstetrical science, or for another similar just cause. - G. 415, 418, 5; 247, 249; L. l. 2, n. 56; l. 3, n. 424, 428; Struggl, tr. 4, q. 5, n. 27.

2. Per se speaking, and with bad intention or danger of consent because of special frailty excluded, it does not exceed venial sin to look from levity and a certain curiosity at the base parts of animals and at animals copulating. Struggl, Theol. mor., tr. 7, q. 4, art. 2, n. 12; L. 419.

3. "It is not mortal of itself, without danger of venereal consent, to look at the private parts of a person of the same sex (a fortiori of oneself, because one's own things move less than those of another), unless the one looking were very prone to sodomy, Salm., Sanch., etc., or unless, I would add, a beautiful adolescent were looked at naked," L. 419, 420, 421; Billuart, l. c.; or unless the look is made studiously and lingeringly. - But here it must be observed that women are sometimes found who use a mirror so that they may look at themselves immodestly, which circumstance afterwards they do not dare to disclose in confession. Yet it does not necessarily have to be declared in confession.

4. Looks at the honorable parts (that is, those which are open to all) of a person of the other sex, even a beautiful person, per se are not sins. But if they are made from curiosity or with some lingering, ordinarily they will be venial sins. But prolonged looks are not excused from mortal sin if they involve proximate danger of consent to base delectation, especially if a commotion of the genital spirits arises, and a fortiori if the person is loved with inordinate love. Therefore if this look is made from simple urbanity or another honorable cause, there will be no sin. Nor indeed, in order to avoid sin in this matter, is it necessary to walk with eyes lowered and to look at no one; naturally, surely, and without any effort, the just mean must be held. - L. 422; G. 418, 3; Bouvier, Diss. in 6 dec. praec., c. 4, art. 2, sect. 3; Billuart, l. c.

But to avoid scruples in this matter, which often hold timorous men anxious, it is helpful to note these things: 1. An excessive fear of sinning must be guarded against, since it can increase temptations, and even deter from looking at holy Images. 2. Certainly the same modesty is not required from all, but it is to be determined from the state, office, and other circumstances of persons and places. 3. There is a certain grade of modesty which regularly can be observed by all. It consists in this, that especially upon the face of persons of the other sex someone not fix his gaze lingeringly. 4. If someone from a special inspiration and grace of God wishes to preserve greater modesty, he will certainly do a thing of great merit before God and of great edification before men; the Saints have furnished us most splendid examples of this. But let him do it sweetly, with no anxiety of soul.

5. Looks at the less honorable but not base parts of a woman, namely the breast, arms, and legs, are not per se mortal sins, yet with the proximate danger of depraved consent excluded; otherwise this will easily be present if the look is lingering and prolonged, or if the one looking is very prone to venery; but it is less easily present among those accustomed by the custom of their country. - Generally you will not excuse from mortal sin those who without cause look with notable delay at the bare breasts of a beautiful woman, on account of the danger joined to a look of this kind. But they do not sin gravely who, with special danger excluded, look at mothers or nurses nursing infants, or fix their eyes on the uncovered breast of an old woman, or of a younger woman not yet formed. - L. 423; G. 418, 4; Billuart, l. c.; Bouvier, l. c.; Scavini, etc.

6. Looks at the shameful parts of the other sex or at neighboring parts are ordinarily mortal sins, unless perhaps the vision is made from afar and for the briefest time; because looks of this kind, if lingering and prolonged, per se gravely influence base delectation. Nor will you excuse from grave sin if you look at base parts through a very thin and translucent veil, because almost such a look increases lust rather than diminishes it. They except: 1. If the one looking is a child or very old, or very cold, because these are moved little. 2. If the eyes are fixed on an infant, or one worn out by old age, because they move little. Whence maids and nurses who thus look at the boys committed to them are not judged to sin gravely, unless they do it lingeringly or repeatedly and with depraved affection. G. 418, 2. - Hence it is also a grave sin deliberately to look at a person of the other sex wholly naked, unless the look were only light, in passing, or from afar; or to look at married persons copulating. - Struggl, 12; Billuart, l. c.; L. 420, 421; Salm., tr. 26, c. 3, n. 12.

7. All the aforesaid looks, which are lightly or gravely sinful, lack all fault if they are made from proportionate utility and necessity, such as is given, for example, in a physician or surgeon, when he must heal in these parts. - Hence physicians also are excused, as it seems, who receive a stipend from the government to inspect public prostitutes each week and to exclude those laboring with venereal disease from the companionship of others. Likewise young men are excused who cannot learn the art of painting unless they assist at academies or gatherings where naked persons are presented as models, unless, however, their salvation is endangered, as not rarely happens. - Diana, tr. 6, de aliq. Cas. circa mater. luxuriae, Resol. 19; L. 419, 420.

Article II: On the Adornment of Women

9. "Feminine adornment," says St. Thomas, 2.2, q. 169, a. 2, "provokes men to lasciviousness, according to that saying of Prov. 7: Behold a woman meets him, prepared with the adornment of a harlot to deceive souls." But the same Holy Doctor soon shows in the same article that this very fact, that feminine adornment is provocative to lasciviousness, nevertheless is not imputable to fault unless it proceeds from a depraved intention.

Cajetan explains this very well in the Commentary on that place of St. Thomas. Moreover, Cajetan first distinguishes a fourfold adornment: "1. For the support of the body; and this is of necessity, and on account of this God made tunics for the first parents. 2. For honesty; and this too is of necessity on the part of the soul, as the first on the part of the body. For it is shameful for a rational animal to carry the private parts manifest, as natural shame testifies; and on account of this the first parents made perizomata for themselves, providing first for the soul rather than for the body. 3. For adornment either of honor or of beauty. And adornment of honor, although it is not altogether common, since those dead to the world are exempt from care of this adornment, can nevertheless by reason of ministry be common to all. But every apparatus which is made so that a man may proceed decently and according to state is adornment of honor. But right reason dictates this, that anyone, as befits him, proceed honorably in this life, in which external things are certain testimonies of internal things. But adornment of beauty seems almost proper to women, since it is fitting that they be loved as beautiful, in order to have or preserve well-disposed husbands."

Then, indeed, concerning this adornment of beauty, about which the whole controversy is, he immediately adds these things: "Since art imitates nature, and a beautiful woman by her own nature is provocative to desire of herself, hence it happens that feminine adornment according to itself is provocative to concupiscence or lasciviousness, insofar namely as it makes for the apparent beauty of the woman. But because nature surpasses art, and the natural beauty of woman is much more provocative to concupiscence of the woman than artificial beauty, therefore just as every natural beauty of a woman is without fault, so every artificial beauty is without fault according to itself, so that it is to be imputed to neither according to itself as fault that it is provocative to concupiscence of the woman. And on account of this both are explained in the text: both that feminine adornment is provocative of men to lasciviousness, and that to be provocative is not imputed to adornment as fault unless from another fault, for example from the intention of provoking." - St. Thomas, Quodl. 10, a. 14.

10. Corollaries. 1. There is per se no sin, whether grave or even light, in adornment, if the custom of the country and the condition of state are observed. Yet they sin mortally if they adorn themselves with the mind of provoking to lust; but only venially if from vanity, levity, or boasting.

2. Superfluous adornment beyond the custom of the country and the condition of state is per se a venial fault.

3. Yet women lawfully add something of adornment that they may please their husbands, lest occasion of sinning with others be given to them; likewise women lawfully add something of adornment that they may find a spouse.

4. Cosmetics will be mortal sin if they are applied for lasciviousness; venial if merely for feigning beauty; but no sin if for hiding some defect.

5. "Know," says Cajetan, l. c., "that to use another's hair for fitting adornment, not for lying that it is one's own, seems no less lawful than to use wool from sheep and linen from the earth. And because this adornment makes a woman truly beautiful before men, by supplying a defect of nature in her adornment, therefore this act does not seem properly to look to cosmetics."

6. "For women to uncover their hair, whom the Apostle also commands to veil the head, does not befit even married women. Yet in this case some could be excused from sin when this was not done from any vanity, but on account of a contrary custom, although such a custom is not laudable." St. Thomas, 2.2, q. 169, a. 2. "To have the head uncovered and the hair curled according to introduced custom is either no sin, or only a venial sin... otherwise one must speak of those who would introduce the custom." Bouvier, Diss. in 6 dec. praec., de orn. mul., 5.

7. Women who wear garments so constricted that the form of the breast plainly appears, indeed also those who add to themselves fictitious swelling breasts, sin only venially if they do this merely from vanity, with danger of lust and scandal excluded. Craisson, Notiones circa 6 Dec. pr., C. 2, n. 233.

8. "Because the breast in some places is carried bare by women for the sake of comeliness, and through this is reduced to the adornment of beauty, adornment also having such a condition, namely of the uncovered breast according to the custom of the country, is not mortal according to itself... But where there is no custom, it would have to be inhibited and quickly rooted out lest it grow." Cajetan, l. c. In the Summa, v. Adornment, the same Cajetan has these things: "A disordered quality of adornment commonly introduces venial sin, if it is indecent and less chaste, as the adornment of women showing the middle of the breasts. Nevertheless, where the custom is already accustomed, it seems to be without sin." St. Alphonsus raises the question whether women showing their breasts for their adornment sin gravely, and responds: "When I performed the office of preacher, several times I strove strongly to reprove this pernicious usage; but since here I perform the office of Writer concerning moral science, I must say what I judge according to truth and what I have learned from the doctors. I do not deny, first, that those women who would introduce this custom somewhere would certainly sin gravely. I do not deny, secondly, that the denudation of the breast could be so immoderate that per se it could not be excused from grave scandal, as gravely provoking to lasciviousness. I say, thirdly, that if the denudation were not so immoderate, and somewhere a custom were present that women should thus go forth, it would indeed be reproved, but not altogether condemned of mortal sin. Thus most commonly." L. l. 2, n. 55. "A fortiori, those who uncover or lightly cover arms, neck, and shoulders according to the custom of the country do not gravely sin per se. But those who introduce such customs are judged by the cited authors to sin mortally." Bouvier, l. c., 8.

9. "Nakedness itself of the private parts according to itself is shameful and corruptive of modest souls... hence such a habit, that is, so thin or diaphanous that the whole woman would be

seen, would introduce mortal sin. For there would be there a vicious provocation to lasciviousness from the very species of the action, by which a dressed woman offers herself as if naked to common eyes. Whence it is read of Blessed Barnabas that he cursed naked men and women." Cajetan, Commentary on St. Thomas, l. c.

10. "To put on garments of the other sex with intention or grave danger of lust, or with notable scandal, is a mortal sin, as is clear: from necessity, for example, for hiding oneself, or from lack of other garments, with scandal and danger excluded, it is no sin; if this is done from jest or from mere levity, and scandal and danger are absent, it is only a venial sin... By the same reason one must judge that those who use masks do not always sin mortally, namely if they act thus from jest or from levity, with scandal and danger excluded, especially when they do not change garments of their own sex, but only condition, as if a servant should appear in the garments of a master, or a girl in the adornment of a mistress." Bouvier, l. c., 6 and 7. - Diana, tract. 5, de scandalo, Resol. 11, 13, 63; Benedict XIV, de Syn., l. 11, c. 12.

11. Note as regards various persons who can cooperate with this adornment of women: 1. "He does not sin who sells ornaments to a girl who through them is going to solicit others to sin, which ornaments would be sold by another; thus Sanchez, Navarrus, Azor, Lessius, Bonacina, Diana, against Castro and others. The reason is partly because that sale is something indifferent and remotely related to sin; partly also because if the seller sinned, it would be because he does not impede the sin of his neighbor. But although he did not sell, he would not therefore impede it; for there would be another who would sell. Therefore by selling he would not sin." La-Croix, l. 2, n. 263.

2. Among the questions to be asked of tailors, St. Alphonsus, Prax. Confess., n. 60, also lists these: "Whether there would be for him a proximate occasion of sinning from receiving rules for well forming the garments of women through the measurement of their bodies, as it is commonly said, in pigliar la misura, or whether it would be from fitting garments to women, which cannot be done except with the handling of the women themselves; and whether this would be for the tailor a proximate occasion of falling into depraved delectations or desires, as not rarely happens to men of wicked conscience."

3. As regards barbers, the same Holy Doctor has these things, l. c., n. 62: "Let him be asked whether he arranges the hair of women, according to the wicked usage invented by Satan in this time. Ordinarily speaking, I think that this is for men a proximate occasion of sinning mortally by base delectations, or at least desires; whence I say that this is by no means to be permitted to anyone who has not had a contrary experience in himself. But if someone at any time, through a notable time, had experienced in an action of this kind that he remained immune from sin, he truly cannot be condemned of mortal sin; but, this notwithstanding, let the confessor not omit to remove him as much as he can from an office of this kind, which certainly contains danger in itself. Hence I do not wish to discuss another doubt, whether women can, or cannot, with a safe conscience call in men, that these arrange their hair. I hear that in several places they do this; and they confess and communicate; let them and their confessors see to it. At least let the confessor impose on them that they not use some younger man from whose actions they have perceived that he conducts himself maliciously. For the rest,

I judge that women of purer conscience indeed will not use men, but will be content with women by whom the hair may be arranged in the better manner possible." But these things, as is clear, hold also for women who shave the beard of men and arrange their hair.

12. Note besides as regards the scandal which, by reason of such adornment, a woman can furnish to others: 1. that a woman who, from adornment even suitable to her state, probably foresees that someone in particular is going to fall mortally, is bound for a brief time to dismiss him, or to flee the sight of such a one. I said for a brief time, because for a long time it would be too grave for her. Whence if to omit that adornment even for a brief time would bring grave inconvenience to her, she is bound in no way, even for a brief time, to omit it.

2. But if the same thing were feared in particular from superfluous, vain, and unsuitable adornment (which to assume for the sake of vanity and pleasing others, so that she may appear beautiful and find a spouse more easily, other things being excluded, is only venial), per se speaking she would be bound to dismiss it altogether, even under mortal sin, because she has no right to that adornment, and on the other hand she is bound to avoid another's sin when she conveniently can. Whence, if grave inconvenience would follow from this, she would not be gravely obligated to omit that adornment either. Per se speaking; for since superfluous adornments, practically speaking, soon are turned into the custom of the country of women who are honorable, neither can it be said absolutely that such a woman has no right of following the custom of her country, nor is grave inconvenience lacking.

3. If a woman thinks that, not so in particular, but only in general, some will be scandalized in her, provided she does not intend their lasciviousness and is not pleased by it, although she is pleased that she be praised as beautiful, she does not seem to be bound to abstain from that adornment, even superfluous, under mortal sin, for example by coloring the face, etc. "The reason is both because it is scandal received rather than given, and that adornment and beauty provokes only to venial sin; and because it would be too grave for that sex, especially if she is seeking a husband, perpetually to abstain thus, since that occasion is universal and perpetual, and the more beautiful would never licitly go outdoors, since natural beauty harms more than artificial." Liguori, l. 2, n. 54.

Article III: On Base Conversations

13. Proposition. Very obscene words, which by a continued conversation about these matters from their nature can proximately dispose hearers to venereal delectation, unless they are made from a just cause, per se speaking, are a mortal sin. But less obscene words, which from their nature dispose only remotely to venereal delectation, unless likewise they are made from a just cause, per se speaking, are only a venial sin. The reason is the same as in the preceding proposition, n. 7. But what is said here about conversations must also be said in the same proportion about immodest songs and readings. Although words per se move less to lust than sight, readings nevertheless move much more than words and colloquies, on account of the more prolonged and more intense delay of the imagination in those base matters. - L. 426, 427, 428.

14. Corollaries. 1. Those sin gravely who, before unmarried persons, especially of the other sex, mix among themselves conversations concerning insemination, carnal intercourse, and other things which, with attention paid to the circumstances of the persons, the thing said, and the manner of saying it, can proximately dispose those speaking or hearing to venereal delectation. Nor, per se speaking, are those excused from grave sin who, under pretext of joking, have conversations about these things in equivocal words, but ones sufficiently known; except unless something of this kind is said by mere jest and in passing. For that jest and equivocation, far from removing, rather increases the danger of venereal delectation because of curiosity excited. It is said, with the circumstances attended to, because "of itself it is not evil to utter or hear base words." L. 426. - Likewise to read altogether obscene books without a just cause is a mortal sin, even if this seems to be done from curiosity or for the sake of recreation, because per se this reading greatly provokes to lust. Except perhaps unless those reading, from mere curiosity, on account of advanced age and a cold complexion, or custom of treating venereal matters, do not incur grave danger of lust. L. 426. - But it is certain that those who compose, and also those who sell, notably base books can in no way be excused from grave sin, on account of the scandal of others, although not intended; nor can profit, however great, excuse. L. 428.

2. It is not per se mortal to utter things indeed base, but not gravely obscene, if it is done briefly, through jest or empty solace, unless the hearers are so weak in spirit that they suffer grave scandal. Hence commonly base jests which are uttered by harvesters, grape-harvesters, muleteers, are not grave, because ordinarily they are said and heard for mere jest, and those uttering and hearing them are moved little or not at all. L. 426; G. 420, 4. The same consequently must be said about little songs. - Nor indeed must tender conversations, otherwise honorable, with persons of the other sex always be held as mortal sins, although they are full of dangers, especially if they are prolonged, often repeated, or made in solitary places. L. 422, 426. What, therefore, must be judged concerning loves, as they call them, especially among the younger? Not all indiscriminately are to be condemned of mortal fault; although often a proximate occasion of sinning lethally will with difficulty be absent, at least in the course of things, and with certain circumstances added, as if the lovers meet altogether alone, especially for a rather long time, or by night, etc. L. Prax. Confess., n. 65; G., l. c., 5. - Likewise, to read amorous and lightly dishonorable books per se is not a mortal sin, although in practice it is very dangerous, especially for the younger. L. 426; G. 419. But the theologians deservedly note that these amorous books, which are not gravely obscene, often harm pious faithful more than books that are utterly obscene, which excite horror by the very baseness that they show, and thus deter from reading. But those who compose or sell lightly obscene books indeed sin, even lethally, if they do this to excite lust; but if only for acquiring profit, or on account of another motive not gravely depraved, the sin will be only venial, since books of this kind can be read without grave danger. Yet clerics and religious do not seem, per se speaking, able to compose or spread books of this kind without grave scandal. Cf. St. Alphonsus, App. de libr. prohib., c. 1, n. 8-11.

3. "To mix honorable and familiar conversations and colloquies with a person of the other sex is free from all fault, although in these things you are naturally delighted. Salm., tr. 26, c. 3, n.

22." D'Annibale, p. 2, n. 68, ed. 3. "It does not matter that someone feels a greater inclination to deal with women than with men, because an inclination of this kind is not moral, nor free, but rather natural, or founded in nature itself. Therefore it is not formally evil. Yet it must be confessed that this is troublesome to a chaste mind, and even dangerous to the incautious." G., Cas., t. 1, n. 24; Elbel, de Act. hum., n. 15. - To read obscene books for a just cause, for example, for forming and perfecting style, for learning the truth of history, for informing superiors, for correcting morals, etc., is no sin, provided assent is not given to base things.

15. Note. 1. Those who hear obscene things, if they have authority over those uttering them, ought to restrain them as much as they morally can; if they do not have authority, they are bound likewise to admonish them as much as they morally can, or at least they ought to be silent, especially women, lest they seem to assent to base things; for from this the lust of men is accustomed to be inflamed. "Yet it must not lightly be pronounced that all those who, hearing base speech which on the part of the speaker is mortal, laugh a little, sin mortally; for it can happen that they laugh at the manner of speaking rather than at the things themselves; moreover in that case they do not sin mortally unless they furnish grave scandal. But religious, clerics, and persons eminent in Christian virtues would easily furnish scandal if they laughed at obscene words." Bouvier, Diss. in 6 dec. praec., de turpiloq., 4.

2. Those who, because of boasting, narrate their own base sins frequently sin on account of the scandal of those hearing, and complacency concerning the sin narrated. L. 426; Prax. Confess. 40.

Article IV: On Theaters

16. From those things which were said in the two preceding articles, judgment can be borne concerning theaters, namely whether those who are present at theaters sin. For if they sin, they can sin only on account of base looks, or base things heard. Now then, theaters of themselves are not evil, but indifferent, since they can be had well and badly. Yet ordinarily speaking, it cannot be denied that they are full of dangers, especially for adolescents, whose blood is already sufficiently boiling of itself; for they foster luxury, feed the sight basely, enervate the soul, and sharpen passions. - Wherefore there is no sin either to be present at comedies, or to act them, if they are honorable. "The office of actors, which is ordained to exhibiting solace to men, is not according to itself illicit," says the Angelic Doctor, 2.2, q. 168, a. 3. - But if they are somewhat base, the hearer will sin only venially, unless perhaps he knows by experience that he is moved vehemently by entertainments of this kind toward lust, with proximate danger of consent, so that the spectacle is for him a proximate occasion of sinning. - If finally the comedy is notably base, either in itself or in manner, he sins mortally per se. Per se; for it would be venial to view it only on account of curiosity, or on account of empty solace, with all danger of base delectation excluded; nevertheless, practically speaking, this danger will easily be present in adolescents, or in others of little timorous conscience; and unless scandal is present, which plainly would be present if clerics and religious were present at base comedies, as Benedict XIV observes. - L. 427, 428; Hom. Apost., tract. 9, n. 10; G. 247.

17. Note. 1. Holzmann and La-Croix deservedly condemn as mortal, on account of the scandal of others, both those who cooperate by money or applause in notably base comedies, and also those who are bound to impede them and, when they conveniently can, do not impede them; a fortiori those who compose or represent them. - 2. Since it is not illicit from a just and proportionate cause for someone to expose himself to danger, especially if by salutary safeguards the danger of sinning is averted, the following can be present at spectacles without sin, provided they are not gravely base: 1. married women, lest they displease a commanding husband; 2. male and female servants, that they may serve their masters; 3. sons and daughters of the family, if parents command it; 4. soldiers and magistrates, that they may care for good order to be preserved; 5. kings and princes, that they may conciliate the affection of subjects to themselves; 6. courtiers, who are bound to accompany the prince, etc., provided all these do not have a depraved intention and do not consent to carnal delectation perhaps arising. - 3. Yet since the matter, as commonly happens, is full of dangers, a prudent confessor ought, as far as can be done, to avert his penitents from spectacles of this kind. - 4. But it is lawful for workers to build and adorn theaters, if the adornments are in themselves honorable, because it is lawful for Princes to permit spectacles.

18. Can comedians and actors never be absolved unless they renounce their profession?

R. Certainly comedians and actors are not to be absolved unless they first renounce base representations; but since spectacles are not of themselves altogether illicit, nor even the office of actors, says St. Thomas, l. c., is of itself illicit, neither are those exercising it in the state of sin, provided they use play moderately, that is, by not using some illicit words or deeds for play, and by not applying play to undue affairs and times. Therefore actors are not always to be dismissed without absolution. "All things being equal," says D. Gousset, theol. mor., t. 1, n. 648, "one will be more indulgent toward an actress who is under the authority of marital power than toward an actor who is master of his actions." - Diana, tr. 5, de scandalo, resol. 25-29; St. Francis de Sales, Introduction to the Devout Life, part 1, ch. 23.

Article V: On Base Smells and Tastes

19. We find nothing special about this matter among the Theologians. Yet the matter is indubitable, as is clear from experience itself, that many are excited to venereal delectation by smells and tastes. Now indeed the same here the principle holds as also for looks and conversations. If the smells and tastes of the thing are very obscene, and they take place in such a way that they induce the proximate danger of venereal delectation, then, per se speaking, grave sin will be present. But if, with attention paid to the thing, which either is not very obscene or is in no way obscene, and with attention paid also to the manner in which those sensations take place, there is a sufficiently remote danger of venereal delectation, or none at all, then, per se speaking, either the sin will be only light, if those acts are placed from levity or some sensuality, or even none at all. It is said if from levity, etc.; for again there will be no sin if an act of this kind is placed for a sufficient and proportionate reason. - A. p. 115.

Article VI: On Base Touches

20. Proposition. Very base touches, which from their nature proximately dispose to venereal delectation, unless they are done from a just cause, per se speaking, are a mortal sin; but less base touches, which from their nature do not dispose proximately, but only remotely, to venereal delectation, unless likewise they are done from a just cause, per se speaking, are only a venial sin. It is proved. The reason is that one touching in the former way either himself or another person exposes himself, or even another person, to the proximate danger of venereal delectation; but in the latter way to a danger only remote; nor indeed is there present a reasonable cause for either touch, which would make it honorable. Therefore. - Billuart, de Temp., Diss. 6, art. 16; L. 415-418; St. Thomas, 2.2, q. 154, a. 4; q. 156, a. 2, 4.

21. Corollaries. 1. To touch the genitals of brute animals is ordinarily only venial. But to continue these touches all the way to the effusion of semen is probably mortal, because it is an action most vehemently exciting to venereal delectation. Nevertheless, if someone did this from mere levity and curiosity, and experienced that he was in no way moved venereally from it, he could not be condemned of mortal sin. Tamburini, Explic. Decal., l. 7, c. 8, n. 5; Sporer, de Matrim., n. 697.

2. Touches of one's own body, even in the private parts, do not exceed venial sin when, venereal affection being excluded, they are had only in passing and from mere levity or curiosity, because they are not very strong incentives of lust. L. 419; G. 416; Billuart, l. c. - But here it must be observed that a woman, for example, who has touched herself by means of some instrument, is not bound to reveal this circumstance, even if she has introduced it into the private parts, because from this there is not had a new species of sin. Nor likewise is it necessary explicitly to declare in what part of the body base touches of this kind were had. Therefore the confessor ought not to ask about these things.

3. Touches in the private parts of another person of the same sex, or in neighboring parts, even over garments, are ordinarily not excused from grave sin, unless perhaps they are done from wantonness, jest, levity, and in passing. G., l. c.; Salm., tr. 26, c. 3, n. 50; L. 420.

4. It does not exceed venial sin to touch honorable parts, for example, the fingers, hand, face, of a person of the other sex, if these things are done from mere levity, and there is no special danger of venereal delectation by reason of the manner in which these touches are made, or even by reason of one's own or another's frailty. - L. 415, 418.

5. Touches in the less honorable parts of a person of the other sex, such as the breast, legs, arms, if they are done from mere levity, curiosity, jest, etc., also do not exceed venial sin, always with special danger of venereal delectation excluded, by reason of the manner in which these touches are made or even of one's own or another's frailty. L. 430. - "Whence to hold the hand of a woman, to twist the fingers, to touch lightly the neck or shoulders, to place the foot over her foot in passing, etc., is not a mortal sin, unless, by reason of one's own personal misery or that of the other, there exists grave danger of lust. On the contrary, a young man who draws a girl onto his knees and holds her sitting there, or by embracing her presses her against himself,

at least ordinarily sins mortally, and the woman voluntarily suffering this cannot any more be excused from mortal sin." Bouvier, l. c., de tactib. impud., 6; Ithurriaga, Cas. 51, n.

Gravely to be rebuked is the boldness of those young men who deliberately put their hand into the bosom of a woman; for a lustful affection, if it does not precede, certainly follows from such a touch, as experience teaches; add that the very woman who is touched is not rarely thus exposed to the danger of pollution or of lustful delectation. Touches of a woman's breasts, especially of one already pubescent, are mortal when they are pressed and lingering; but venial if they are light and are done in passing, superficially, and without lustful affection. Thus also concerning a girl touching her own bosom. Reciprocal lingering touches of women themselves among themselves upon the breasts are per se mortal, because not only to touch thus, but also to be touched thus, greatly influences the venereal matter. - Scavini, l. 1, n. 794, Milan 1874.

6. Touches in the base parts, that is, in the genital parts, or those which are nearest to them, of a person of the other sex, even had for a brief time, whether they are done immediately or mediately over the undergarment alone or even over garments, regularly cannot be excused from grave sin, either because they show an affection for venereal delectation, or because they contain the proximate danger of venereal delectation. Yet probably maids are not to be accused of grave sin who touch the private parts of infants while they dress them, even if from levity or a certain curiosity; otherwise, however, if this were done with delay, or by immediately repeating the touch, because of the proximate danger of venereal delectation and, when the boys begin to grow, because also of the danger of the boys themselves. Wherefore maids of this kind must be gravely turned away from such a depraved habit. Sanchez, de Matr., l. 9, d. 46, n. 11; Salm., tr. 26, c. 7, n. 37; L. 420, 430; La-Croix, l. 3, n. 902; Ithurriaga, Cas. 51, n. 6; Billuart, Diss. 6, art. 16, who nevertheless adds: "A man who from levity or jest touches a woman in passing in the region of the private parts over garments can be excused from mortal sin, because this does not seem gravely to influence carnal commotion."

7. As other incomplete acts, about which in the preceding articles, so also touches are not evil from their intrinsic nature, as is clear from the reason constantly adduced, but only extrinsically, namely on account of the proximate danger of venereal delectation or of consent to it. And indeed all these acts from their intrinsic nature do not pertain to lust or the venereal matter, which is contained only by intercourse, pollution, or carnal delectation which proximately disposes to these or follows them in the genital parts; but they belong per se to sensuality, as is clear from what has already been said above, n. 2. Besides, "these touches or looks, apprehended as means of health or necessity, do not so move the imagination or the flesh; but if from another delightful apprehension creeping in they move gravely, this is per accidens from the misery of nature and beyond the intention of the agent, to whom, since he has a just cause of placing those acts, the effect that followed is not imputed. Besides, even granted that these acts per se influence commotion, nevertheless they have another good effect equally immediate, which can be intended, the evil being permitted, as I said above, art. 11, de poll. Always understand: provided danger of consent to the very venereal delectation arising from it is absent." Billuart, l. c. I said third.

Therefore all the aforesaid touches are altogether lawful from proportionate necessity and utility. Hence physicians touching from necessity the private parts of a person even of the other sex do not sin, even though per accidens they suffer involuntary pollution. Nor do those sin per se who touch themselves: 1. for wiping away the filth of the body, and so men can clean away uncleanness lying hidden under the foreskin, from which they suffer grave inconvenience; 2. for quieting an itching which arises from the acrimony of a salty humor flowing into the private parts; and this has place both in men and especially in women, and in some almost continually; cf. Milne Edwards, l. c., t. 9, pp. 53, 68; 3. for curing infirmities, although danger of pollution is present in all these touches. Nevertheless, if the itching, which sometimes is almost intolerable, is lighter, it is to be suggested that they abstain from touches insofar as they can without grave annoyance. Yet the confessor must use great discretion in these matters. For doubts of this kind are accustomed especially to trouble persons of timorous conscience. But exhortations, if they are a little too vehement and are not seasoned with an open declaration that otherwise every guilt is absent, will very often and easily entangle consciences in most troublesome scruples. - L. 417, 419, 420; Hom. Apost., n. 3; St. Thomas, 2.2, q. 154, a. 4; G. 416; Billuart, Diss. 6, art. 16; Bouvier, etc.

Rather, those who suffer itching in the private parts should be counseled to apply other remedies more efficacious than touches, for example water, either simple or medicated, yet according to the prescription of a physician, and especially cleanliness of those parts. - But it is not lawful to touch oneself if that itching is not itching properly so called, or arising from blood or humors, but is entirely venereal itching, or a certain vehement excitation to pollute oneself from too great an abundance of semen. This venereal itching is very unlike that which all experience in other parts of the body, and when pollution has followed it ceases altogether. Debreyne, Moechialogie, part 1, ch. 1, art. 5; 8, ch. 2, art. 2, sect. 1.

Article VII: On Kisses and Embraces

22. Kisses can be of three kinds: of honesty, of levity, of pleasure. - Kisses of honesty, or those which are made according to the custom of the country, for the sake of urbanity, or for attesting honorable love, friendship, peace, reconciliation, or from another honorable end, are no sin. The reason is that similar kisses are of themselves indifferent; and therefore, if they are done from an honorable motive, they can exhibit no dishonesty. Therefore kisses which mothers or nurses are accustomed to imprint on infants are free from every fault. And the same is to be said at least ordinarily of others who kiss infants of tender age even of the other sex, every depraved affection being excluded. Yet it does not befit nuns, religious, and clerics to kiss persons of the other sex, except relatives in the first degree of consanguinity or affinity, on account of a certain natural indecency and the scandal which would follow from it. - G. 415.

Kisses of levity, curiosity, or even sensuality, provided they are not base from the object or manner, per se do not exceed venial sin. The reason is that they do not exhibit the proximate danger of venereal delectation.

Finally, kisses of pleasure, that is, venereal pleasure, are grave sin. Such certainly are kisses in the base parts, that is, the genital parts or neighboring parts. Such also almost must be held to be kisses impressed on less honorable and usual parts of the body, especially between persons of the other sex,

for example on the breast, breasts, etc.; or even on honorable parts, but in a less usual manner, for example if they are very lingering, or repeated and pressed, and especially with the tongue introduced into the mouth, etc. The reason is that kisses of this kind show an affection for venereal delectation and contain the proximate danger of venereal delectation. - Ithurriaga, Cas. 18, n. 3, 4; Billuart, l. c.

23. As kisses, so embraces are of three kinds: of honesty, of levity, of pleasure. - Embraces of honesty, which are made from the custom of the country, or by reason of office or benevolence, per se speaking, are altogether free from every fault. - Embraces of levity, curiosity, or sensuality, provided they are not base from the object or manner, per se do not exceed venial sin. - Finally, embraces of pleasure, namely venereal pleasure, are mortal sin. Such ordinarily are embraces which are made very lingeringly and closely between persons of the other sex. - The reason for this threefold resolution is always the same, namely danger of venereal delectation, only remote or proximate. - Billuart, l. c.; L. 417, 429, 430.

Article VIII: On Kisses and Embraces with Respect to Betrothed Persons

24. 1. Kisses, embraces, and other base or less honorable touches are illicit for betrothed persons in exactly the same way as for others. The reason is that betrothal gives them no special right to intercourse and venereal delectation; and therefore neither to those acts which contain a more or less proximate danger of venereal delectation. Billuart, l. c.; L. l. 6, n. 854.

2. Kisses, embraces, and other honorable touches, from their object and from the manner of performing them, are permitted to betrothed persons. The reason is that those acts are lawful in themselves, and therefore, as they are permitted to other unmarried persons, so also they are permitted to betrothed persons. But the question is moved specially concerning betrothed persons rather than concerning others, because in reality those acts can more easily be permitted to them on account of a special reason which has force for them, namely for mutually fostering benevolence, which is altogether necessary for them so that the future marriage may be completed. But as it is lawful to act with sensible delectation, but illicit to act on account of the same, by stopping in it, so it is altogether lawful for betrothed persons, as also for any others, to take sensible pleasure in these acts.

25. Hence there arises a threefold question that is altogether practical. The first question is: What is to be thought of those acts of betrothed persons, if they contribute to exciting venereal acts? - R. Here the general rule has force: these acts are culpable only when either the cause is bad, or there is present the proximate danger of consent.

The second question is: What if it is established for the betrothed man or woman that the other sins in these acts because of a depraved affection? - R. 1. If those touches are made before others, the other can lawfully permit those touches, lest he or she be defamed, or bring suspicion upon himself or herself, and lest others be scandalized. - 2. If those touches are made secretly, and it is certain that they are being made maliciously, when there is question of others and of betrothed persons, the doctors commonly teach that one is bound to repel those touches. But if there is question of betrothed persons, for whom often there could be a notable inconvenience in this matter, because the

other will certainly withdraw from marriage, the general rule concerning scandal received seems to have to be applied, namely that this can be permitted if it cannot be impeded without grave inconvenience; but it must be impeded if this can be done without notable inconvenience.

Finally, the third question is: What is to be thought concerning these same acts when, from the frequency of lapses, the danger of consenting to the subsequent venereal delectation must be held as a proximate occasion of sinning? - And this question, as the preceding ones, can also be made concerning the looks and conversations themselves, which have a most just cause; whence parents can altogether lawfully permit such looks and conversations, although great caution and prudence must always be used in these matters.

R. Here the general rule concerning a necessary proximate occasion has force; for it is morally impossible that a betrothed man, seriously thinking of entering marriage, should not visit, look at, and speak to his betrothed woman, and according to custom exhibit to her other signs of benevolence which manifest his mutual love. Therefore the confessor will suggest remedies not only general, but also special, so that due moderation may be preserved and necessity may not be exceeded in exhibiting those signs; and then, so that he never act alone with her alone, care must also be taken that the marriage not be long deferred. But if those and other remedies do not obtain fruit, this one thing remains: that they be dealt with no otherwise than with recidivists. G. Ballerini, n. 413; Gury-Dumas, Cas., v. 2, n. 695; Reuter, Neo-conf., n. 112.

26. Another related question can be raised here: namely, whether it is lawful "for a marriageable girl to encourage several suitors to this end, that from them she may finally choose someone to whom she may be joined in marriage?"

R. 1. Negatively, "if, honesty being neglected, and not solicitous for modesty, they themselves both love and endeavor to be loved back." The reason is clear. - 2. Affirmatively, if it is done "with the greatest honesty on their part, and without any stain of modesty." The reason is that if "girls conduct themselves in this most honorable way, it makes no difference if at times they are loved basely by some one of the suitors, as can easily happen. For provided they are led not by this base end, but by an honorable desire of marriage, sin ought not to be imputed to the girls attracting suitors, but to him who takes the occasion to his own ruin, which honorable girls do not give him, while they use the right which they have to employ a means not evil of itself for the most honorable end of marriage. Therefore access is barred to all those dangerous familiarities, clandestine conversations, and unspeakable exchanges of letters; and if these are warded off by girls proceeding elegantly but modestly, no ground remains" whence the matter should be forbidden, though it must altogether be forbidden if otherwise, as often happens. Therefore as regards practice, since the matter is full of danger, great caution and prudence are needed. Ithurriaga, Cas. 14, n. 3 seqq. And here it must be noted that a girl per se sins who accepts gifts from a lover, if they come from base love, for they foster that base love; otherwise, however, as is clear, if they proceed only from honorable benevolence and friendship. G., v. 1, n. 240; L., l. 2, n. 76; La-Croix, l. 2, n. 264.

Article IX: On Kisses, Embraces, and Other Touches with Respect to Spouses

27. It is a principle, already commonly admitted among theologians, that in this matter all things are lawful for spouses, except pollution and those things which participate in the malice of pollution, without grave sin, and without even venial sin, if a reasonable cause is present. Hence kisses, embraces, and other touches, even base ones, and generally all incomplete acts, whatever they may be and in whatever way they are performed, per se speaking, contain among spouses no grave guilt of fault, and with a sufficient reason added are not imputed even to venial fault. The reason is that in the married state, since intercourse is lawful, venereal delectation not consummated outside intercourse is lawful. For to him to whom the complete and consummated act is lawful, the incomplete begun act also is lawful, which from its intrinsic nature tends to the complete and consummated act; and such is the carnal venereal motion bringing venereal delectation. But those incomplete acts, which from their intrinsic nature do not pertain to lust but to sensuality, are prohibited insofar as they contain the proximate danger of venereal delectation, which, outside intercourse, not consummated, is not prohibited to spouses. Therefore, etc. Busenbaum apud L., l. 6, n. 932.

28. Corollaries. 1. Looks, kisses, embraces, and touches upon parts both honorable and even less honorable, indeed even simply base, are free from grave fault among spouses, provided, however, that they are done cautiously, so that the danger of pollution is absent. Thus the commoner and truer opinion from St. Alphonsus. "The reason is that, just as the conjugal state makes intercourse honorable, so also it makes touches and looks of this kind honorable; otherwise, since there is so great a society between spouses, and they often cannot have intercourse, they would be exposed to continual dangers if such acts were gravely illicit for them. But just as delectation sought in intercourse does not exceed venial fault, so also in these touches and looks." L., l. 6, n. 933; G., v. 2, n. 910.

2. The aforesaid looks and touches are per se altogether free from every fault, provided, however, as has been said, that they are done cautiously, so that danger of pollution is absent, whenever they are exercised for the sake of showing conjugal affection or fostering love. The reason is that such acts are in reality from their intrinsic nature means to this end of signifying and fostering conjugal love, and therefore lawful to those who by the matrimonial bond ought to become one heart and one flesh. - A fortiori the aforesaid looks and touches are per se free from fault if they are immediately referred to intercourse, or are necessary or useful for exciting nature; for then they are a certain preparation for intercourse and, as it were, its beginning. But if these acts, by which a spouse disposes himself or herself to the conjugal act, are such that they per se easily provoke pollution, they can be culpable if diligence is lacking for avoiding pollution outside congress; and omission of diligence of this kind, where it is such that through it one is thought nearly to will pollution outside the vessel, can even be grave fault. But if, due diligence having been used, such pollution follows beyond intention, there is no fault. G., l. c.; L., l. 6, n. 934.

3. Spouses do not sin gravely, even if from the aforesaid looks and touches, had even without intention of intercourse, there arises a commotion of the spirits or of the members serving generation, or if distillation follows; although these would be mortal in the unmarried. The reason is that, the crime of voluntary pollution outside the vessel or of sodomy being excluded,

nothing is done against the good of marriage. But the light fault which can be in acts of this kind is easily excused by ends intrinsic to marriage itself or other extrinsic ends; for example because they are suitable for fostering affection or for calming concupiscence. - Indeed it is even probable, and an opinion sufficiently common, that these acts are excused from every fault even in the one requesting, although pollution is foreseen as about to follow in oneself or in the other, if nevertheless the pollution is not intended, nor is there danger of consent to it, and provided some grave cause is present, for example to foster mutual love or to avert the jealousy of the other. The reason is that then that just cause makes such acts honorable, which otherwise are not illicit among spouses; and if pollution occurs this will be per accidens. Wherefore, as is consequent, it is also probable that these acts are altogether lawful for the one rendering, although there is danger of pollution in either one, because then the one rendering gives his work to a lawful thing. - Diana, tr. 6, de Sacr. Matr., R. 207; L., l. 6, n. 934; Tamburini, Explic. Decal., l. 7, c. 3, n. 56; G., l. c.

But this doctrine, as is clear of itself, is not to be extended to those acts which so tend to pollution that they are, as it were, pollution begun, as if a woman were very lingeringly to touch and stimulate the genital members of the man, or a man were wholly lingeringly to insert a finger within the female vessel. Cf. Sanchez, l. 9, D. 45, 46.

Finally, to this doctrine a question is joined: Do spouses sin if, intercourse having been begun, they restrain insemination? - R. Per se speaking, they do not sin, at least mortally, if both spouses consent in this. The reason is that this penetration of the female vessel is reckoned as, so to speak, a touch of the private parts, which is by no means prohibited under grave sin to spouses. But it is said: 1. per se speaking; for an act of this kind, considered concretely, since it tends to pollution and is, as it were, pollution begun, is illicit concretely. Wherefore, if pollution would always or at least ordinarily follow in reality, then that withdrawal would per se in reality tend to pollution, and then it would be gravely illicit. But if pollution either never followed, or at least did not follow ordinarily, and only sometimes pollution followed, since this would be per accidens and beyond intention, that withdrawal would not then be gravely illicit. 2. At least mortally; for if there is a just cause for acting thus, for example because of poverty and multitude of offspring, and at the same time for calming concupiscence, every fault will be absent. 3. If both consent; for if one withdraws without the consent of the other, he certainly sins gravely. - L., l. 6, n. 918; Diana, tr. 6, de Sacr. Matr., R. 205, n. 2; R. 207; Sporer, de Matr., n. 500; Sanchez, de Matr., l. 9, d. 19, n. 3.

4. "Touches with oneself from venereal delectation, the other spouse being absent, according to the opinion of many, cannot be excused from grave sin, even with pollution or its proximate danger excluded. The reason is that the spouse does not have the right of using his own body in order to unfold pleasure with himself, but only in order to intercourse. La-Croix, n. 339, etc.; L., l. 6, n. 936. Yet not a few others apud St. Alphonsus say that, with the danger of pollution excluded, this does not exceed venial fault. St. Alphonsus judges the first opinion more probable and to be recommended." G. 920. Tamburini, however, says that each opinion is probable, Explic. Decal., l. 7, c. 3, n. 45. And Sanchez says the second is more probable, l. 9, d. 44, n. 16.

Now it must be noted here, according to the reason explained above in n. 27, that these acts, if they are venial, are venial only on account of the extrinsic disorder of the agent. Wherefore, consequently to the principle established above, we say that even these acts, exercised by one spouse alone, altogether apart from the other, per se speaking, or from their intrinsic nature, probably contain not even venial fault. And the reason is: 1. because if these acts are intrinsically culpable, since the matter here is always grave, they are either gravely culpable or in no way; 2. because mutual touch of a spouse with a spouse is probably lawful outside consummated intercourse precisely because that touch from its intrinsic nature is ordered to intercourse. Wherefore, just as consummated intercourse is lawful for spouses, so also intercourse only begun is lawful, which is contained in those acts. But any voluptuous touch of a married person from itself is referred to intercourse, which is already lawful to him or her. Therefore the light fault which can be in these acts can easily also be excused on account of an honorable end, because, for example, they are suitable for calming concupiscence and for avoiding another grave sin.

29. "How ought a woman conduct herself who is touched by a man not her own?" - R. "If she is touched in dishonorable parts, she ought in every morally possible way to repel the one touching. But that is called morally impossible which cannot be applied without such inconvenience as would outweigh, or at least be equal to, the endurance of this touch, such as would be danger of death, infamy, grave loss of goods, and similar things, if she resisted the one touching; in which cases, according to Lessius, l. 4, c. 3, n. 64, and Loth, the woman would not be bound to resist the exterior touch, because such a touch according to species is not evil on the part of the woman, as fornication would be, provided, however, that danger of consenting to interior lust is absent. Since I judge this to be very rare and very difficult, I also think that a woman is regularly bound to resist in every possible and lawful way, whatever may threaten her. But if a woman is touched in honorable parts, yet notices the lustful mind of the one touching, a distinction is needed. Either she is touched in the presence of others, who from the woman's resistance would conceive an evil suspicion concerning the one touching or embracing, or not. If the first, she is not bound to withdraw herself, because there is present a cause of neglecting the other's sin; if the second, she is bound, because we are bound to impede the sin of our neighbor when we conveniently can. Thus Sylvius here, conclusion 1, and others." Billuart, l. c. See about corollary 4. Cf. here n. 25.

Article X: On the Nature of Base Touches

30. Do the aforesaid touches differ in species from the consummated act of pollution and of intercourse, and from the other incomplete acts about which there was speech in the preceding articles?

R. To 1. Affirmatively; and this answer has force both for touches and for the other incomplete acts about which there has been speech thus far. The reason is that a begun act differs in nature and moral estimation from a consummated act. Lugo, de Poenit., d. 16, n. 237, 238.

Note. Here, however, it must be noted for the full understanding of the nature of these incomplete acts, that pollution, intercourse, and venereal delectation, which precedes, accompanies, and follows them, pertain to lust, which is directly opposed to chastity; but these acts of the other senses, which

are called begun and incomplete acts with respect to venereal delectation, pollution, and intercourse, to which they dispose, belong properly to sensuality and immodesty, which according to the doctrine of St. Thomas, 2.2, q. 154, a. 1, ad 5, concerns acts antecedent or concomitant to the completed venereal act. "Although chastity and modesty are often taken as one and the same, nevertheless, strictly speaking, modesty is not chastity, but a special circumstance of it. It is proved: modesty is named from shame, in which bashfulness is signified; whence modesty is properly concerned with those things about which men are especially bashful, such as venereal things because of the rebellion of the genital members and, as it were, the absorption of reason, so that even conjugal intercourse itself, which nevertheless is adorned by the honesty of nuptials, is not without bashfulness, and spouses would blush to exercise it before others. But man is bashful not only about intercourse itself, but also about certain signs of it, such as immodest looks, kisses, touches, etc. And because these are accustomed to be detected more, therefore modesty regards more signs of this kind, but chastity more the venereal commingling itself. Therefore modesty pertains to chastity as its special circumstance." Billuart, diss. 4, art. 1, I say third.

Corollary. "When, therefore, similar acts precede the venereal act completed in the same passion, or accompany the same act or immediately follow it, as kisses, touches, etc., they constitute with the complete venereal act one sin in number, and do not necessarily have to be distinctly explained in sacramental confession; but when they are exercised without the completed venereal act they are a sin distinct from this, yet one in number, if they are exercised in the same motion of passion; as I said, tract. 2, quaest. 1, n. 36. Whence in such a case they are a certain incomplete lust, and are to be explained in sacramental confession." Struggl, art. 2, n. 9.

R. To 2. It is disputed, if the speech is about grave malice. The first probable opinion affirms. The reason is that these acts, inspected according to themselves, proceed from distinct and diverse faculties, and are ordered to distinct and diverse objects.

Corollary. "The desire of looking basely, touching, kissing, fornicating, are distinguished in species not only from morose delectation concerning those objects, but also each from each other, because they tend toward those objects as they would be placed on the part of the thing; but if they were placed on the part of the thing, they would be distinguished in species, as is clear. Hence one who once was delighted by a thought about intercourse, and once desired intercourse, does not satisfy by saying: twice I had a base thought, but he ought to say: once I was delighted concerning intercourse, and once I desired it. Similarly one who once desired to look, once to kiss, once to touch, once to fornicate, does not satisfy by saying: four times I desired to do something base, but he is bound to express those objects." La-Croix, l. 6, p. 2, n. 1032.

The second probable opinion denies. The reason is that although acts of this kind physically proceed from faculties really distinct and tend to objects really distinct, nevertheless, morally inspected, they do not contain an intrinsically grave malice, but the grave malice which they contain they have from venereal delectation, to which they proximately dispose, and which is of the same species for all acts of this kind. St. Thomas, 2.2, q. 154, a. 4.

Corollary. Therefore, when in confession the venereal delectation that followed, to which someone consented, has been explained, it is not necessary to explain whether he procured it for himself by a look or touch of himself, by a look or touch of another person. Yet the reason of scandal and cooperation would have to be explained, if it were present. Likewise, when in confession interior

delectation of the will in venereal delectation, or a desire of the will for venereal delectation, has been explained, it is not necessary to explain whether that delectation and desire terminated immediately at base looks or touches. Reuter, p. 2, tr. 3, c. 3, q. 10; Tamburini, Method. Confess., l. 2, c. 1, n. 66-72.

Billuart, Diss. 6, art. 15, Sect. III, Note seqq., has these things to the matter:

"Francis Henno teaches that delectations concerning look, touch, kiss, etc., differ among themselves in species, and must thus be distinctly accused... because, he says, looks, touches, kisses are distinguished among themselves in species... but nevertheless he confesses that the practice of confessors and penitents is contrary. Besides, I think his foundation is false, namely that touches, kisses, looks are distinguished among themselves in species in the genus of lust. For since they are not evil per se, as was said, but only by reason of commotion, or pollution, or intercourse, to which they excite and tend, they have the same species of malice among themselves, namely either of carnal commotion, or of pollution, or of intercourse, etc. Whence in my judgment the penitent would satisfy who said: so many times I excited in myself or in another a carnal commotion or pollution, keeping silent whether by touches, or looks, or kisses, provided he explains the conditions of himself and of the accomplice. A fortiori he would satisfy by saying: so many times I was carnally delighted concerning such or such a person, not explaining whether concerning touches, or kisses, or looks, but indeed if the delectation was concerning intercourse or pollution, because since these differ in species from immodesty and are to be distinctly accused, so also are delectations concerning them."

St. Thomas, 2.2, q. 154, a. 4, ad 3, speaking of kisses and touches, says "that things of this kind are not sins according to their own species." And ibid. ad 2 he says: "from lust they have the nature of sin." And ibid. in the body: "things of this kind, insofar as they are lustful, are mortal sins."

31. Do touches and other incomplete acts, when they are grave sin, contract a malice diverse in species for the various circumstances of persons?

R. As regards touches, kisses, and embraces, it is commonly affirmed. And the reason is that, in moral estimation, touches more than other acts regard the individual person, and more proximately approach intercourse. Whence just as in intercourse the specific circumstances of persons must be explained, so also in touches. Cf. Lugo, de Poenit., d. 16, n. 238; L., l. 417, 453, 459, 469.

As regards looks, the Salmanticenses apud St. Alphonsus, n. 421, likewise affirm; and both as regards looks and also as regards base words, whether spoken or heard, in nearly the same way as regards touches, Sanchez also affirms, de Matr., l. 9, d. 46, n. 17, 18, 30, 45, on account of a wholly universal reason, namely because all these acts are ordered to intercourse and participate in its moral malice. But St. Alphonsus, after reporting the opinion of the Salmanticenses as regards looks, adds these things: "But Croix, l. 6, p. 2, n. 1030, more truly contradicts this doctrine, where he says that one who, without any desire, looks venereally at a person is not bound to say what sort of person it was; for how would a woman, by looking basely at a naked priest, commit sacrilege, which consists in violation of a sacred person, since no violation intervenes there? And how would someone, by looking basely at a blood relative, commit incest?" And indeed looks, morally speaking, merely affect the person looking, and therefore properly and from their own nature are not judged to tend into the consummated act and to be, as it were, some affective beginning of intercourse. But these things also hold as regards base words spoken or heard, as is clear of itself, to which the malice of scandal can

easily be added. Lugo, de Poenit., D. 16, n. 163, 167; Billuart, diss. 6, art. 16, par. Circa Turp., Nota bene; Scavini, l. 1, n. 792, note, Milan 1874; St. Thomas, 2.2, q. 154, a. 4, ad 1, ad 2; L. 415, 417.

32. In touches which someone has with himself or with another, must the sex be explained, whether male or female? - R. Per se speaking, negatively; for this in itself is merely material. L. 467.

33. As regards touches, must the parts of the body which one gravely sinning in this matter touched be explained? - R. La-Croix, l. 6, p. 2, n. 1031, has these things: "One who without venereal desire touched a girl, according to Diana, satisfies by saying that so many times he touched basely, saying nothing about the parts in which he touched. Others probably say that it must be expressed if he touched a base part." - Cf. here n. 30.

Article XI: On Dances

34. That we may proceed in order, we shall set forth three things: 1. we shall explain the general doctrine; 2. we shall speak of dances in particular customary in our time; 3. we shall indicate the practice of the confessor.

35. 1. There are three classes of dances. The first is per se modest, the second per se gravely immodest, the third per se lightly immodest.

Dances per se modest are those which, without any wholly base end or immodest external act, while musical instruments are sounding, are performed among persons of the same sex or even of different sex; although the hands of a man and woman mutually grasp one another, yet lightly, according to the manner customary among honorable persons and in honorable dances. For this "is per se no fault, or at most is venial, because generally in this there is no danger of lust, or only a light one." Gury, 234. Now then dances of this kind are in no way per se illicit, because they are indifferent in themselves and are prohibited by no law. Nevertheless they are often immodest per accidens by reason of the danger which can easily be found even in those modest dances. St. Thomas, on Isaias, c. 3; and 2.2, q. 168, a. 2; L., l. 3, n. 429.

36. Corollaries. 1. Those who are so weak that they undergo grave danger of sinning in dances must abstain from them under mortal sin, unless perhaps at some time a certain necessity urges and means are applied so that the proximate danger of consent is absent. On the contrary, says Tamburini, l. c., c. 8, de Chor., n. 3, if from experience you have known that danger of this kind is not present to you, I think that you are in no way guilty of mortal sin by dancing in this way or by looking at those dancing.

2. To dance modestly or to be present at honorable dances from some necessity, or from the decorum of one's state, without probable danger of sinning, is no sin; because a sufficient reason is given for permitting the sins of others, if there are any. Hence marriageable girls are excused from sin by dancing decently when they cannot be absent from dances held in the father's house, or among neighbors or relatives, or cannot refuse dancing without being mocked, or without displeasing parents or betrothed men requiring them.

3. Indeed, to be present at honorable dances, even without necessity, yet with danger and notable scandal excluded, and to dance decently in them, not only is not mortal, but can easily also be free from every sin. For sometimes men are found, and not rarely women, to whom even in dances among persons of different sex no danger, or a very remote danger, threatens. But although these are to be dissuaded from dances, nevertheless a promise of avoiding dances would be demanded from them imprudently and unjustly under denial of absolution. - G. 243.

37. Dances per se gravely immodest are those which, with men and women mixed, or indeed even separated, are undertaken with obscene gestures, immodest touches, dishonorable songs, indecent nakednesses, and those things gravely repugnant to modesty. There is no one who denies that these dances are altogether illicit. Cf. St. Thomas, l. c., a. 3. - To these dances per se immodest belong dances which take place in taverns, to which dissolute men and dissolute women of every kind come together. But in no way is it lawful for an innkeeper, for attracting more guests, ordinarily to admit gravely base dances in his buildings, just as neither is it lawful to set before them for reading public newspapers which evidently and ordinarily are opposed to good morals. G. 256. To this also, generally speaking, are referred dances with masks among persons of different sex. For experience establishes that games of this kind are allurements to lust and an efficacious cause of immodesty. G. 244.

38. Finally, dances per se lightly immodest are those in which lightly dishonorable gestures, touches, songs, and adornments are had. These dances, as is clear, per se speaking, are not gravely illicit, but only lightly, because they are only lightly dishonorable. Nevertheless per accidens they can very easily be gravely illicit by reason of the danger of lethal fault which can very easily be found in them.

39. Corollary. 1. The threefold corollary established above regarding dances per se modest also has place, yet with due proportion, regarding these dances that are per se only lightly immodest.

40. 2. The dances customary in our time, concerning which the controversy is greatest, are those which in French are called valse, polka, galop, and others similar to them; to all of which this is special, that a man and a woman clasp one another in mutual embrace, and thus, held together, proceed by dancing in a circle. - Now then there are many indeed who universally hold these dances as per se immodest, both because that excessive proximity of bodies proceeds all the way to the very compression of bodies, with the greatest danger, as is clear of itself, of venereal delectation, and because those dancing, clinging together and separated from others, so that it is as if one man alone with one woman alone, are also in great danger of speaking obscene things. Hence they say that those cannot be absolved who indulge in the aforesaid dances and do not wish to renounce them. "Nevertheless there are not lacking upright men who say that these very dances can be done in a manner not so indecorous, although commonly they are very dangerous." Gury-Dumas, Cas. 233. Wherefore also as regards these more recent dances, it will belong to the confessor to judge concerning particular cases, from the manner, circumstances, gravity of the motive, gravity of the danger, etc. G. 242.

41. 3. As regards practice, these things generally can be at hand for the confessor. 1. "The confessor ought especially to attend to these two things, namely to the danger of the person of the penitent, that he may restrain it, and to the reasons which he can have for assisting at dances, that he may indulge him or at least not act so rigidly. For the faithful occur not rarely who, from a grave cause or moral necessity, are impelled to take part in dances." Gury-Dumas, Cas. 234. - 2. "If no hope is given of removing dances from the midst, as most frequently happens, excessive severity will harm the salvation of souls; for many, thinking these amusements to be lawful or not gravely illicit, are unwilling to abstain entirely from them; they desert confession, the Eucharist, and sacred sermons." Bouvier, l. c., de chor., 8. - 3. "He, on the contrary, who treats penitents assisting at dances kindly, by persuasion and prayers turns them away from dangers of this kind, furnishes them salutary counsels that they not expose themselves to danger; if they have fallen, he rebukes them paternally, defers absolution for them, and finally, when they are contrite for grave things admitted, although he does not judge them immune from every sin, absolves them, admits them to communion at least at Easter, consults much more efficaciously for their salvation and profits the good of religion." Bouvier, l. c. - 4. Generally speaking, "dances, as they are accustomed to be done, are always dangerous; therefore confessors... ought to turn young persons of either sex away from them as much as they can," Bouvier, l. c., although they have not yet gravely relapsed. But then let the confessor proceed with due charity, and rather by way of counsel. Let him commend to his penitents certain spiritual exercises, pious reading, prayer, etc.; and, with the grace of God helping, he certainly will not be frustrated in the very best outcome of the matter. Cf. St. Francis de Sales, Introduction to the Devout Life, part 3, ch. 23.

Chapter II: On the Consummated Sins of Lust According to Nature

42. Some sins of consummated lust are according to nature, namely when they are exercised in that mode which is not opposed to the generation of the human species; that is, if in intercourse diverse sex, the same species, and the natural vessel and mode are preserved. Others are against nature, if semen is poured forth in a mode not apt for generation; that is, if the things just enumerated are not preserved, whether this happens in intercourse or outside intercourse. We shall speak of the former in the present chapter, and of the latter in the following one. - L. 412, 432; St. Thomas, 2.2, q. 154, a. 2.

Article I: On Fornication

43. Proposition. Fornication is intrinsically evil and a mortal sin, so that it is never lawful.

Pre-note. Fornication is intercourse of an unmarried man with an unmarried woman from mutual consent. It is said of an unmarried man with an unmarried woman, that is, free from the bonds of marriage, according as fornication is distinguished from adultery. Unmarried man and unmarried woman also free from the bonds of kinship or affinity and of vow, according as it is simple fornication

and has no other species annexed. From mutual consent, so that it is distinguished from stuprum and from raptus. Cf. here nn. 57, 61, 66, 73, 83, 103.

It is proved, first part. 1. From proposition 48, condemned by Innocent XI: "It seems so clear that fornication according to itself involves no malice, and is only evil because it is forbidden, that the contrary seems altogether dissonant from reason." 2. Because fornication and promiscuous intercourse are opposed to the good education of offspring, which cannot take place without the conjugal bond of male and female; for for that education there is required not only the care of the mother, by whom the child is nourished, but much more also the care of the father, by whom afterwards the offspring must be instructed, defended, and promoted to a state in which he can provide for himself the things necessary. - The second and third parts are proved. 1. Because in Sacred Scripture fornicators are excluded from the kingdom of heaven. 2. "Because fornication is gravely opposed to the good of offspring and to the due propagation of the human race; for if fornication and promiscuous intercourse were lawful, males, doubtful concerning the ownership of offspring, would not acknowledge it and would not apply themselves to due education; but women, afterwards abandoned by males, would procure abortions, would abandon infants, or would plainly kill them. Therefore. Moreover fornication is a mortal sin, even if a rich man wished to take care of the due education of the fornicating offspring; for if fornication were lawful in such a case, most would arrogate a similar license to themselves, would omit marriages, and fornication would successively become common against the due propagation of the human race." Struggl, 23; L., l. 1, n. 199; l. 3, n. 432, 435 seqq.; St. Thomas, 2.2, q. 154, a. 2. Therefore God, as author of nature, had to forbid fornication for every case; otherwise men, blinded by desires, would easily fashion for themselves that this inconvenience of due education of offspring would be absent in many cases in which nevertheless it would not be absent, with the greatest harm to the offspring. Scavini, l. 1, n. 766, Milan 1874; Billuart, l. c., dissert. 6, art. 2.

44. Note. 1. "He who only begins intercourse, but does not complete it nor inseminate, must explain this very thing, because although then it is fornication begun and in affection, nevertheless it is not fornication in reality; but it is an immodest act, and the extreme of immodesty, as Sanchez notes, disp. 19, n. 1. ('Intercourse in the natural vessel of another woman is true fornication, although insemination is not present.' L., l. 6, n. 916.) Much more, one who begins the same intercourse, and with nature already excited draws back and scatters the semen, must explain it, because there is now a double malice, namely fornication begun and in affection, and consummated softness, as is clear of itself. But this must be understood when the sinner does this while persevering in sin and consenting to pleasure. For otherwise anyone who has begun fornicatorial intercourse, or any illicit intercourse with some woman, both can lawfully without a new sin and must draw himself back, although because of the impulse of nature having been stirred semen must be emitted outside the natural vessel; indeed even after the accomplice person has already inseminated. The reason is that the fornicator at every time before completed fornication is bound to desist and not consummate it, since at every time he is bound to desist from sin; but by desisting from intercourse he desists from sin, which is always lawful and due. Therefore, if then pollution outside follows, it will follow from a lawful work and beyond his intention and consent; and therefore in that case the pollution is judged not voluntarily caused, but only permitted on account of the most just

cause of desisting from the begun sin of fornication or the like. Nor does it matter that the other party, or the woman, has already inseminated or certainly will inseminate; for this does not remove the obligation of desisting from sin and not consummating the evil act." Sporer, 575, 576; L., l. 6, n. 916; Struggl, 25; Billuart, diss. 6, art. 2, append. 1, You ask fourth.

2. The circumstance of induction to fornication probably does not have to be explained in confession, since it is merely aggravating. Wherefore it suffices to confess fornication, "because the malice of induction or scandal, as they say, is already had, although not so grave, when someone does not solicit but consents; for even then he participates with the other in his sin, and is a cooperating cause to his ruin; wherefore this malice seems only to be aggravated more within the same species when someone positively solicits. And Lugo says the same must be said of base conversation and the like." L., l. 2, n. 46.

3. He who has fornicated with three satisfies by saying that he has fornicated three times, without expressing whether three times with the same one, or once with three. But the confessor will prudently ask about a circumstance of this kind by reason of the greater danger or scandal which can be present, and so that he may see whether that man is doing the office, as it were, of a corrupter, and thus may suggest fitting remedies. Elbel, de Act. hum., n. 103.

4. As regards penalties laid down by civil law against fornicators, none indeed has been laid down by Italian law or by French law against simple fornication, unless certain circumstances concur, that is, of publicity, violence, or the tender age of the one with whom the crime is committed. Italian Penal Code, 331 seqq.; French Penal Code, 330 seqq.; Law of May 17, 1819, art. 8. But as regards canonical penalties, cf. Trent, sess. 24, c. 8, de Ref. Matr.; sess. 25, c. 14, de Reg.; Bouix, de Parocho, p. 3, s. 4, c. 2, Sect. 4.

Article II: On Concubinage and Prostitution

45. Proposition. Concubinage and prostitution is not a special sin, but only a circumstance of sin, not per se necessarily to be declared in confession. - It is proved. For concubinage properly is frequented intercourse of an unmarried man with an unmarried woman. But prostitution is intercourse with a woman ready for every man who comes. Therefore, although concubinage and prostitution are a graver sin on account of the will persevering in sin, it is neither a special sin nor a circumstance of sin per se changing the species. Nevertheless that circumstance must be manifested per accidens: 1. by reason of scandal, when the concubinage or prostitution would be public; 2. for manifesting the state and kind of occasions, and it must always be opened to the confessor asking, as is clear from proposition 58 condemned by Innocent XI. L. 432; G. 421.

46. Note. 1. Prostitution per se does not impede generation, nor does it procure sterility, if no injury of the organs is had from frequent acts of lasciviousness. For prostitutes not rarely conceive, and even sometimes experience abortion, which they scarcely care about, a little mass of matter having been cast out. And this ordinarily has place in the earlier days of conception. Commonly, however, conception of offspring is not had; but a circumstance of this kind does not change the nature of the sin, since it is per accidens, just as if someone were to

fornicate with a sterile woman or with an old woman. But that, if offspring is born, it is uncertain of what father it is, and from this is badly educated, this is a circumstance not specifically proper to prostitution, but to fornication, and therefore it is not essentially distinguished from it. Cf. here n. 43. But if uncertainty of offspring of this kind perhaps is greater in prostitution, nevertheless it is known that more and less do not change the species. - Billuart, diss. 6, art. 2, You ask first.

2. Men going to prostitutes use a certain means, lest they be affected by them with syphilitic disease. But by this means an impediment of generation is had, although intercourse on each side remains in species and externally normal, without any withdrawal of the man or woman. An obstacle of this kind is sometimes presented on the part of the woman, who intends only the impediment of conception, since she can in no way avert contagion by this mode. If, therefore, either by intention only, or also in reality itself, an obstacle is placed to generation, then indeed there will be a special circumstance, but an extrinsic one, necessarily to be declared in confession. Debreyne, Moechialogie, part 1, ch. 1, art. 2, Sect. 1.

47. Is it also a sin of scandal to seek fornication from a prostitute ready to sin?

R. "There are not lacking several doctors who say that it is not a sin of scandal, because since such a woman is always in actual or virtual will of sinning, he who furnishes to her an occasion of executing that sin is not judged to cooperate gravely but lightly. Thus Soto, etc. I venerate the authority of such doctors, but I would not dare to depart from the contrary opinion, which I judge must be followed, and which Sanchez, etc., hold. The reason seems to me very powerful, because although the prostitute is in actual will of sinning, nevertheless she certainly brings upon herself a ruin gravely greater by completing that particular sin of fornication. Therefore he who cooperates with her for consummating the sin sins gravely in two ways, both against charity and against chastity." L., l. 2, n. 47.

48. Can prostitutes be permitted?

R. "The first probable opinion affirms; and the Salmanticenses and St. Thomas hold it, and St. Augustine clearly adheres to it. The reason is that, prostitutes removed, worse sins would happen, namely sodomies, bestialities, softnesses, besides the corruption of honorable women. But the second opinion, more probable practically, denies; and Roncaglia, Navarrus, etc., hold this. The reason is that through prostitutes these graver evils are not avoided, because in lustful men, from easy and frequent congress with prostitutes, lust fixes deeper roots; and therefore, since this vice is increased more by frequency, they do not cease to commit pollutions and unspeakable sins, at least with the prostitutes themselves, nor for this reason do they abstain from soliciting honorable women. Conversely, by the permission of prostitutes innumerable other evils are superadded, namely, more girls are prostituted; adolescents esteem their parents lightly; they dissipate goods, neglect studies of the sciences, stir up quarrels, and reject honorable nuptials. For the rest, Father Sarnelli well observes that although in vast cities prostitutes can be permitted, nevertheless in other places they are in no way to be permitted." L. 434.

49. Corollary. In cities in which, for the sake of avoiding a greater evil, it is permitted that prostitutes live, it is lawful to rent a house to them, especially if other tenants are lacking or it would be easy for them to rent other buildings, unless nevertheless the prostitutes would gravely harm honorable neighbors, or because of the site would give greater occasion for sins. G., t. 1, n. 250; L., l. 2, n. 70; Ithurriaga, Cas. 26; St. Thomas, 2.2, q. 10, art. 11.

50. Is it lawful to serve prostitutes or concubinaries?

R. Negatively, per se and ordinarily speaking, both on account of scandal and also on account of the greatest danger of lapse. Therefore those cases which in practice must be excepted will have to be judged from the degree of necessity and from the circumstances of persons removing scandal and proximate danger of sinning.

51. Note. 1. It is lawful for a servant to open the door to a concubine or prostitute, especially when, if he did not open it, there would be another who would open it. L., l. 2, n. 66; Roncaglia, tr. 6, cap. 6, reg. in prax. observ. IV.

2. Laymann, l. 2, tr. 3, cap. 13, n. 5, has these things: "It is lawful for a servant to admit through the door a woman with whom his master is going to sin, to carry a torch before him, to prepare the bed, as Sanchez, Navarrus, Rodriguez, Azor teach, because material cooperation of this kind is sufficiently remote, and without it the sin would nevertheless be committed." Cf. also Struggl, tr. 4, q. 5, n. 37, and Tamburini, Expl. Decal., l. 5, cap. 1, par. 4, n. 18, where he has these things: "The very common reason of service and attendance is a proportionate cause why a servant, son, in one word a subject, doing the following works indifferent in themselves, is excused. First... Second, if by command of the same master, whom he knows is going to commit adultery, he saddles the horse, merely accompanies him, and merely waits before the doors (merely, I say, that is, not so that he may keep watch and render him bolder for sinning), prepares the bed, seasons foods and serves the concubine, and merely accompanies her, leading her to the place where the master is going to sin, and opens the door for her as she is about to enter. Third, if he adorns his mistress, a prostitute, if he carries writings and messages full only of urbanity, if he carries small gifts and foods, and performs other offices which another servant would perform equally." Sporer, de 8 praecepto, c. 1, n. 99, also excuses the servant carrying gifts to a prostitute, "because," he says, "on the one hand they are bound by office and condition to serve and obey their masters; but on the other hand cooperation with sin is merely material and only remote."

Yet others require another very grave reason, because since these gifts are apt for fostering lust, the cooperation seems sufficiently proximate. And because of this very reason it is not lawful for a servant to carry amorous letters to the concubine of his master, unless besides the common reason of service there is present a graver and proportionate reason. For the rest, the servant is not bound to inquire what is contained in the letters.

St. Alphonsus, l. 2, n. 64, 65, 66, 67, for a servant accompanying his master to a brothel or saddling the horse, in order that he be excused, requires fear of grave harm; for a servant opening the door to a prostitute, in order that he be excused, he requires that, if he himself does not open, there be

another who would open. But he judges that carrying gifts to a prostitute is intrinsically evil, and that it is never lawful to carry amorous letters to the master's concubine.

3. But it would be altogether illicit for a servant to put his shoulders under, or to carry a ladder for, a master climbing to fornicate, to open the door by force, and similar things; for the cooperation is altogether proximate, and makes the sin easier with the gravest harm of a third party. Yet since these actions are not intrinsically evil, they would still not be illicit if fear of death or mutilation were added. St. Alphonsus, l. 2, n. 66, adds that no other fear excuses the one cooperating, except death. For otherwise, because of fear of loss of resources or of infamy alone, it is not lawful to concur in the dishonoring of a girl to be deflowered. Cf. L., l. 3, n. 571.

52. Is it lawful to have a concubinary maidservant?

R. If the maidservant is publicly concubinary, it is not lawful to retain her by reason of scandal and most evil example. But if she is secretly concubinary, then a distinction must be made. For either her lover also is retained at home, or not. In the first case it is not lawful to retain her, even if other male and female servants cannot easily be found. For thus the master would be receiving sinners, and sinners more safely and conveniently, and consequently he himself would foster the sin of his servants. But in the other case the master is also bound to cast out the maidservant, if it can prudently be hoped that from such expulsion she will return to good fruit. But if it were likely that, expelled from the house, she would become worse (which certainly could easily be presumed), then it is lawful for him to retain such a maidservant, provided she is not pernicious to the family, which can easily happen. The reason is that in the former case he seems to favor the sin of the maidservant, but not likewise in the latter. And this would be all the more lawful if notable harm to the master would follow from that expulsion, if, for example, he would lack due and necessary service. Cf. Tamburini, Expl. Decal., l. 5, cap. 1, par. 4, nn. 21, 22; Elbel, de Act. hum., Conf. 1, Cas. 3.

53. Can a concubinary be absolved before he has dismissed the concubine?

R. 1. If the concubinage has been public, neither the concubinary nor the concubine regularly can be absolved, however much they appear contrite, before public separation, because besides the danger to be fled, satisfaction proportionate to the scandal is necessary; moreover this satisfaction commonly can be obtained by separation alone. It is said regularly, because one placed in extremis, having no one except the concubine who may minister necessary things to him, can be absolved and fortified with the other sacraments, provided he is truly contrite and promises, before those standing by, if the intercourse was public, that he will cast out the concubine as soon as he is able. The same must be said of the concubine placed in the same necessity.

For in such necessity scandal is repaired in the mode in which it can be repaired; for no one is held to the impossible. Bouvier, l. c., art. 2. Indeed, with necessity pressing, not even that promise before those standing by seems necessary, because in these circumstances scandal will easily cease on account of the evident necessity of the matter itself. And this has place a fortiori if there would only be question of absolution to be given secretly, and not also, because of shortness of time, of administering Extreme Unction and Viaticum. And here the doctors observe that the Holy Eucharist is not to be carried to a prostitute dying in a public brothel, on account of public decency and because it is not absolutely necessary. Gury-Dumas, Cas., t. 2, n. 721-723.

R. 2. If the concubinage has been occult, either the concubine can be dismissed without scandal or another grave harm of reputation or fortune, or not. If the first, some apud St. Alphonsus affirm for the first or second time, provided he sincerely grieves and promises that he will cast her out; the reason is that the penitent is sufficiently disposed. Others altogether deny even for the first time, because he is in proximate occasion, and until he removes it, one cannot prudently be certain of his sufficient disposition. St. Alphonsus also affirms, but when it is morally impossible that the concubine can be dismissed shortly before absolution. "For otherwise absolution must always be deferred, because experience too clearly establishes that, once absolution has been obtained, the occasion is afterwards with difficulty removed, and thus one most easily returns to the vomit." L. 436 and l. 3, n. 682; Billuart, Diss. 6, art. 2, App. 2, You ask third. If the second, he certainly can be absolved, if he sincerely grieves and promises to apply the means which are suggested to him; but it is altogether expedient, says St. Alphonsus, "that absolution at least be deferred until the continence of the penitent is proved by experiment; unless the case were that the penitent (otherwise sufficiently disposed, as is supposed) could no longer return to confess sins; or if there were imminent necessity of communicating, for avoiding positive infamy." L. 435.

54. Corollaries. 1. In the article of death, "if the concubinage is occult, separation will not per se have to be urged under denial of absolution, on account of the scandal which would ordinarily follow if the concubine were dismissed in these circumstances. For thus the intercourse, which is occult, would be publicly manifested. But a promise must be obtained from the dying man of dismissing the maidservant if he recovers; and meanwhile care must be taken that there be at least separation from the dwelling, and that the maidservant not approach him except under urgent necessity." Gury-Dumas, Cas., t. 2, n. 724. - But there will be no further difficulty, whether the concubinage is occult or public, if, as can easily be done at present, marriage is legitimately celebrated.

2. Those who by occasion of exercising a lawful art are in the proximate occasion of sin, if they show signs of true penitence with a purpose of guarding against the occasion as much as they can, by applying due means, are not bound to abandon their art, which cannot be done without grave inconvenience. Hence surgeons are to be absolved who by healing women are in an occasion of sinning. The same must be said of a pastor who in hearing the confessions of women voluntarily pollutes himself. A woman also can be absolved who lives by lodging guests, and sins by occasion of lodging, and therefore falls with different persons, and also falls with some particular person, provided she proposes thereafter to avoid conversing alone with one alone. L. 438, 483; d. 6, n. 455. - "A maidservant vividly solicited by her master is bound to leave his house; for one who freely dwells where he is so dangerously enticed to evil cannot reasonably hope for victory over temptation, except by extraordinary helps of grace, which cannot be hoped for without temerity by him who can freely avoid danger and does not avoid it. Yet these things must be understood if a person of this kind is frail and little devout; for if she were devoted to piety, and cautious, and applied fitting remedies for repelling temptations and resisting passion, then I would not bind her to removing the occasion." L. ibid., 452.

55. Note. "Remedies for those who are found in the proximate occasion especially of base sin are greater prayer, more frequent use of the Sacraments, daily renewal before an image of the

Crucified of the promise of sinning no more and of avoiding being alone with one alone, fleeing from the sight of the accomplice, and similar things." L., l. 6, n. 455, 464.

56. What are the penalties laid down by law against concubinaries?

R. As regards Italian and French Civil Law, there is no special penalty. As regards Canon Law, there are none latae sententiae; but all are ferendae sententiae, except suspension incurred ipso facto by bishops if, after they have been admonished by a Provincial Synod, they have not amended. Trent, sess. 24, c. 8, de Ref. Matr.; sess. 25, c. 14, de Reg.; Bouix, l. c., n. 44; L. 442; Billuart, Diss. 6, art. 2, You ask fifth.

Article III: On Stuprum

57. Stuprum is sometimes taken for every illicit intercourse; but more commonly by this word a special sin of lust is designated. The theologians, however, do not agree among themselves concerning the nature of this sin. Father Gury, 425, says stuprum is violation or oppression of a woman, against her will. But commonly theologians place stuprum in the defloration of a virgin. Some hold that the proper character of stuprum simply consists in the illicit defloration of a virgin; others hold that it consists in violent intercourse with a virgin, so that intercourse with a consenting virgin is not a sin distinct from simple fornication. - But by the name of virgin in either opinion is understood not she who has preserved the virtue of virginity so that she has been stained by no sin of lust, but she who retains the seal of virginity intact, although she has been polluted even voluntarily and therefore has irrevocably lost the virtue of virginity. Cf. here n. 1, 3, 4; L. 443; St. Thomas, 2.2, q. 154, a. 6.

58. Proposition. It is certain among all that violent defloration of a virgin, besides grave sin against chastity, also involves a grave sin against justice, necessarily to be explained in confession. And this circumstance of violence, as is clear of itself, must be expressed even if the woman were not a virgin, but corrupted or married. - Moreover, "by violence here is understood not only physical violence, but also moral violence, such as fraud and fear; likewise importunate prayers and flatteries which, according to the judgment of prudent men, especially in this matter, are morally reckoned as violence; such are those which are accompanied by great promises, kisses, touches which are incentives of venery, and in one word all those by which an ingenuous woman cannot easily resist." Billuart, de Temper., Diss. 6, art. 3, I say first; Struggl, 28, 29. But although force or violence is not had, certainly notable fraud is had, and therefore a special malice against justice to be declared in confession, if someone were to fornicate with a woman who was insane, drunk, or sleeping, because she is violated without her consent, and therefore a grave injury is inflicted on her. - Sporer, 606; St. Thomas, 2.2, q. 154, a. 6; L. 430, 433.

But whether the illicit defloration of a virgin voluntarily consenting is a species of lust distinct from simple fornication is disputed, and each opinion is at least extrinsically probable. It seems that the negative opinion must altogether be adhered to: the reason is that that circumstance of physical virginity or integrity bears itself merely materially with respect to the virtue of chastity, and therefore the sin against chastity is not changed in species. Hence, what is consequent, this circumstance of virginity in whatever sins committed by a female or male virgin will not have to be necessarily

explained in confession; unless perhaps on occasion of reservation, or censure, or another extrinsic circumstance, for example if it culpably became known and dishonor and harm occurred which must be repaired. The dishonor of the virgin herself and of her parents is repaired by satisfaction for the injury inflicted; the harm, however, by restitution, namely by sufficiently providing a dowry, or by marrying. Billuart, Diss. 6, art. 3, I say second seqq.; L., l. 3, n. 640 seqq.; l. 6, n. 874; Suarez, de Poenit., d. 22, s. 4, n. 4-6; Lugo, de Poenit., d. 16, s. 4, Sect. 7; de Iust. et Iur., d. 12; St. Thomas, 2.2, q. 154, a. 1, 4.

59. Does stuprum, if the deflowered virgin consents, contain at least a special malice of injustice with respect to the parents in whose custody she was?

R. Negatively. "The reason is that if the girl herself, since she is mistress of her own body, inflicts no injury on her father if she consents to defloration, using her own right, much less does the deflowerer inflict it. Only she will sin, and consequently also the violator, against the piety owed to her father, and also against obedience, if she has had from her father an express prohibition about such a crime, as Lugo says, n. 226." L., l. 3, n. 641.

60. What are the penalties against those who commit stuprum?

R. There are various penalties of fines, prison, detention, forced labors, French Penal Code, l. 3, 331-333; Italian Penal Code, art. 331-336.

Article IV: On Abduction

61. Raptus can be taken in two ways. First, it can be taken insofar as it is an impediment diriment of marriage, and is: the violent abduction of any woman from a safe place into another, where she is detained under the power of the abductor, for the sake of entering marriage. In the other way it is a species of lust; and it is the abduction of any person, whether male or female, whether virgin or corrupted, whether married or unmarried, from place to place, with violence brought either upon the one abducted or upon those under whose power the person is, namely parents or guardians or husband, but not if they are brothers and the woman is of her own right, for the sake of fulfilling lust. Wherefore in the first way a person is abducted for the sake of contracting marriage; but in the other way for the sake of lust. Concerning raptus in the first way there is speech in the treatise on Marriage; here we treat of raptus in the second way. - Moreover it is clear how raptus taken thus differs from stuprum. For stuprum has place only with an unwilling virgin, but raptus with any person; stuprum involves only violence or fraud, but raptus also abduction from place to place; stuprum brings violence only upon the virgin, raptus upon the person abducted or those under whose power the abducted person is, or even both. "Whence you see that raptus of a virgin, once the base effect has followed, differs from stuprum only very accidentally." Sporer, de Matr., 603. "If, however, a woman should depart willingly with her lover, the parents not knowing, it will not properly be raptus, but flight, not adding a malice distinct in species from fornication." - L. 443. Therefore the proper malice of raptus consists in the injury which is inflicted in violent abduction for the sake of lust. Wherefore as stuprum perfectly such, so raptus, besides the sin of lust, contains a sin of injustice; but in raptus that injustice is against both the person herself, who is violently

abducted, and also the parents or any others under whose power that person is placed. Here it must be noted that by raptus even of one willing the right of paternal power is violated, but not by the defloration of the same, since as regards the use of her own body she is not subject to her parents. - Schmalzgrueber, l. 5, p. 2, t. 16, de Adulteriis, etc., Sect. II, de Stupro, n. 19; St. Thomas, 2.2, q. 154, a. 7; L. 444.

62. Note. Billuart, diss. 6, art. 4, par. 1, has these things about flight: "Flight can be reduced to raptus, because although it is done without violence, nevertheless it is not done without injury to parents, insofar as especially girls are committed to their custody by nature and law for a definite time, regularly until the twenty-fifth year of age, by which they become of full age, and beyond which the abduction of a girl voluntarily consenting, even with parents resisting, must no longer be called raptus, either properly or improperly, because then injury is done to no one."

63. What ought a woman oppressed by force to do, so that she may be immune from sin?

R. 1. She must guard against inwardly assenting to pleasure; otherwise she sins mortally, although force is externally brought upon her. - 2. She must also defend herself externally as much as she usefully and reasonably ought; otherwise she is already judged to consent. But whether she is also bound to cry out, several affirm; but others very probably deny, if there would be danger of notable harm, whether of infamy or of excessive shame, because then, if she already resists otherwise as much as she can, she is not bound with so great inconvenience to herself to repel force. Except if there is present a proximate danger of consenting. L. 430.

But in the supposed case whether it is lawful to kill the invader of modesty, Bishop Bouvier denies, but others commonly affirm. The reason is that if this is lawful for protecting honor and resources, much more must it be said to be lawful for protecting modesty, when no other remedy is at hand. Lugo, Roncaglia, etc., observe that it will be lawful for a girl not only while she is actually being violently touched by another, but also immediately after, to strike him with slaps, fists, a stick, and even non-dangerous blows. The reason is that unless in such a way she shows her constancy and displeasure, he will not easily depart. Hence always, if this is not done for vengeance, it is not only to be permitted, but also to be counseled to the woman, so that the other may at least come to his senses and not solicit her another time. L. 386.

Finally, whether a woman oppressed by force is bound rather to suffer death, by repelling with force the invader of modesty, than to permit intercourse, there is a twofold opinion. "The first says that, although she can, nevertheless a woman is not bound to suffer death, but can then bear herself permissively while intercourse occurs, provided she resists positively by the will and the danger of consent is absent; because, as they say, that permission is not then moral cooperation, but only material, and therefore is sufficiently excused on account of danger of death. The second teaches that this is altogether illicit, because, since the woman can impede intercourse, if induced by fear she rests, then her cooperation becomes truly moral and voluntary; for in the woman that rest in intercourse is reckoned as action. Yet this reason does not convince, because that rest of the woman truly cannot be called action, since it is in no way positive; therefore the first opinion, speculatively speaking, does not seem to lack its probability. Nevertheless it must not be denied that the second opinion is altogether to be recommended in practice, at least on account of the danger of consent

which can easily be present in that permission." L. 368, 430, 433. - Hence above in R. 2 it was said: "as much as she usefully can and reasonably ought, certainly without danger of her life or reputation; for then she is not bound to kill, mutilate, or wound the invader, even though she could by right." Sporer, 605; Elbel, de Act. hum., Conf. 2, Cas. 1.

64. Can a girl violently oppressed lawfully expel at once the semen of the man that has been injected, lest she conceive?

R. Negatively. The reason is that this expulsion of semen now existing in the womb is per se and directly against generation from the positive action itself of the woman. But if the semen had not yet been injected into the womb, "she could lawfully turn herself and interrupt coitus, although the semen of the man would have to be poured forth, because this would happen per accidens and on account of the malice of the man alone." L. 394 and l. 6, n. 954. - Nevertheless there are not lacking authors who permit that, if it is done immediately after intercourse, before conception has been made, because, they say, the semen then bears itself in the manner of an unjust aggressor, whom it is lawful to repel. But if it is lawful immediately after intercourse, before conception is made, to expel semen by washing or by another means, as St. Alphonsus excellently says in the cited n. 394, the same would be lawful afterwards, which would be altogether illicit. Is not the fetus already conceived then more the aggressor, the continuer of the aggression? Besides, how can semen be expelled after it has been received, before conception takes place? For "the womb of a woman is closed as soon as it receives the semen." L. 394. - But observe here that generation is not impeded by simple washing, if it is done at least some hours after intercourse.

65. What are the penalties against abductors?

R. The penalties are of detention, imprisonment, forced labors, according to various cases, Italian Penal Code, art. 340-344; French Penal Code, l. 3, art. 354-357. But as regards Canon Law, from Trent, sess. 24, c. 6, de Ref. Matr., the abductor is bound "whether he has married her or has not married her, decently to endow the one abducted according to the judgment of the judge," unless she is a prostitute or of evil reputation; and this is not so much a penalty as just compensation. But as regards penalties properly so called, whether he who abducts a woman for the sake of lust, or for another evil end than marriage, if he does not incur the impediment, at least incurs the other penalties established by Trent, sess. 24, c. 6, de Ref. Matr., some affirm, because the Tridentine in that special chapter speaks generally; but others more truly deny, because Trent intended only to favor the liberty of marriage. For the rest, except excommunication, the other penalties established there are ferendae sententiae. Scavini, Milan 1874, l. 3, n. 808.

Article V: On Adultery

66. Adultery is intercourse with another's spouse. It is a grave sin distinct in species from others; for besides sin against chastity it includes another against justice: for it violates in a grave matter the inalienable right of the other spouse; whence such malice does not cease, even if that spouse consents. This is clear from proposition 50 condemned by Innocent XI: "Intercourse with a married woman with her husband consenting is not adultery; and therefore

it suffices in confession to say that one has fornicated." Billuart, Diss. 6, art. 5; St. Thomas, 2.2, q. 154, a. 8; L. 445.

67. The degrees of gravity of this sin are these: 1. Grave, when an unmarried person sins with one bound; besides fornication, by cooperating only, this one sins against the right of a third party. 2. Graver, when a bound person sins with an unmarried one, because besides fornication he sins against the fidelity given by himself to his own spouse, and because he violates the right acquired by the spouse in his body. 3. Gravest, when a bound person sins with one bound, because besides fornication he himself sins against justice, violating the right of his own spouse, and cooperates in a sin against justice of his accomplice, who likewise violates the right of the spouse of the accomplice. Whence the state of each must altogether be declared in confession, as the most common opinion of the doctors has it. 4. Adultery of the wife is graver than adultery of the husband, on account of the most grave harm of the family and of legitimate heirs, willed in the cause, which circumstance introduces another species of malice. - Sporer, 259; L. 445; Lugo, de Poenit., d. 16, n. 258.

68. "Adultery is committed by a married person in every species whatever of at least external lust, not only natural, with an unmarried, bound, related, sacred person, etc., but also against nature, by bestiality, sodomy, softness, and likewise by immodest kisses and touches even with unmarried persons; and therefore a married man or married woman doing such things is bound to explain the state of his or her marriage. This is most common among the doctors: Sanchez, lib. 9, disp. 18, n. 4; Lugo, l. c.; Tamburini, cited c. 3, Sect. 1. The reason is that in all these things injury is always done to the spouse, according to the cited Apostle: The wife does not have power over her own body, etc. And conversely." Sporer, 259. But Billuart, diss. 6, art. 9, has these things: "If someone knows the wife of another in the preposterous vessel, the malice of adultery is joined... Yet it is not strictly and properly adultery, because another's marriage bed, or conjugal vessel, is not properly violated... For which reason if adultery were reserved, these things would not be reserved."

69. Spouses also contract the malice of adultery, or quasi-adultery, when sinning against nature by sodomy or softness, when mutually or separately they pollute themselves. For thus their flesh is most truly divided against the fidelity of marriage, which prohibits every use of the flesh outside the limits of marriage, and obliges that each preserve his or her body for the other. But they must necessarily explain that sin was committed with their own spouse; otherwise they will never explain the sin committed by themselves. Sporer, 497, 526; L. 446; Diana, tr. 6, de Matr., R. 186, n. 4; Billuart, de Matr., diss. 4, art. 3, at the beginning.

70. If a spouse only delights lingeringly in thought about intercourse with another, does he or she also contract the malice of mental adultery, necessarily to be explained in confession? - R. "Vasquez, 2 p., tom. 1, disp. 112, with others, affirms. The reason is that the fidelity of marriage obliges not only the body, but also the mind, not to place itself upon another base object; and therefore one lingeringly delighting in this way sins not only by a sin of lust, but also of mental adultery, just as by the consent of all a religious, priest, or another bound by a vow of chastity is bound in confession of morose venereal delectation to explain the circumstance of his vow or state, because he offends not only against chastity, but also truly

against the vow and the virtue of religion. A probable and without doubt safer opinion. But Hurtado apud Tamburini, l. 10 Decalogi, n. 6, denies not improbably in these words: Vasquez teaches that a married person who is venereally delighted about fornication with one not his own sins not only by a sin of lust against chastity, but also by a sin of adultery against the fidelity of marriage. Yet this is proved with difficulty and without sufficient foundation, because with difficulty and without foundation is it said that in marriage fidelity is promised to the spouse of not placing the mind on another. These things Hurtado says sufficiently probably. Certainly without sufficient foundation and urgent necessity or reason the Sacrament of penance must not be burdened. The reason is otherwise concerning one bound by a vow of chastity. For one vowing chastity to God, the inspector of hearts, without doubt principally vows and obliges himself to chastity even internal, without which external chastity is worth nothing; but one contracting marriage with a human being is asserted without foundation also to oblige his mind to him or her, lest it tend lustfully toward another object." Sporer, n. 523.

71. Is it adultery, intercourse had with one betrothed by words concerning the future?

R. "It is more probably denied with Sanchez, de Matr., l. 1, d. 2, n. 2; Salm., d. c., 5, n. 10; Roncaglia, ibid., q. 5. But Roncaglia and Salm., de Matr., c. 1, n. 11, judge that if one of the betrothed fornicates with another person, he ought to open in confession the circumstance of betrothal as changing the species by reason of the injury inflicted on the other. Yet it is sufficiently probable with Trullench, Pontius, Diana, Covarruvias, Lugo, Sanchez, and Laymann that it is only an aggravating circumstance, since a betrothed person by betrothal acquires no right in the body of the other. See this in de Matr., l. 6, n. 647." L. 447; Ithurriaga, Cas. 6, n. 16; Billuart, diss. 6, art. 2, App. 1, You ask third; Lugo, de Poenit., d. 16, n. 177-178.

72. What are the penalties against adulterers?

R. From Canon Law they are: 1. that adulterers cannot compel the innocent party to render the debt; for it is equitable that no fidelity be kept to one breaking fidelity. 2. That there is a right in the innocent co-party of seeking divorce, provided nevertheless the adultery was consummated, certain, formal, not praised by either, nor remitted. - But the penalty from the French Penal Code, l. 3, art. 336-339, and from the Italian Penal Code, art. 353-358, is the penalty of detention, prison, and fine. The penalty also of reclusion and detention as well as forced labors is established for another marriage contracted after another valid marriage. Italian Penal Code, art. 359; French Penal Code, l. 3, art. 340.

Article VI: On Incest

73. Incest is intercourse with blood relatives or relatives by affinity within the degrees prohibited by the Church for marriage. Incest is a grave sin, and differs in species from other sins of lust; for it is not only against chastity but also against the piety and reverence which the very relatives mutually owe to one another. Billuart, diss. 6, a. 6; St. Thomas, 2.2, q. 154, a. 9.

74. Note. The prohibited degrees are up to and including the fourth degree in consanguinity and affinity arising from marriage, whether ratified or consummated; up to and including the

second degree in affinity arising from illicit intercourse. Thus from Trent, sess. 24, c. 4, de Ref. Matr.

75. Do not only intercourse, but also all immodest touches among relatives put on the nature of incest, necessarily to be explained in confession?

R. Affirmatively. For those acts also are opposed to the reverence owed to relatives. L. 453, 469; Billuart, l. c., a. 6, 9. Cf. here nn. 31, 103.

76. Note. Billuart, diss. 6, art. 6, vers. fin., speaking of sodomitic acts, judges it not improbable that acts of this kind do not put on the nature of incest in degrees prohibited only by positive law. The reason is that "positive law prohibits only intercourse between persons between whom it prohibits marriage to be entered. For these degrees of consanguinity and affinity are constituted by the Church in order to diriment marriage; and thus they do not seem to affect persons of the same sex between whom marriage cannot be entered." And ibid., a. 9, speaking of sin against nature, he says that if someone knows a blood relative in the preposterous vessel, there is had the malice of incest; nevertheless it is not strictly and properly incest, because there is not made a commingling of seeds, from which affinity would be contracted... "wherefore, if incest were reserved, these things would not be reserved." Cf. Lugo, de Poenit., d. 16, n. 344-350, who in n. 349 teaches altogether the contrary as regards a sin diverse in species to be manifested in confession, "because if someone basely touches a blood relative in the third or fourth degree, he ought to explain in confession the circumstance of the person because of the specific malice which that touch participates in, diverse from that circumstance of consanguinity... Therefore a fortiori, if a man has had sodomitic intercourse with a blood relative in the third or fourth degree, he ought to explain the circumstance of kinship because of the malice diverse in species. For it would be astonishing that touching the hand of a blood relative adds a malice diverse in species, but the touch so obscene and base which is found in the sin of sodomy would not have a malice diverse in species from the circumstance of kinship. Whence we have at least... that that circumstance must be explained in sodomitic intercourse of a male with a blood relative in the third or fourth degree. Yet from this it again seems proved that it must also be explained in the same sin between two males related by blood in the same degree: both because among the same men other base touches seem to have a special malice to be declared... and also because if sodomy with a blood relative has special malice by reason of blood, why will it not also have special malice between two blood relatives, since there is the same conjunction of blood and debt of observance between them? Therefore on account of these things it seems more true that that circumstance must altogether be explained in this sin, whether it is with a blood relative, or with an affine, or with a spiritual or legal relative; for the same reason proceeds concerning all."

77. Is incest present among those who are bound by the impediment of public honesty?

R. Some affirm, and Sporer, 613, hands it down as certain. But at least probably it must be denied. The reason is that incest is among cognates and affines. But among those who are bound by the impediment of public honesty, there is neither cognation nor affinity strictly such. Therefore. L., l. 6, n. 469.

78. Is incest with a blood relative the same in species as incest with an affine; and likewise are all incests, as regards degrees, of the same species?

R. "It is a probable opinion that all incests committed whether among blood relatives or among affines, and in whatever degree and line, are of the same species, and therefore that diversity of conjunctions and degrees does not have to be necessarily explained in confession, so that it suffices to say: I committed incest... The reason... is that in all those things there is one and the same species and deformity against the same virtue of piety and reverence owed to relatives; for that diversity of the conjunction of consanguinity and affinity and of diverse degrees brings nothing else except a greater or lesser conjunction; but more and less do not vary the species even in a moral matter, unless it is proved from another source to be against a particular virtue or against a special dictate of reason, which is difficult to happen here. Similarly, that intercourse in such a conjunction and degree is sometimes illicit from the intrinsic nature of the thing, as in the first degree of consanguinity, but sometimes only from the precept of the Church, as in all the rest: from this, however, nothing diverse in species is necessarily inferred, for the precept of a superior commanding something places the matter commanded in the same species of virtue by reason of which, or from the motive of which, he commands it. But now the Church prohibits congress in those conjunctions and degrees on account of the same virtue of piety and reverence owed to relatives; therefore the transgression remains of the same species." Sporer, 609. - St. Thomas, 2.2, q. 154, a. 9; Cajetan, ibid.; Billuart, l. c.; Suarez, de Poenit., D. 22, S. 3, n. 12; S. 4, n. 7; Lugo, de Poenit., D. 16, n. 313.

St. Alphonsus, as regards the first question, whether incest with a blood relative differs in species from incest with an affine, responds: "Each opinion is probable. The first, with Croix, Cajetan, Lugo, Diana, from St. Thomas, denies, because in each case one sins equally against the reverence owed to relatives. The second opinion, with Vasquez, Dic., and others, affirms. The reason of these is that the reverence owed on account of conjunction of blood seems totally diverse from that owed on account of conjunction of affinity." L. 449. - As regards the other question, whether all incests as regards degrees are of the same species, he responds: "It is affirmed sufficiently probably, except only the first degree of consanguinity in the direct line, with Cajetan, Soto, Lugo, Bonacina, etc., which they infer from St. Thomas." L. 448, 449, and l. 6, n. 469, 470. But the same exception has force for the first degree of affinity in the direct line. For the reverence owed to parents and children is not of the same account as the reverence owed to other blood relatives and affines. L., l. 6, n. 469, 470.

79. Is incest among spiritual and legal cognates of a diverse species from that among blood relatives and affines?

R. "Absolutely it must be affirmed with the Salmanticenses and St. Thomas, who in 2.2, q. 154, a. 10, ad 2, teaches that by intercourse among spiritual relatives sacrilege is committed in the manner of incest. But must the degree of cognation then be explained? The Salmanticenses affirm; but La-Croix probably denies. Likewise incest among legal cognates, namely by reason of adoption, is of a diverse species from the others enumerated and must be explained." L. 450. - "It must be confessed that it [incest among legal cognates] is properly incest; whence there is no reason why we should say it differs in species from incest among blood relatives and natural affines... Whence... it will not be necessary to explain the difference of legal from natural cognation... But the circumstance of spiritual cognation is diverse in species from incest, because although it contains some malice of incest...

nevertheless beyond this it adds the malice of sacrilege." Lugo, de Poenit., D. 16, n. 327 seqq. - But Sporer, n. 612, 613, has these things: "He who sins carnally with a person joined by legal cognation (of which there is a fourfold degree: 1. between the adopting person and the adopted person and his or her descendants; 2. between the adopted and the legitimate children of the adopter; 3. between the wife of the adopted and the adopter himself; 4. between the wife of the adopter and the adopted) without doubt commits a special sin of incest, necessarily to be confessed as such, since among the same persons, on account of the reverence owed to relatives so often mentioned, the Church constitutes an impediment diriment of marriage. But whether this incest must be explained as a sin distinct from the other incests mentioned above, and whether that diversity of degrees or persons just mentioned must also be explained, again it is more probable and safer that it must, and sufficiently probable that not. - But he who sins with a person joined by spiritual cognation contracted from the Sacrament of Baptism and Confirmation (of which there is a twofold degree or species: spiritual paternity between the one baptizing and confirming, likewise between sponsors on the one side and the baptized and confirmed on the other side; and spiritual compaternity between the same one baptizing and confirming, and sponsors on one side, and the parents of the baptized or confirmed on the other side; for spiritual fraternity between the baptized and confirmed, and the children of the one baptizing or of the sponsors, has fallen into disuse) altogether commits incest distinct from all the aforesaid in consanguinity, affinity, or legal cognation; and therefore it must be specially explained in confession, because it adds a special malice of irreverence to the sacrament, by reason of which it is reduced to a certain genus of sacrilege. - But whether it must also be explained whether it was done from the Sacrament of Baptism or Confirmation; likewise whether in paternity or compaternity: it is most probable that not, because in all these things there is the same deformity, not much graver or lighter." - Thus also Billuart, Diss. 6, art. 6. But Cajetan, on 2.2, q. 154, a. 9, says: "To the second objection concerning spiritual and legal cognation, it is said that because such a conjunction is not ordered to consanguinity as its proper and proximate end, but according to a certain assimilation, therefore the violation of it is metaphorically called incest."

80. Must a confessor having relations with a spiritual daughter explain this in confession?

R. More probably, negatively. The reason is "because it is not incest, since no cognation intervenes between them; nor is it sacrilege (understand as regards this circumstance), since no injury is inflicted on the sacrament. Yet Elbel, l. c., with Henno, rightly observes that a parish priest sinning with such a penitent also sins against justice, since from justice he is bound to feed his sheep, from Trent, not only by word but also by example." L. 451; Billuart, Diss. 6, art. 7. Some say the same proportionately about a guardian toward a ward and about all to whom the care of minors has been entrusted. But Billuart, Diss. 6, art. 2, App. 1, concerning the circumstance of tutor or curator, says only that it "seems a notably aggravating circumstance." Lugo, de Poenit., D. 16, S. 6, Sect. 3.

81. Do relatives, after a dispensation has been obtained for contracting marriage, commit incest if they fornicate before marriage?

R. There is a twofold opinion: St. Alphonsus, 452, holds each probable. The reason of the denying opinion is that, when the special repugnance of marriage ceases, consequently the special repugnance of fornication ceases; for if this remained, the marriage itself would be impeded. The reason of the

affirming opinion is that the dispensation removes only the impediment diriment of marriage, not the conjunction.

82. What are the penalties against incestuous persons?

R. The penalty for incest with blood relatives of a spouse in the first and second degree, from Canon Law, is privation of the right of asking the debt. From the Italian Penal Code, art. 335, 345 seqq.; French Penal Code, l. 3, art. 333, 334, 335, the penalty is of fine, prison, reclusion, forced labors.

Article VII: On Sacrilege

83. Sacrilege, insofar as it is a sin of lust, is the violation of a sacred place, thing, or person through a venereal act; therefore besides sin against chastity it also embraces sin against religion. St. Thomas, 2.2, q. 154, a. 10; L. 454.

84. Concerning a sacred person. Proposition. Carnal and personal sacrilege "properly and strictly is called illicit intercourse, or any sin of the flesh, of a person bound and consecrated to God by a solemn vow of chastity, as by profession of an approved Religion, or by reception of sacred Order from the subdiaconate inclusively. The reason is that sacrilege properly and strictly is violation of a sacred thing; but a sacred thing is properly called one which by public authority and rite is instituted and consecrated to the worship of God; but by solemn vow alone of profession or of sacred order a person is consecrated to the worship of God by the public authority of the Church, solemnly accepting that vow in the place of God; not likewise by a simple vow privately emitted. Wherefore a sin of the flesh of a person bound to chastity by a simple vow alone is not indeed strictly a sacrilege properly so called, since it is not of a sacred person; nevertheless it is a special sin against the virtue of Religion and the second precept of the Decalogue, namely violation of a vow and of a promise made to God, and therefore it must also necessarily be explained in confession according to all." Sporer, 615; Sanchez, de Matr., l. 7, D. 27, n. 17 seqq.; Suarez, de Relig., T. 1, Tr. 3, l. 3, c. 2 and 3. But since the solemn vow of chastity is a vow of perfect chastity, as a simple vow of perfect chastity includes external and internal acts, so also and much more does a solemn vow; and consequently a merely internal sin against chastity of a person sacred to God is also sacrilege.

85. Corollaries. Hence one bound by a solemn vow of chastity who sins carnally perpetrates a sin containing threefold malice: of immodesty against chastity; of infidelity against God, on account of non-fulfillment of the promise made to him; of sacrilege on account of violation or profanation of a person consecrated to God. But the gravity of sacrilege is of three degrees, if it has an accomplice: 1. grave, if the carnal sin is of a non-sacred person with a sacred one; 2. graver, if it is of a sacred person with a non-sacred one; 3. gravest, if it is of a sacred person with a sacred one. Cf. here n. 67; L. 456.

Note. 1. It is probable that there is no need to express whether the vow was solemn or simple, because the opposite opinion is also probable, namely that violation of a sacred person bound by a simple vow of chastity is also true sacrilege. Nor likewise is it necessary to say if the person is sacred by a double title, because he is a religious and a priest, because one constituted in sacred orders is

more probably and truly held to chastity only by reason of the vow annexed to the Order, as is gathered from Cap. Cum olim 6, de Cleric. coniug.; Sanchez, l. c.; L. 454, 455; Lugo, de Poenit., D. 16, n. 146-150.

2. "It must altogether be held that a religious commits sacrilege who would be lingeringly delighted concerning the carnal sin of another, or who would pollute another with his hands, even without his own delectation." L. 457. Likewise he commits sacrilege who induces a sacred person to a sin of lust, although he himself does not sin with that person; for he cooperates in sacrilege. G. 424. On the contrary, it is sufficiently probable that he does not commit sacrilege who, having a vow of chastity, by his counsel induces another to carnal sin, because one emitting a vow of chastity regards not another's chastity, but only his own. Whence then he would sin by scandal. Understand, however, if he did this for another end than from positive affection of lust; otherwise he would now sin directly against his own chastity, of which he emitted the vow. Billuart, Diss. 6, art. 8; Ithurriaga, Cas. 53, n. 29; Lugo, l. c., n. 151 seqq.; L. 157.

3. Personal sacrilege in affection would be present if someone polluted himself by thinking with delectation of a male Saint or a female Saint, or, what is most horrible, of Our Lord Jesus Christ himself or of the Blessed Virgin herself.

86. Concerning place. Proposition 1. Sacred place here is understood only as church, that is, a place consecrated by the Bishop for divine offices, or even simply blessed from roof all the way to pavement; and cemetery, that is, a place blessed and deputed for burying the dead. Wherefore private oratories are excluded, since they are not true churches, nor are they solemnly blessed by the rite prescribed for a public oratory in the Roman Ritual, but by the blessing which is had in the same Ritual for a new house or place. S. R. C., June 7, 1899, n. 4025. Also excluded are all other parts of the church which are in no way contained within the roof and pavement, such as cells, cloister, sacristies, dormitory, the roof above the church, the door outside the threshold of the church, the atrium. L. 460; Billuart, Diss. 6, art. 8.

87. Proposition 2. Merely internal sins are not to be held as sacrileges, at least not as gravely such, because they do not seem especially to affect the sacred place, unless there is had a desire of sinning externally in the sacred place itself, even if that desire is had outside the sacred place; for then it is sacrilege in affection. But as regards external sins, it is certain among all that grave sacrilege is committed by consummated acts, namely by voluntary pollution, fornication. Here it must be observed: 1. that several from St. Alphonsus, 438, probably hold that sacrilege in a church is committed only by public effusion of semen, although others probably say that even occult effusion and illicit intercourse are grave sacrilege; Lugo, de Poenit., D. 16, n. 462, affirms this to be more common and truer. - 2. That several apud the same Holy Doctor hand down as probable that, scandal being prescinded, marital intercourse had in a church is never sacrilege. L. 36, 334, 434, 458, and l. 6, n. 920. And others more probably deny this, unless it is done from moral necessity, that is, "on account of the long sojourn of a spouse in a church." Lugo, de Poenit., D. 16, n. 463. But whether, besides these consummated acts, grave sacrilege is committed by other grave external non-consummated sins is disputed. Some probably affirm, others probably deny. L. 459; Sporer, 619; Billuart, l. c.; Lugo, l. c., n. 464, 466; Suarez,

de Relig., T. 1, tr. 2, l. 3, c. 7. "Yet Lugo and others passim rightly except the case unless someone exercises immodest things of this kind in a sacred place with great irreverence to the church, as if he were publicly to touch a prostitute immodestly before the altar, if he were to exhibit lascivious comedies in a sacred temple, etc.; for then it must not be denied that properly a crime of sacrilege is committed, because grave irreverence would be done to divine worship, to which the sacred place is deputed and consecrated." Sporer, ibid.; Billuart, l. c.; Suarez, l. c.

88. Note. Through voluntary and illicit effusion of semen the church remains polluted, so that one would have to abstain from divine offices, if this became known, until the church itself is reconciled. C. unic., de Consecr. Eccl., in 6.

89. Concerning things. Proposition. By the name of sacred thing is understood any other object, sacred or holy, distinct from a sacred person and place, as in this matter especially "the sacraments themselves, by which man is sanctified, hold the highest place; the chief of these is the Sacrament of the Eucharist, which contains Christ himself. And therefore the sacrilege which is committed against this sacrament is the gravest among all. But after the sacraments, consecrated vessels for the reception of the sacraments hold the second place, and sacred images themselves and relics of the Saints, in which in some way the very persons of the Saints are venerated and honored; then those things which pertain to the adornment of the Church and of the ministers." St. Thomas, 2.2, q. 99, a. 3; Laymann, l. 4, Tr. 10, c. 7, n. 12, 13.

90. Corollaries. 1. Real sacrilege will be, in the present matter, the lustful handling of these objects, "as if on linens or vessels sacred vessels semen were poured forth, if a blessed candle, or, what is horrible, the sacred Eucharist were used for an amorous philtre, in order that thus the abused woman may be more vehemently inflamed with lust. He commits real sacrilege who lustfully handles images and relics of the saints, sacred vestments, rosaries, crosses, medals, or who, by gazing upon a sacred image of Christ, the Blessed Virgin, or some saint, defiles himself. In these cases the malice of sacrilege must be explained in confession. L. 456. 457. Cf. here n. 222.

Chapter III: On Consummated Sins of Lust Against Nature

91. "As often as the order itself of nature is violated in the matter of lust, a sin against nature is present. But this can happen in two ways: first, because the use of the proper matter is impeded; and this happens in every voluntary emission of semen apart from a due union of male and female, which is called uncleanness, which some call softness. Secondly, because the conjunction of male and female is not observed; and this either as to the due sex, and thus a man sins with a man, or a woman with a woman, as the Apostle says to the Romans, chapter 1, and this is called sodomy; or as to due species, as when a man has commerce with a beast, and this is called bestiality." St. Thomas, 2. 2. q. 154. a. 11.

The species, therefore, of this sin against nature are: pollution, bestiality, sodomy. Onanism, however, of which we spoke above in n. 69., is true and properly so-called pollution, containing a special

malice, as it were, of adultery; and hence it is even more grievous than solitary pollution. Nay more, it is also opposed to the end of marriage, and to the right of the other spouse.

These sins, according to the more common judgment of theologians, are of themselves more grievous than sins according to nature, because they are more opposed to the order of nature. Yet, by reason of circumstances, a sin according to nature can be more grievous; thus incest, sacrilege, adultery, by reason of the added malice, can be more grievous than simple pollution. "Softness, sodomy, and bestiality are sins of the same ultimate species, as to that which is common to them, namely, that they are against nature; but they are distinct according to species, according to diverse ways of being against nature." St. Thomas, 2. 2. q. 154. a. 11. "The sin against nature is the gravest among the species of lust." St. Thomas, ibid. a. 12.

Article I: On Softness, or Pollution

92. Pollution is voluntary effusion of human semen outside intercourse. It is called also softness, not because it is a sin only of the soft or effeminate, but because by this sin the mind is softened and relaxed by pleasure.

It is said: voluntary. For if the effusion of semen occurs while the will in no way consents, no sin is present. Hence nocturnal pollution, if it is entirely involuntary, is not a sin, although it may sometimes arise from a preceding culpable cause.

It is said: effusion. Thus, for pollution, emission of semen is required, whether this occurs with or without touch, by sleep or waking, by oneself or by another, directly or indirectly, provided it is voluntary in itself or in its cause.

Of semen. Semen or sperm, properly speaking, is the humor naturally apt for generation, in which are contained the spermatic animalcules, which are also called zoospermata or spermatozoids. In the male, therefore, pollution is distinguished from distillation, which is a certain excretion from the urethra, often caused by weakness, irritation, or other bodily causes, and not true semen. In women there is no truly prolific semen in the strict sense; nevertheless, according to the common and older doctrine, there is in them an emission and consummated venereal pleasure, which has the moral nature of pollution, as will be explained below.

Outside intercourse, or concubitus. For if semen is emitted in a due conjugal act, it is not pollution, provided the act is otherwise ordered to generation according to nature. But if it is emitted apart from such intercourse, or if the intercourse itself is turned aside from its natural order, there is pollution or another sin against nature, according to the case.

93. Proposition 1. Directly voluntary pollution is always a mortal sin. This is certain from the very nature of the act, because in it semen, which nature has ordained to generation, is voluntarily and vainly poured out against the order of nature. Thus Innocent XI condemned this proposition: "Masturbation is not prohibited by the law of nature." The contrary is held by the common judgment of theologians and by the constant doctrine of moralists.

The reason is taken from St. Thomas: "If any emission of semen follows in such a way that generation cannot follow from it, this is against the good of man, which is the conservation of the species." St.

Thomas, 2. 2. q. 154. a. 11. For nature has not given this humor for private pleasure, but for the propagation of the human race. Hence to use it outside the order appointed by nature is to pervert the natural institution in a grave matter.

Nor does it avail to say that nature sometimes expels semen of itself. For what nature does according to the order implanted by God is not contrary to nature; but what man voluntarily does against that order is contrary to nature. Thus it is not against nature that one die from defect of strength; but it would be against nature if one wished to take away his own strength for that reason.

94. Corollaries. 1. The special malice of pollution consists, as is clear from what has been said, in the vain effusion of semen against the order of nature. Therefore this sin differs in species from every impure touch, which indeed is followed by venereal pleasure, but not by any effusion of semen.

2. Voluntary pollution, for the sake of escaping any disease whatever, or the danger of death, is always a mortal sin. This is the most common doctrine of the doctors. It is entirely lawful, for the preservation of life and of the whole supposit, to cut off from a man some member, a hand or a foot. For no inconveniences ever lawfully follow from that cutting off; since the natural appetite vehemently abhors it as a most troublesome thing, men will not easily abuse that means and extend it beyond the case of extreme necessity. On the contrary, since pollution is a thing bringing great pleasure, to which nature itself inclines, the greatest danger is present lest, if it is ever lawful, men abuse it to the detriment of the species itself. And thus, for example, it is never lawful, not even in the case of extreme necessity, to violate the sacramental seal; because if this were lawful even in a most rare case, the sacrament of penance would be rendered hateful to the faithful, and they would be removed from it, to the greatest detriment of souls; just as, in fact, men are often deprived of the good of seeking counsel because they know that in some cases such a secret can be manifested. Sporer 640. 641.

"But if you object that it is sometimes expelled by nature, nothing is thereby concluded; for what is done by nature is not against nature, but by the author of nature; nor for that reason can it be lawfully done by us. Thus it is not against nature that one die from defect of strength; but it would be, if one for that reason wished to take away his strength from himself." Scavini. Cf. Gury, de Matr. et iur. n. 1315.

Lessius, De Iust. et iure, l. 4. c. 3. d. 14. n. 96., rightly says: Pollution "is a deadly sin, even if it is procured not for pleasure, but only for the sake of health or of mitigating temptation; both because temptation is not thus conquered, but yielded to and succumbed to; and because, if this is lawful, why did the saints undergo so much fasting and other austerities for taming the flesh? why was this combat held by the holy fathers to be the hardest and principal combat of the Christian man? finally, because, if one does not wish to use other aids, this work has indeed been granted as a remedy for concupiscence, but in legitimate marriage, not outside it; for a natural institution must not be perverted for an extrinsic and accidental end. Hence if anyone wishes to use this work for this end, he must enter marriage. It is confirmed, because the primary end of that work is offspring, and therefore it requires that state from which offspring can be received and rightly educated, which is marriage."

"For the same reason it is not even lawful for the sake of health, except in legitimate marriage. Nor is it an objection that it is lawful to draw blood for this end, and even to cut off a member, because these are instituted only for the good of the individual: for parts are for the good of the whole; hence we can dispose of them according as it is expedient for the health of the individual. But generation is only for the propagation of nature; hence we cannot use it except in that mode in which generation can follow."

3. To the simple malice of pollution other malices can be added by reason of circumstances, and this generally holds also for other species of lust, "for example, if a priest is polluted, sacrilege is added; if a married person, adultery; if with the desire of sinning with another person, a malice is added according to the quality of the person desired; likewise another malice is added if someone is polluted by delighting in an imaginary intercourse with some person, male or female, married or unmarried. Likewise another malice is added if he is polluted by the touches of another." L. 476.

95. Proposition 2. If the discussion is about pollution indirectly willed in its cause, he who without sufficient cause places an action from which he is going to suffer shameful motions, which nevertheless, although he foresees them, he does not intend, sins gravely, if that action is of itself mortal in the genus of lust and of itself gravely influences the pollution; he sins lightly, if that action is of itself venial in the genus of lust and of itself lightly influences the pollution; he does not sin in any way, if that action is of itself simply honorable and of itself has no influence on pollution. The reason is that, since the pollution is not willed in itself, but only in its cause, and therefore happens apart from every intention, it will be evil in the degree in which the cause itself is evil. Struggl, Tr. 7. q. 7. art. 1. n. 5.; L. 481. and following.

But a cause as such is evil according to the measure of the greater or lesser efficacy which of itself it has for the depraved effect. Moreover, pollution indirectly willed is also in itself, directly in the cause at least implicitly, truly willed, if without some other sufficient reason one wills a cause gravely influencing it of itself. For this shows a depraved affection of the will toward that pollution. But it is only permitted, if one wills its cause which of itself either in no way, or only lightly, influences it. For the cause then by its nature is not necessarily ordered to an effect of this kind, nor is the affection contained in that cause by necessary connection.

To the point are the things which Billuart has, Diss. V. art. 2. par. Confirmatur Conclusio. "If a man," he says, "were bound under mortal sin to avoid every action from which ordinarily a light venereal commotion follows, it would follow that one must condemn as mortal sin for the most part the non-necessary conversations of men with women, especially of young men with girls, familiar conversations, various recreations honest in themselves, in which flattering glances, soothing words, touches, kisses, embraces in honorable parts from friendship, play, lightness, very easily occur, since from these for the most part light venereal motions arise. But although these are to be avoided, nevertheless there are few, if any, who condemn them as mortal sin, where there is absent the danger of consent to venereal pleasure itself, nor is this the practice of confessors in the tribunal. Therefore."

Here also belong the things which Cajetan has apud Ithur., Cas. 18. n. 6., and apud Billuart, Diss. 6. art. 12. par. Confirm. Conc. He speaks of pollution arising from hearing confessions and says: "The voluntary indirectly, that is, because it is in the power of the will, is not imputed to the will except

from the fact that it can and ought to act and does not act. In the proposed case this pollution does not fall under the voluntary except indirectly, namely because the will does not turn away from the hearing which is its cause. And although the will can, nevertheless it is not bound to turn away from such an act of hearing, thinking, and the like. Therefore this is not imputed to the will. The minor is declared. Because no artisan ought to omit the beginning and prosecution of his work because of defects consequent from the necessity of the matter; for someone would foolishly omit the construction of a saw or sword because they contract rust, on the ground that they are made of iron, and so with other things. But pollutions and stings of the flesh in the proposed case happen from the necessity of the matter, from the fact that the venereal matter is material to be purged, washed, disputed, preached, thought about; thence by a natural consequence follows commotion of the flesh, etc. Therefore a man ought not, on account of defects occurring from the necessity of venereal matter, to omit not only necessary, but useful thoughts, speeches, hearings, etc. For otherwise it would be necessary that either angels or very privileged men only should dispute, hear, etc., about such matters; the contrary of which ecclesiastical custom has, and reason teaches." Cf. also Elbel, de act. hum. n. 16.; Lessius l. 4. c. 3. dub. 14. n. 97-102.

96. Corollaries. 1. If the cause, even though gravely culpable in itself, is outside the genus of lust, as for example drunkenness, or the use of meats on Friday, etc., then certainly either all, or at least grave, efficacy of causality for that depraved effect is lacking; and therefore by reason of the subsequent pollution, although foreseen, but by no means intended, venial sin is not exceeded.

2. "If in some body, by reason of infirmity ... or another cause, there is a positive indisposition toward venery, although causes are applied to it which otherwise of themselves gravely influence pollution or carnal delectation with respect to others ... nevertheless with respect to that one ... they will not be gravely influencing, but only lightly, or even in no way; or they will be causes materially only of the genus of lust. Therefore commonly ... by reason of their influence on pollution he will not sin mortally." Salmant. T. 26. c. 7. n. 41. And this holds even when there has been grave fault in the act which gave occasion to the pollution, which is then judged to follow by accident.

3. If actions even gravely influencing "are placed from a cause necessary, useful, or convenient to soul or body, then ... the pollutions arising from them, even foreseen, are not sins, provided the danger of consent is absent. Thus commonly.... Hence, by reason of necessity, even when involuntary pollution is foreseen, it is lawful for parish priests and also for other confessors to hear the confessions of women, and to read treatises about shameful matters; for surgeons to look at and touch the parts of a sick woman, and to study medical matters ... to serve in baths.... It is lawful for someone who suffers great itching in the private parts to drive it away by touch, even if pollution follows.... But by reason of decorum, it is lawful to speak with, kiss, or embrace women according to the custom of the country ... and similar things." St. Alphonsus, l. 3. n. 433.; l. 6. n. 29. Finally, because of the aforesaid convenience and utility, it is lawful to ride on horseback not only for the sake of necessity and utility, but also for recreation; to lie down in a certain bodily position for more comfortable rest; to take warm foods or drinks moderately, and to lead honorable dances.

4. "A woman or man who, because of the placing of one thigh over the other, has felt a sensual motion, is not bound to change the manner of position, provided she is determined not to consent and there is no danger of consent; because we are not bound to avoid acts influencing pollution by accident." Diana, Tr. 6. de aliq. cas. circa mat. lux. Resol. 12. n. 4.

5. When for some persons there is a cause of necessity or utility for doing something from which pollution follows, if they consent to venereal delectation, they are to be treated in the same way as those who are in a morally necessary occasion, and therefore are to be absolved as long as a reasonable hope appears that they will render the occasion remote. L. 438. 483.; l. 5. n. 63.; l. 6. n. 453. 457.; D'Annibale, ed. 4. n. 94.

97. Proposition 3. 1. Just as directly willing and procuring pollution itself, or venereal delectation, is a grave sin, so consequently it will be a grave sin directly to will and procure libidinous distillation, namely distillation with a partial effusion of semen, or with only carnal commotion and venereal delectation, so that one directly wills and procures each. "Moreover, just as pollution itself, only indirectly voluntary in the cause placed, is only as much a sin as the cause itself placed in the genus of lust, so the same reasoning must be carried through concerning libidinous distillation and commotion." Sporer 659.

2. "Non-libidinous distillation, namely that which happens without any delectation or sensual venereal pleasure, although a light erection of the genitals is present, is not a sin. The reason is that if such distillation were a sin against chastity, this would be either because it is venereal delectation, or because it is a proximate danger for venereal delectation, or at least because that humor is dispersed. Not the first, because we are speaking about that mode of distillation in which no sensual delectation is present; not the second, because if the effusion of that humor brings no sensual delectation, there is no reason why, considered by itself alone, it should bring a proximate danger of consenting to illicit venereal pleasure; nor the third, because that humor dripping without pleasure is not semen, nor does its effusion harm generation as the effusion of semen does." Sporer 660.

98. Corollaries. 1. One need not be disturbed about that distillation which occurs insensibly. About that which is slight and with light commotion, "it seems no more to be cared for than sweat," Cajetan, Opusc. 22. q. 1.; therefore it can be permitted, provided one remains merely passive without any other consent to venereal delectation. Salmant. 33.

2. If the matter is considered practically, "directly and deliberately to procure any distillation whatever, even light, can in no way be excused from mortal sin." L. 477. The reason is that if the distillation is notable, it "cannot be without notable rebellion of the flesh; hence just as he sins gravely who procures notable commotion, so also he who procures great distillation." But if it is light, "in reality any distillation whatsoever always, or for the most part, carries with it some commotion and an effusion of a little semen." Thus L. ibid.

99. Do impuberes, whether boys or girls, and eunuchs, who by immodest motions try to emit semen, since they cannot do so, sin by the sin of pollution, or only of immodesty?

Resp. These are the words of Tamburini, de 2. Eccl. pr. c. 17. n. 13: "Those who, from defect of age or from another cause, such as impuberes and eunuchs, cannot by immodest motion pour forth semen, or pour forth useless semen, sin mortally ... but certainly this species of sin differs from true pollution, whose character is to cast out semen against the end of generation, which casting out is not such in the aforesaid; therefore the sin in impuberes is really reduced to immodest touch." Thus Sporer 639. "It is answered that it is indeed a mortal sin, to be reduced to softness; for it is of itself a depraved affection toward pollution. Nevertheless it seems to differ in species from true pollution, by which there is sowing, and is properly to be reduced in species to immodesty of touch; hence it is to be explained in confession." Thus also Holzmann, Babenstuber, and others.

Yet St. Alphonsus teaches the contrary, 476., openly affirming that "the pollution of eunuchs and boys, although they do not have perfect semen, differs in nothing from the pollution of adults." Cf. also Ithur., Cas. 23. n. 13. and following. But in reality the act seems specifically distinct in malice, since that act is essentially incomplete, and therefore from its intrinsic nature is still orderable to a complete act, and that humor is in no way prolific.

Nor does it avail to object that male semen necessary for generation is adequately constituted, first, from spermatozoids or spermatic animalcules; second, from the spermatic lymph which the testicles secrete; third, from the humors which the seminal vesicles, Cowperian glands, and prostate secrete, which in the act of ejaculation are mixed with the spermatic lymph. Hence that whole aggregate of spermatozoids and humors constitutes complete semen; for spermatozoids would be wholly unequal to generation unless they actually swam in those humors, and therefore that effusion of humors also is against generation. For although spermatozoids, in order to be apt for generation, must live in that spermatic humor which the testicles secrete, nevertheless the other humors which the other glands secrete serve immediately only to moisten and protect the organ through which the prolific semen must pass so as to be emitted outside, and to expel every foreign matter from that canal, so that the prolific semen may remain pure and not be mixed with foreign matter. Therefore humors of this kind neither essentially constitute prolific semen, although they are mixed with it in its passage, nor are they necessary for generation as containing the active power of generation, which resides only in the spermatozoids, or as a necessary medium in which the spermatozoids naturally live. And indeed before the sperm is poured forth outside, the spermatozoids certainly live in the spermatic lymph, nor do they need, in order to live, the humor of the other glands. Lugo, de Poenit. D. 16. n. 175. 338.

Eunuchs, lacking both testicles, emit only mucus, especially of the prostate and urethra, without any emission of semen.

100. Do women, who lack truly prolific semen, when they procure pollution for themselves, commit the special sin of pollution, or only of immodesty, as was said for impuberes and eunuchs?

Resp. Several of the more recent theologians affirm this because of the reason indicated in the very question. Hence they deduce that the confessor can abstain from every further interrogation, since this malice of pollution is not diverse in species from the malice of touches.

But it seems that this must altogether be denied with the very common and unanimous opinion of the older theologians, although even very many of these did not consider the woman's semination necessary for conception. The reason is that, although that humor is not of itself prolific and necessary for generation, it is nevertheless by its nature destined for the generative act; for it is

ordered to accomplishing this more certainly and more easily. Hence in the effusion of that humor there is still frustrated the order of nature in the gravest matter of human generation, to which, outside concubitus, that whole act is now no longer orderable; and therefore it is against nature. But it is asserted wholly without proof by the adversaries that this reason does not really convince. For if that act, as they themselves assert, has a natural destination toward generation, therefore it is against the order of nature that this act be deprived of its natural end. And hence the difference is clear between the pollution of women and that effusion of impuberes and eunuchs. For the latter is intrinsically and essentially a physically incomplete act, and of itself orderable to a complete lawful act, namely conjugal intercourse; while on the contrary the pollution of women is intrinsically and essentially a physically complete act, as is clear even from the very series of phenomena of excitation which precedes and of quiet and satiety which follows. Therefore, if it occurs outside all concubitus, it is of itself no longer orderable to a complete lawful act, namely conjugal intercourse; for that emission of vulvo-vaginal mucus indicates the perfect pleasure attained, which by nature is ordered to the generative act. Antonelli, v. 2. p. 216. n. 471. note. Therefore again it is an act against nature.

Nor truly does it avail to press that, although that act is against nature and therefore of itself illicit, nevertheless it is not gravely, but only lightly illicit, since that uxorial act is not for the simple being of generation, but only for its better being. "Moreover, to abuse," says Billuart, l. c., "not only the things necessary which are ordered by nature to generation, but also useful things, is a mortal sin: thus he would sin mortally who deprived himself or another of one eye, although it is not absolutely necessary, but only useful, for seeing." But if that were not gravely illicit, and by its intrinsic nature, then women, for whom marriage is so burdensome, content with that pleasure alone by which they are enticed by nature to the work of marriage, would by no means apply themselves to the same work, and there would no longer be any limits to uxorial masturbation and conjugal onanism on the part of those wives. Indeed, for impure women marriage would be a way of more and more fostering and increasing impurity, since they could then exercise it without grave sin.

Nor again can it be urged that at least in that pollution of a woman the proper notion of pollution is lacking, namely the vain effusion of semen against generation, since nothing is done against this. For in the pollution of a woman two things must be very carefully distinguished. The first is the effusion of humor, which is by no means necessary for generation but only useful; the other is the shedding of the ovule, which not only occurs naturally and spontaneously at the time of menstruation, but is also effected by this venereal excitation, which ruptures the follicle in which the ovule is contained, both by the erethism of the whole organ of generation and by the secretion of the humor with which it is filled. And the better physiologists affirm this, admitting masturbation in a woman, and coitus and the excitation of the genitals, to influence the shedding of the ovule. And this is the true intimate reason why, as all admit, the semination of the woman renders conception easier and more certain. Therefore, insofar as this venereal excitation tends of itself toward the shedding of the ovule from the ovary, it contains the true malice of pollution, since the ovule is on the woman's part the element altogether necessary for generation, which, fecundated by contact with the spermatozoids of the male sperm, displays the generation of a new individual. Therefore, as in the man the malice of pollution is in reality not in the vain effusion of humor, but in the vain shedding of spermatozoids from the testicles, or more properly from the seminal vesicles, in which resides the power of fecundating the ovule, and that shedding of spermatozoids is accompanied by that effusion of the remaining humor, whence this has from that its character of being against nature; so likewise in the woman the malice

of pollution is not in the vain effusion of humor, but in the vain shedding of the ovule from the ovary, to which that effusion of humor tends, whence this has from that its character of being against nature. Cf. Milne Edwards, Tom. 8. pp. 338. 339. 355. 356. 359. 360.; Tom. 9. pp. 106-109.; Longet, traite de physiologie, Paris, 1850. Tome 2. 3rd part, pp. 80-95. 125.; Billuart, l. c.

Nor, finally, does it avail to object that this shedding of the ovule from the ovary is not against generation, because in reality nothing else then occurs than that very thing which occurs at the time of the menstrual flow, when the same shedding of the ovule is had. Therefore by venereal excitation at most there is nothing but a certain anticipation of that period, namely of the menstrual flow, by which the woman may conceive more easily and more certainly. For indeed nothing would be done against generation, if it were done in order to perfect the conjugal act. But since the thing is done independently of the conjugal act, the matter is evident: that act, as being no longer referable to intercourse, is against generation, and that shedding of the ovule is altogether vain, because then it is shed not so that it may be fecundated and live, but so that it may be corrupted, which in reality happens. But that by that menstrual flow there is periodically had that shedding of the ovule, although no conjugal act follows or can follow, does not press the point; for what nature does according to the order established by the creator himself is not against nature. But from this, as we have already observed, it cannot be deduced that the same thing is lawful for man to procure by his own action. Cf. the Letter of Cardinal Patrizi to the Archbishop of Malta, July 28, 1873. Revue des Sciences Ecclesiastiques, January 1882, p. 89.

Lastly, if the semination of a woman contains only the malice of immodest touch and of simple venereal delectation, it does not exceed venial fault at least probably in a married woman. And certain modern authors seem to affirm this; or if they do not affirm it, they certainly contradict themselves, affirming at the same time that feminine pollution is not a consummated sin against nature, and that in spouses it is a grave sin only if it is contrary to the primary end of marriage, namely voluntary pollution and sodomy.

Nevertheless, that a married woman sins gravely in the aforesaid semination, and consequently against nature, is clear also from the following resolution of the Sacred Penitentiary:

"Tibullus, hearing the confessions of women whose husbands are often accustomed to be absent and who do not easily contain themselves, teaches and persuades those same women that they do not sin in the following cases:

"1. If, by desiring their own absent husband, they suffer sensual commotion or pollution.

"2. If they desire to experience this same pollution in themselves from ardent love of the absent husband.

"3. If they excite pollution in themselves by touches had with themselves, provided they refer these acts to the absent husband.

"The Sacred Penitentiary replies to the beloved in Christ who writes: that on this matter it has already twice been answered by this sacred Tribunal, and that acts of this kind are gravely illicit, and that a confessor approving them is to be denounced." Sacred Penitentiary, September 2, 1904.

101. Are all pollutions of the same species?

Resp. "All pollutions according to themselves are of the same species, in whatever way they occur, if they occur without concubitus." L. 476. 467. It is said, according to themselves, because by reason of a circumstance, of the person, or of interior delectation and desire, or of cooperation in the sin of another, other malices can be joined to it. If they occur without concubitus: for this limitation see here n. 103.

102. Corollaries. 1. It is not necessary to explain in confession whether one has polluted himself immediately by his own hands, or by means of some instrument. 2. Copulation with a dead woman has neither the malice of fornication, because she is no longer a woman, nor the malice of bestiality, because a dead woman is not a beast, but it has the malice of simple pollution; just as one who would enter into concubitus with a picture or statue of a woman or with a woman's garments, etc. Nevertheless this will have to be explained in confession, at least generally by saying: I polluted myself with an inanimate instrument, with affection toward a woman. For there is present pollution and affective fornication. L. 466.; Sporer 639.; Diana l. c. resol. 6. n. 5. 3. "He who pollutes himself with an alien animate instrument, or parts of the body of another person, for example, besides the hands, the ordinary instrument of touch, between the arms, armpits, hips, breasts, etc., of a woman or man, etc., is indeed bound to explain that person, by reason of cooperation.... But there is no need to explain those particular parts of the body themselves, because they differ only materially, and that greater pleasure sought in one part does not transcend the species of malice which is in another, unless there were some particular affection toward preposterous parts and sodomy, which certainly would have to be explained." Sporer 636.; Billuart l. c. Cf. following n.

103. Is pollution had by touching a boy, or a woman, sleeping, or incapable of fraud, or the private parts of beasts, but without concubitus, of a different species from simple pollution?

Resp. "The first opinion affirms, and says that such pollution with a boy is sodomy, but with a woman is begun copulation. The second opinion holds that it is simple pollution. The reason is that, when concubitus is absent, they say that it is material whether pollution occurs by one's own touches or by another's. It is then sufficient to confess: I had pollution by alien touches. For when concubitus is not present, there is not affection toward the sex, but toward pollution; and this is the more probable. Therefore Roncaglia, de VI Praec. c. 7. q. 6., notes with Bonacina, Trullench, and Filliucci that, if someone is polluted by the touches of another, it is not necessary that he explain whether by the touches of a man or a woman; because, since only pollution is then intended, it is also material whether it happens by the touches of a man or of a woman. Nevertheless it must be said otherwise if it was done by the touches of a married woman or one having a vow of chastity." L. 467. 474. But the difficulty here is to reconcile these things with what is said by the same holy doctor, Hom. Ap. tr. 9. n. 3., where he asserts that sex must be explained in touches, because, he says, touches "are all of the same nature as the consummated act." Cf. n. 31.

104. If semen has become corrupt, is it lawful to expel it by medicines, even if besides the intention some emission of true semen follows?

Resp. Affirmatively. Thus the doctors more commonly. The reason is that those medicines of themselves directly tend only to the expulsion of corrupted semen; but some effusion of true semen

follows by accident and besides the intention, which cannot be called illicit, since all concede that it is lawful by remedies to expel other harmful humors, although pollution follows by accident, just as it is also lawful to take a drug for expelling disease, even if an inanimate fetus is to be expelled indirectly, according likewise to the common opinion. "I judge this opinion," says St. Alphonsus, 478., "sufficiently probable, provided however, first, that the semen is certainly corrupt, not if doubtfully; second, that the expulsion of the corrupt semen can be done without a sense of lust, for since this is very dangerous it must not be attempted except in extremes, as Anacletus well warns; third, that there are no other remedies for curing the corrupt semen. Nevertheless it is never lawful by touch to expel corrupt semen, even if the danger of consent is absent; this must altogether be held with Sporer, etc. The reason is that, although a remedy is permitted, because that remedy of itself tends only to expel the corrupt semen, nevertheless friction is in no way to be permitted; because this of itself tends to move the carnal spirits and to expel true semen, which is never lawful." Therefore neither practically nor speculatively does the opinion of those theologians seem probable who think that at least sometimes it is lawful to rub the private parts to expel corrupt semen, although venereal delectation and even the effusion of prolific semen itself will follow. Billuart, l. c. Diss. 6. art. 12. Petes, at the end.

105. Is it lawful to take medicine to corrupt true semen, and afterward, now corrupt, to cast it out?

Resp. "Sanchez, Bonacina, Anacletus, Roncaglia, etc., probably concede this. The reason is that nature does not oblige one to preserve semen with danger to life; for if," says Sanchez, "it is lawful to amputate testicles for the protection of life, although without them a man is rendered altogether impotent for generating, why would it not be lawful to corrupt semen?" Liguori 478.; Billuart l. c.

Note. Physicians deny the hypothesis of corrupt semen. For either the semen still remains in the seminal vesicles, or it has left them. If it remains, then it remains sound until emission. And if it is not emitted, then it is absorbed, conferring new strength on the organism. If it leaves, it is immediately expelled by ejaculation or urination, and it can no longer return into the vesicles. But even if the hypothesis is admitted, they deny that it can be established by any certain sign; and although it could be established certainly, they say that no medicine known hitherto is present which has a power of itself to expel it. Debreyne, 1. P. ch. 1. art. 1. Sect. 1. S. 3.

106. Is one bound to prevent pollution involuntarily begun?

Resp. Some affirm, because they say that it is false that any danger of disease is present from it. These are the words of P. Debreyne, "Moechialogie," Brussels, 1853, p. 26: "There are those who think," says that author, a monk of the great Trappe and a medical doctor, "that the spermatic liquor, when once it has more or less gone out from its receptacles, is necessarily corrupted and harms health because of its state of corruption and its morbid qualities. But these things are most certain and demonstrated from the principles of physiology, namely, first, that that part of the semen which reaches as far as the urethral vessel must necessarily be emitted outside the body either immediately or with urine, and no time is present in which it can undergo any alteration; second, that the spermatic liquor which was to be the matter of pollution, however impeded, and which has not yet been ejaculated from its vessels near the gland, goes back within, or remains in the same receptacles with its natural and vital qualities. Nor is it itself the cause of any disease because of its corruption,

but rather supplies force and vigor either to body or to spirit." Hence they say that pollution soon imminent or begun must be checked, by retaining ejaculation, by seeking, if it happens at night, a cold place in the bed, by jumping out of bed, etc. Vernier.

The same Debreyne, l. c. p. 57., suggests another means: "For at least one or two moments, with the first two fingers of either hand, a rather strong compression must be made before and near the anus, or rather above the anterior margin of the anus, that is, at the beginning or origin of the urethra, or little canal of urine, so that its passage may be blotted out for a little while, and consequently every flow of semen may be prohibited. But for this end, and so that this work may be rightly carried out, a somewhat difficult condition is required, namely awakening or at least half-awakening, so that compression may be exercised at the time of pollution imminent or sometimes already begun."

But others commonly deny. For then one does not will that pollution naturally begun and naturally continuing, but merely permits and suffers it. L. 479. "The same seems to be said of any involuntary pollution whatsoever, whether it happens in sleep or in waking, since the reason of both is the same as to this, as I have already said from Cajetan." Billuart, l. c. Diss. 6. art. 13. at the end. "Nevertheless great care must be taken lest one who awakens in such a way, or otherwise senses an involuntarily arisen pollution, not only permit or not repress it, which alone is conceded, but also by some positive effort or impulse promote or complete it, even only as to pushing out some remaining drops of semen, in almost the same way in which those urinating, when the flow ceases, are accustomed to push out a few drops; which indeed would not be lawful without grave sin, if it were done altogether deliberately." Sporer 657. 642. 656.; Ithur., Cas. 23. n. 30.

107. Note. "When pollution begins in sleep and emission happens in half-full waking, then, if the man experiences some delectation, not fully deliberate, he indeed sins only venially." Liguori, ibid. "He who has suffered pollution in sleep, although he doubts whether in that point of time he had sufficient use of reason or not, nevertheless cannot be judged to have sinned mortally, but rather the contrary must be presumed." Suarez, de Relig. T. 2. Tr. 6. l. 4. c. 6. n. 9.

108. Is one bound to impede directly, by positive resistance, depraved motions of concupiscence involuntarily arisen?

Resp. Negatively; nor indeed is this expedient, since the imagination then grows inflamed by that very effort, and by natural sympathy of faculty with faculty excites the genital spirits more and more. The more opportune remedy will be indirect positive resistance, namely tranquilly to invoke God, and to turn the mind and imagination away from obscene images, and to apply them by serious application to other things, especially to exterior affairs. Thus commonly.

109. Does he sin gravely who purely permits those depraved motions of concupiscence, namely without having complacency in them or displeasure at them, but conducts himself negatively?

Resp. He sins mortally if there is proximate danger of consent. But, when that danger ceases, it is not mortal, but venial, not to resist positively those inordinate motions, if there is not a just cause excusing from resistance; but if such a cause is present, when that danger ceases, it will not even be venial. This is proved, first, because knowingly to expose oneself to a proximate occasion of sin is a grave sin. It is proved, second, because actual consent of the will is required for actual sin. But he

who only negatively resists a thing gravely prohibited does not actually consent to the shameful thing; for he places no positive act of the will. Therefore. It is proved, third, for reason dictates that a man ought to guard lest the sensitive appetite draw the will after itself; but when proximate danger of consent is lacking, this obligation is only light. Therefore. It is proved, fourth, because when the question concerns a venial sin which is not such from its intrinsic nature, as for example a lie in a light matter, but only by reason of something extrinsic, any just extrinsic cause then makes the act honorable and excuses from venial sin.

These are the words of St. Alphonsus: "It must be noted that there is no obligation to resist carnal motions positively, if there is a just cause for not resisting, namely if one has experienced that by resisting the motions are more excited and increased, or if the motions have arisen from a necessary or useful action ... if it is not an easy matter to repel them. It is therefore enough then to conduct oneself negatively with a firm purpose never to consent; for the actual care of not consenting itself then suffices to free a man from fault, at least mortal, even if not from venial, if the resistance is tepid, as they say. Tollet, Cajetan, Laymann, etc., with the Salmanticenses. But Croix, with Azor and Sanchez, supposes as certain that in the aforesaid case, when the temptation lasts long and it would be too troublesome continually to repel the motions positively, it is no sin to permit them, conducting oneself negatively. And Cont. Tournely with Sylvius counsels those who are of timid conscience to act thus." l. 2. n. 9. And in the same place, n. 8., the same holy doctor says: "If the motions are light, it will be better to contemn them without positive resistance." Ithur., Cas. 18. n. 9. 10.; Billuart, Diss. 6. art. 15. Sect. II.; St. Thomas, 2. 2. q. 35. art. 1. ad 2.

110. If actions which of themselves in no way, or only altogether lightly, influence depraved motions or even pollution, gravely influence those same effects by reason of a particular infirmity and subjective disposition, is one bound under grave sin to abstain from such actions?

Scavini affirms, Tr. 4. D. 2. C. 3. art. 1. Sect. 2. post q. 3., who cites Roncaglia and the Salmanticenses. Cf. L. 423. 484. But it seems that this must be denied, with proximate danger of consent to those depraved effects nevertheless excluded. The reason is that subjective disposition cannot change the intrinsic nature of that action, and therefore cannot make it gravely illicit if it is in itself only lightly illicit or even simply lawful. But that depraved motions or even pollution follow from it is by accident; and, when the cause is honorable in itself, this case is the case of a cause honorable in itself having a double effect, one good of itself, the other evil and indeed by accident. Therefore one can, in placing that action, pursue his own right. Nor is there lacking on the part of the agent a sufficient and proportionate reason for such a mode of acting; for he who is so sensibly affected by honest things themselves is subject to innumerable scruples and anxieties, and if he should wish to avoid all things by which he can be badly affected, he is forced to live a truly intolerable life. And indeed this is confirmed by the very common practice of confessors, who, if ever they come upon such penitents who are affected perversely even by most holy things, counsel them to proceed with simplicity and to contemn such depraved motions entirely if they arise. But if that action is altogether lightly illicit, of itself "there is no grave obligation" to avoid it, L. 484.; but practically "it is, as it were, morally impossible for men commonly to avoid all these causes." L. ibid. Cf. here n. 95. 96. And Billuart, Diss. 6. art. 12. Dico 1., admits this even if pollution follows. And this indeed follows altogether logically from the commonly received principles.

Nevertheless, as regards practice, the moderation of St. Alphonsus greatly pleases me. He distinguishes between "actions altogether lightly shameful" and "actions which influence pollution more vehemently, although of themselves they do not reach mortal sins, if from these frequent pollution follows," by reason of the proximate danger of consent which can be present, and of the depraved disposition of the will, whence things which perhaps of themselves do not yet gravely influence pollution acquire grave malice by reason of depraved affection. When the matter practically reaches these terms, men of conscience not very delicate certainly suffer great illusion in this matter, although they would openly be unwilling to admit grave sin. These are the words of the holy doctor: "The Salmanticenses rightly say, and Roncaglia agrees, that he is not excused from mortal sin who has experienced frequent pollution from some causes in the same genus of lust, which more vehemently influence pollution, and otherwise voluntarily and without necessity places them, although in themselves they do not reach mortal sins; such as, namely, curious reading of shameful things, sight of an obscene picture or of the coitus of animals, touch of one's own private parts or of another from levity, and similar things. The reason is that, with respect to that person, because of his depraved disposition, such a cause does not influence lightly. But they say otherwise if pollution from causes of this kind rarely happens, as the Salmanticenses, l. c. And otherwise also if the causes are altogether light, as would be the sight of the honorable parts of a woman, lightly shameful reading, conversation with a woman not long-lasting or lightly obscene. The reason is that it is, as it were, morally impossible for men commonly to avoid all these causes. Thus Sanchez and the Salmanticenses." L. 484.

111. Is one bound to omit communion because of pollution?

Resp. 1. Negatively, if it was involuntary, and this even if it arose from a venially culpable cause, provided that notable disturbance of mind, arising from that bodily commotion, does not endure; or one tries to repel it, doing what is in him so as to approach devoutly; otherwise, speaking of itself, it will be venial. The reason is that an external stain, since it is already past, does not impede present decency of body. 2. Negatively, if it was culpable and already retracted by due penance, provided there is a just cause of necessity or even of utility for approaching communion; otherwise it will be venial because of the reverence due to so great a sacrament; but this is sufficiently provided for by that proportionate reason which is present for receiving communion. Rubr. Miss. tit. 9. de Defect. 5.; L. l. 6. n. 272.

Article II: On Bestiality

112. Bestiality is concubitus with a beast. The species of this sin is not changed, morally speaking, from the variety of beasts. But whether it is morally changed from diversity of sex, some affirm, but commonly and more probably it is denied. "Therefore the whole essential deformity of this crime consists in access to a different species." L. 474. "For bestiality to be complete, effusion of semen on the part of the perpetrator is required. Saettler says that it is not necessary to declare in confession whether the congress was in the belly or in another part of the body of the brute, since none is destined to receive human semen. Nevertheless, in the case in which this sin were reserved, Billuart holds that semination within the vessel of the brute is necessary, because reservation, as being odious, must be restricted to the consummated act.

Billuart therefore does not consider bestiality consummated unless it is done within the vessel of the brute; consequently, at least for the most part, it cannot be consummated by women." Craisson, Notiones circa sex. Decal. praec. n. 178. Cf. here n. 118.; St. Thomas, 2. 2. q. 154. a. 11.

113. Congress with a demon is reduced to bestiality. Hence "more universally by St. Thomas and others bestiality is defined as a sin against nature by which a man lies with an animate thing of a different species; so that, namely, the unspeakable coitions of witches and magicians with demons, incubi or succubi, may also be comprehended, containing, besides the sin against nature, also a special sin against religion, namely of society and wicked commerce with the demon, the most wicked enemy of God and of us all; and therefore without doubt this must necessarily be explained in confession." Sporer 625.

114. "But does he who coits with a demon appearing in the form of a married woman, a nun, or a blood-relative, always sin affectively by the sin of adultery, sacrilege, or incest?"

Busembaum with others seems universally to affirm; but it is very probably to be denied, if the one lying with her is delighted in that woman represented by the demon, not as married or as a nun, but as beautiful, according to the opinion of Engel, Paul, Vasquez, and several others, who very probably teach that morose delectation does not involve the species of the object in which someone is delighted, unless the circumstance of the person enters into the delectation. Liguori 475.

115. "Immodest touches with a beast, although they are not properly sins of bestiality, nevertheless have some special turpitude, and Elbel says, at least venial." L. 474.; cf. here n. 103. Hence the circumstance does not seem necessarily to be declared if someone by the tongue of a beast of burden or of a lesser beast excites venereal delectation or pollution in himself, without affection toward the beast.

Article III: On Sodomy

116. "The great question is in what act sodomy consists. Some hold that it consists in concubitus toward an undue vessel. Others, in concubitus toward an undue sex. Each opinion is probable, and in each opinion there is discerned the special deformity which sodomy has against nature, which requires each to be observed for generation, that is, a due vessel and a due sex." L. 466. The second opinion is called more probable and common among theologians by St. Alphonsus, l. c. "The reason is that true and proper sodomy is committed in access to a person with whom generation can in no way occur." L. ibid.

117. Note. According to this second opinion it does not matter in what vessel males or females coit among themselves, in the anterior or posterior, or in another part of the body, since the malice of sodomy consists in affection toward an undue sex, and is complete in its genus when the application of the genital member to a part of the body of the same sex occurs in the manner of concubitus. But if there were only an application of the hand, foot, or mouth to the genital parts of another, even if pollution took place on both sides, it would not be considered sodomy,

because it would not be concubitus. Bonv.; L. 466. 485.; Hom. Ap. Tr. 9. n. 24. 25.; cf. here n. 103.; St. Thomas, 2. 2. q. 154. a. 11. 12.

118. Corollaries. "Hence it is inferred, first, that the coitus of a woman with a woman is true sodomy, as St. Thomas, Roncaglia, Holzmann, Sporer, the Salmanticenses with Cajetan, etc., say. Although Elbel, l. c., with Felix Potestas, not improbably thinks that a concubitus of this kind, even with affection toward the preposterous vessel, seems to be only improper sodomy, since among women there cannot be perfect copulation. It is inferred, second, that any concubitus whatever, or conjunction of bodies, had with a person of the same sex, whether in the preposterous vessel or in another part, is true sodomy; for then, regularly speaking, there is always affection toward an undue sex, as Tamburini, Roncaglia, Tournely, Croix, and the Salmanticenses hold. Hence Roncaglia, Tamburini, and the Salmanticenses say, against Graffius, that it is not necessary to explain in confession whether pollution was within or outside the vessel; for it is sufficient to confess, I sinned with a boy, so that the confessor may judge that sodomy with pollution was present. But if pollution was not present, it would have to be explained. It is inferred, third, with the Salmanticenses, Bonacina, Tamburini, and the more common opinion, that the coitus of a man in the preposterous vessel of a woman is only imperfect sodomy, distinct in species from perfect sodomy, as Tournely and Tamburini say. The latter notes with Filliucci, and Holzmann and Sporer rightly agree with the common opinion, as he asserts, that if a man were to coit between the thighs, arms, or other parts of a woman, there would be a certain begun copulation, at least in affection. Hence, according to this doctrine, a man lying with a virgin outside the vessel commits two sins against the same chastity indeed, but of diverse species: one of fornication in affection, the other against nature in effect. But the aforesaid Sporer, Holzmann, Tamburini with Angelus, say that the confessor, understanding that the woman was known outside the natural or preposterous vessel, ought not to ask in what place or in what manner." L. ibid.

Moreover these are the words of Sporer 627.: "Note this: when a man and a woman, mixing themselves thus, are polluted outside the vessel: if indeed it is done from affection toward the person herself, as ordinarily happens, it pertains to copulation which is fornicary, adulterous, incestuous, etc., according as the person was; but if it is done from affection toward the preposterous parts, it will be imperfect sodomy, of which we are treating; if finally it is done without concubitus or any conjunction, but merely to satisfy lust, it is softness." L. 485.

Scavini has these words, q. 6. in the note: "Even among women complete sodomy is had either by means of an instrument, or naturally, in the manner in which it can be completed, whenever namely there is application of one part to the part of another with some semination within a vessel. Thus the Salmanticenses, Luraschi, etc."

119. Is pollution in the mouth of a different species?

Resp. "Sporer affirms with some apud Diana, and calls this sin irrumation. But Holzmann, Filliucci, Cajetan, Graffius, etc., more probably say that, if a man is polluted in the mouth of a woman, it will be begun copulation; but if in the mouth of a male, it will be sodomy." L. 466.

120. In the sin of sodomy must it be explained who was the agent or the patient?

Resp. More probably it is not to be declared of itself, because the species of the sin is the same. Billuart with others. Nevertheless, the circumstance of pollution, if it was present, which more easily happens in the agent, must altogether be opened. Yet for the most part both are polluted. Therefore the judgment of the confessor in this matter can be sufficiently formed from things commonly occurring, without need to interrogate in a matter so shameful and dangerous. L. 468.; G. 434.; Lugo, de Poenit. D. 16. n. 243.

121. What are the penalties against sodomy?

Resp. Most grave penalties have been established by Canon Law against sodomites; these nevertheless, according to the truer opinion, are not incurred before the sentence of a judge. L. 470-472.; and l. 4. n. 251. Those practicing sodomy, however, incur irregularity from the Constitution of St. Pius V, Horrendum illud, August 30, 1568.

122. If sodomy is reserved, is sodomy with a woman also comprehended in the reservation?

Resp. "The Salmanticenses with Bonacina probably note that sodomy with a woman is not comprehended under the reservation of sodomy, since it is not true sodomy; but otherwise if a sin against nature is reserved." By a reservation of this kind bishops commonly do not intend to comprehend pollutions also. L. 471.

Article IV: On the Placing of an Impediment to Generation

123. Spouses sin if before or after or in the very use they do something by which generation is impeded, because they act directly against the end of marriage.

Hence, first, the wife sins gravely by reason of the depraved intention of impeding generation, who in the act of coitus diverts her mind to other things, lest she be excited to semination, or who immediately after copulation rises or urinates. It is said by reason of the depraved intention, etc.; for the semination of the woman is not in reality necessary for generation, but only very useful for it; and since the womb in a short time draws in the semen and is very tightly closed, those various attempts to cast out the semen by rising, urinating, etc., are in reality vain and ineffectual. Hence also all agree that there is no need for the wife after copulation to remain long unmoved and lying on her back. L. l. VI. n. 954.; Debreyne, 2 p. ch. 2. art. 2. Sect. 2.

Second, spouses sin if by mutual consent the husband after begun copulation withdraws himself before semination and pours forth semen outside the vessel, in order to impede generation. This sin is called onanism, from Onan, who committed such a sin, Gen. 38. 9. 10., and it is true and properly so-called pollution, containing the special malice as it were of adultery. Cf. here n. 69. Outside marriage, however, after copulation has begun, to withdraw oneself and to pour forth semen outside the vessel has, besides the malice of consummated pollution, also the malice of begun fornication, or at least of fornication in affection. Cf. here n. 44. 103.

124. Note. "The conjugal act is lawfully interrupted, even if pollution will follow by the stirring of nature, provided there is a just cause for interrupting it, for example, if from its continuation

there threatens danger of disease, or death from an enemy, or someone else intervenes." Busembaum, L. 6. n. 954.

125. Can a woman lawfully render the debt to a husband using marriage onanistically?

Resp. Diana has these words: "I say, therefore, that the man and the woman indeed sin mortally if it is done with her consent; but if she does not consent, I think that she can lawfully ask and render the debt from her husband, even if at the end of copulation he pours forth semen outside the vessel. And the reason is that, as often as I ask an act from someone which he can perform well or badly, I do not sin, nor do I provide the cause of sin; for the other acts badly by his own malice, although he could act rightly. But this whole thing proceeds in our case." Tr. 6. de Matrimon. R. 181. Cf. also ibid. R. 184. It is confirmed from various decisions of the Sacred Penitentiary and of the Holy Office: G. t. 2. n. 927. and following; Enchir. Morale 1058. 1066.

126. Is some grave extrinsic cause required, so that a woman may lawfully render the debt to an onanist husband?

Resp. Several affirm, relying chiefly on declarations of the Sacred Congregation. They list these grave causes: first, if death, blows, or grave acts of savagery are feared; second, if there is a reason to fear that the husband will have a concubine either at home or outside the home; third, if the woman knows certainly that the husband, angered by refusal, will utter blasphemies against God and religion, injuries against the confessor and priests in general, scandalous words before servants or children; fourth, a fortiori the fear of divorce, or separation, or infamy, or grave scandal. But these theologians wisely warn that it is by no means necessary that the woman repel the husband until she has experienced the acts of savagery, troubles, or other inconveniences mentioned; for then, by rendering or offering the debt, she would often not avert an evil already existing, and besides she is not bound to undergo it in order to impede the sin of her husband; it is enough, therefore, that she reasonably fear it.

But a grave extrinsic cause does not seem necessary. For, first, the responses of the Sacred Congregation do not evince the necessity of this cause, since they declare only that the woman is to be excused who renders the debt to an onanist husband from a grave cause. But they pronounce nothing concerning her who renders it without that grave extrinsic reason. Second, it is proved from the authority of St. Alphonsus, who says that a wife not only can, but even is bound more probably to render the debt to an onanist husband, without a grave reason. "The reason," he says, "is that when the fault holds itself on the part of the person asking, since he has a right to copulation, the other cannot deny the debt without injustice, if she cannot by warning him turn him away from such fault; and then it is clear that the one rendering does not even materially cooperate in that one's sin, since she does not cooperate in the semination outside the vessel, but only in the begun copulation, which of itself is altogether lawful to each." L. l. 6. n. 947. Third, the same is proved from the authority of other most grave theologians; thus Sanchez, Tamburini, Sporer, Pontas apud St. Alphonsus l. c., and D. Bouvier in the Supplement to Tr. de Matr., think, to whom can be added the very learned Struggl, de Matr. n. 83. third. Fourth, because if the woman dissents from the action of the man withdrawing himself, she is engaged in nothing except a lawful action; and precisely insofar as in that act she uses marriage, she uses her own right. For she does nothing except what, with marriage posited, she can

lawfully do. She ought not to be deprived of her own right because of the malice of the husband; for the man approaching her and penetrating the vessel does not sin, but only by withdrawing himself and pouring forth semen outside the vessel, in which action the woman in no way participates and cooperates, but it is uniquely from the malice of the man. Nor is anyone bound, even by reason of charity, to yield his right, when this is not without notable inconvenience, so that another may avoid a sin which depends uniquely on his own malice. It is said that she in no way participates and cooperates; for in reality the woman only permits the sin of the man, by not denying the debt to him. The permission of sin is certainly one thing, properly speaking cooperation is another. The sin of the man is indeed not in the legitimately begun copulation, but in the cessation from it and withdrawal, with which the woman in no way cooperates. Fifth, lastly, if a grave cause is desired, it is certainly not necessary that there be a grave extrinsic cause, but an intrinsic cause suffices; for it is of itself grave for a woman who has married in order to exercise the work of marriage to abstain for a long time, and thus to be deprived of her right in an altogether grave matter. Moreover, in practice, grave extrinsic causes also are almost always had; for example, a founded fear of gravely displeasing the husband and of lacking peace in married life, etc. Gury, Cas. Cf. here n. 136. 2. n. 1106.

127. Is warning on the part of the woman necessarily required, so that she may lawfully render the debt to an onanist husband?

Resp. In the case this warning can and ought to be done only for a twofold cause: first, so that the man may be aware of the woman's dissent, lest the man become more emboldened in his perverse way of acting; and for this reason a formal warning by words is not necessarily to be made, if the husband is otherwise morally aware of the dissent of the wife, for example by the sincere displeasure and repugnance which she shows in that action. Second, the cause is that the man be drawn back from sin, by reason of charity, by which in that case the wife is bound toward the husband; and certainly for this reason a warning is to be made if it is prudently judged that it will be profitable. But if it is certainly judged that it will in no way be profitable, but rather harmful, such a warning is indeed to be omitted, because one wishing then to impede one sin would be in the cause that others also would be perpetrated, such as blasphemies against God, injuries against the confessor, against the sacraments, etc. L. l. 6. n. 944.

128. Is a woman bound to render the debt to a husband using marriage onanistically?

Resp. Negatively, at least speaking of itself and by reason of justice. The reason is that by the contract of marriage the wife did not bind herself except to the use of marriage which is of itself apt for generation. The same St. Alphonsus, who in the cited place teaches as more probable that a woman can and is bound to render the debt, nevertheless adds that she can probably and is bound to deny the debt, if she can do so without grave inconvenience. Therefore, given the probability of each opinion, the woman can, but is not bound to, render the debt. But it is said, speaking of itself and by reason of justice, because if this would be an occasion for the husband of indignation, dissension, and other more grave sins, with the grave inconvenience of the wife excluded, then by reason of charity she is bound to render the debt. L. l. 6. nn. 947. 944. Moreover the wife would also be bound to render the debt if the man, warned, promises that he will complete the act and at least sometimes completes it; for in doubt a certain right cannot be denied because of abuse. Sporer, de Matr. 513.

129. Can a wife ask the debt from an onanist husband?

Resp. Affirmatively, if there is a grave cause. The reason is that she has a right to copulation, and a sufficient reason of cooperation, or rather of permission of another's sin, is present. But the grave cause is from St. Alphonsus, l. 6. n. 947: "If she herself were in danger of incontinence, or if otherwise she would have to be deprived of her right of asking more than once or twice, with perpetual scruple whether it is a sufficiently grave inconvenience for her or not to contain herself." And with scruple excluded, it is certainly a grave inconvenience for a married woman, who has married for this end, that she might exercise the work of marriage, to abstain for a long time and, in the state of marriage, to lead a continent life. And, as is clear, a grave cause is always regularly present, either extrinsic or at least intrinsic. Moreover, the theologians reported in the preceding response, n. 126, universally affirm that it is lawful for a wife both to render and to ask, because, as they say, when a woman renders or asks, she gives work to a lawful thing, nor ought she herself to be deprived of her own right because of the malice of the man. L. l. c.

130. Does a wife sin by giving internal consent to pleasure, when she can permit the conjugal act to an onanist husband?

Resp. Negatively, provided she does not give assent to the sin of the man. The reason is that, since she by no means sins by permitting an act of this kind, neither does she sin by admitting the pleasure arising from it, although she foreknows that the man will not complete the copulation; for that act is in itself honorable and lawful for the woman, and it does not stand through her that it is not completed in the due manner. G. v. 2. n. 926.

131. Does a wife sin if, after the onanist husband has withdrawn from the imperfect copulation, she excites herself to complete the act, or, already aroused, delights in the subsequent pollution?

Resp. Affirmatively; for that act is true pollution, since, when the husband has withdrawn, it is no longer referable to intercourse as the complement of marital copulation; for the husband has departed, the copulation being imperfect. L. l. 6. n. 909.; Tamburini, Expl. Decal. l. 7. c. 3. n. 19.; Struggl, de matr. n. 91.

There are more recent authors who, when the conjugal act is not completed because the man withdraws himself, permit the woman afterward to complete it by semination, if she had not done so before in the very act of copulation. The reason is that an act legitimately begun can be brought to its due end. But this reason proves the contrary. For if the man did not seminate, that act of the woman can no longer be brought to the due end, and has the true notion of pollution.

132. Does a wife sin if at the very beginning of copulation, or in its continuation, she excites herself so that she may seminate, when she knows that an onanist husband will by no means complete the copulation, and delights in it?

Resp. 1. If that excitation and semination arise naturally immediately after the beginning of copulation or in the very continuation of conjugal copulation, she does not sin in any way, since indeed the woman gives work to a lawful thing by beginning copulation with her husband and continuing it.

If semination naturally follows because nature has been excited, this is not then illicit of itself; and therefore even in the semination itself the woman gives work to a lawful thing, since that whole act is of itself orderable and referable to the perfecting of conjugal intercourse and to generation. But if that act remains without its natural and necessary complement, this is not from the fault of the wife, but exclusively of the husband, who in that case ought to consummate the copulation, and although he could do so, himself does not will it. Hence it does not seem that the woman is bound by a positive effort to impede semination, and, when it has followed naturally, not to delight in it; for this would render marriage very burdensome to her and make her subject to many anxieties, since she would be in perpetual and very grave danger of sinning.

2. The difficulty seems greater if the woman would not be naturally excited, but, lest she be deprived of that pleasure which it would be most hard for her constantly to lack, she of herself by effort would excite herself all the way to semination. Nevertheless, not even in this case does the woman seem to sin gravely, since she gives work to a thing which of itself is not illicit and contrary to generation, and she has a most grave reason for doing this, if, because of a great inclination toward that thing, she would have to be deprived of that pleasure, which would make marriage burdensome for her. The whole turpitude in that matter is from without, from the malice of the husband not completing the thing, as we have already observed in the first point.

133. Note. What was said in the preceding questions about the wife having an onanist husband, who withdraws himself after copulation has begun and pours out semen, seems likewise to be said about the wife having a husband who, immediately before copulation, in order to impede generation, pollutes himself alone, and then immediately has copulation. This can be more easily admitted under this aspect, namely that notwithstanding the preceding pollution, he can still pour forth semen in that copulation which he undertakes, since almost immediately semen is reproduced in the testicles, or some part of the semen remains. For experience establishes that men can pollute themselves once, and again, and a third time successively, with a very brief interval of time interposed. Longet, loc. cit. p. 125.

134. Can a woman who has procured sterility in herself by medicated potions or by another way afterward continue in asking and rendering the debt?

Resp. If she has become merely sterile, although she sinned gravely by deliberately causing this, because by deliberate work semen is impeded from its natural end of generation, which is against nature, nevertheless she can still both render and ask the debt, like all other naturally sterile women, because that act is of the same nature whether sterility has proceeded from nature itself or from art. But if she has been rendered impotent, it seems evident that she cannot do anything except exercise only those imperfect acts which in the case of impotence are permitted to spouses. The reason is that perfect copulation on the part of the man, when this is physiologically impossible on the part of the woman, is essentially against generation, and has the true nature of pollution, whose malice is in the vain effusion of semen from the nature of the act itself.

If this were lawful because the act by its nature is not against generation, it would certainly be lawful also for a man, when he performs copulation, to use a preservative so that the semen may not pass

beyond the vagina and penetrate the uterus, in order to impede generation; it would be lawful for the woman to use an astringent substance, lest sperm pass from the vagina to the uterus. For whether generation is impeded in this or that way, in a transitory or permanent manner, is it not always to impede generation positively? is not that act always from its own nature against generation?

Nevertheless there are modern authors who affirm this, because, with marriage now standing, spouses have a right to that act. But this would truly have to be proved, since that act is against generation and has the true nature of pollution on the part of the man. But, they insist, that act is not pollution, because the malice of pollution is in complete pleasure sought outside copulation. But the intrinsic malice of the act of pollution can in no way be taken from pleasure, since pleasure is not intrinsically evil of itself, but from the intrinsic end of that act, which is generation, and to which it is opposed; whence the act is against nature.

The same is the question, as is clear, if not the woman but the man, after a validly contracted marriage, becomes impotent: whether he can have copulation with his wife. Here also there are two opinions.

Laymann affirms, L. 5. tr. 10. part. 4. cap. 11. n. 3., saying: "If after a contracted marriage someone has become a eunuch, he is not prohibited from exercising imperfect copulation with the emission of semen that is not true, as Toletus teaches, lib. 7. cap. 16. num. 4., Sanchez, lib. 7. disp. 102. n. 7. Because although such persons cannot contract marriage, nevertheless, once it is contracted, to use it is lawful for them, insofar as this can be done." But this is the practical difficulty: whether it is lawful for them to use it insofar as this can be done. Certainly it is lawful for them to use it if the act remains incomplete on the part of the man and the woman, because nothing is done against generation; but not when the act is now positively opposed to generation and consequently pollution is had on the part of the woman. If such an act of a man whose two testicles have been perfectly amputated after the validly entered marriage is lawful, then it must be said that it is not an act against nature, or against generation. And if it is not against the good of offspring, why could such a man not then, after the death of his wife, contract another valid marriage?

Sanchez, however, l. c. n. 6. 7., reports two opinions. The first denies. For "it seems then that copulation is not lawful, because the woman emits true semen, and this is frustrated of its due end of generation, with male semen lacking." The second, to which the same Sanchez adheres, affirms, "because that man uses his own right, applying himself to the conjugal act which marriage permits." But the whole question precisely concerns this right: whether it is present, since also in this other case that whole act is positively against generation, and on the part of the woman that act assumes the nature of pollution.

It is urged by modern doctors that in a woman there is not pollution, but only complete venereal delectation. But if this doctrine is admitted, it is certainly not apparent how there can be grave sin in a married woman from that complete delectation. For simple venereal delectation is not gravely illicit for spouses. And as the modern doctors themselves say, and rightly, from the common doctrine: "grave sin in spouses is only that which is voluntary pollution, whether solitary, or the crime of onanism and sodomy.... All other actions in themselves, or considered in their nature, are lawful for spouses, and become sins if they are exercised for pleasure alone, or with foreseen danger of pollution, without a just cause." Besides, they add: "incomplete venereal delectation does not differ in species from complete." And their reason is that "the circumstance of pollution does not change the

species of the sin." And consequently they deduce: "if women accuse themselves either of venereal delectation or of immodest touches, they are not to be interrogated further as to whether they have been polluted." But consequently it is also deduced that in a married woman there is never grave sin in a venereal matter, the thing considered in itself, or according to its nature, in relation to a woman joined in marriage. But this conclusion does not seem to cohere with the repeated responses of the Sacred Penitentiary. Cf. following numbers 135. 136. 153.

Article V: On the Begun and Non-Consummated Copulation of Spouses

135. Can it be counseled, or at least permitted without grave sin, to spouses who are found in an ordinary and natural state, but who by mutual consent are determined to receive no children from marriage, to begin and break off copulation, and this in order to avoid the most grave sin of onanism?

Resp. The proposed question can be considered in two ways, speculatively and practically. The speculative question has already been treated generally at n. 28. 3. But if the question is made practically, the answer is simply: negatively. For if those spouses are in an ordinary and normal state, and therefore are still in youthful age and of warmer nature, morally speaking it cannot happen that pollution does not always, or at least ordinarily, follow. Cf. l. c. Hence St. Alphonsus, l. 6. n. 918., says, "Sanchez with Veracruz wisely observes that this, namely begun copulation, restraining semination, is ordinarily mortal, because ordinarily there is present danger from such withdrawal of pouring forth semen, unless the spouses have experienced the contrary." And the same holy doctor, ibid. n. 941., says, "the danger of incontinence, as Coninck well observes, will scarcely not be present if a spouse dwells in the same bed and the other asks the debt." Nor does it truly avail to object, as some oppose, that this copulation from its intrinsic nature is not at least gravely illicit, since it is an incomplete act of itself very proximately orderable to the complete act of marital copulation. For that act, because of this same reason, is of itself a grave, indeed a most grave, cause of the effusion of semen, and therefore of pollution, if the copulation is broken off. Therefore that act will be lawful only when, because of peculiar subjective dispositions, that same act ceases gravely to influence pollution. Cf. here n. 28. 3. and n. 96.; Elbel, de matr. n. 429.

136. Moreover, here are added certain resolutions of grave theologians, so that each may judge the matter for himself; by these, moreover, the doctrines set forth both here and above are confirmed.

Sporer 500.: "Titia, a young wife, jovial and of warm temperament, has a husband already nearly a septuagenarian, nevertheless the father of some children from her, but now worn out by old age and altogether impotent. Yet they love each other. The loving husband, because he cannot otherwise, does the thing by touches. Titia suffers it, and thence is polluted once, twice, three times; anxious, she asks help: on the one hand she fears God and sin; on the other hand she loves her husband and suffers very sharp stimuli of the flesh. It is asked whether nothing remains, or what remedy remains. Gobat answers in these very words: I answer from what has already been said, since those touches seem to be practiced ordinarily without pollution, although this sometimes follows besides the direct intention of each; since further it appears to be done not from mere lust, but to testify and foster

conjugal love, which otherwise easily grows cold in so unequal a marriage, therefore according to the opinion of Sanchez and Filliucci they do not seem to sin mortally by those touches. I confirm this by the authority of Diana, who, consulted, answered absolutely and without limitation that spouses who embrace each other as a sign of conjugal love do not sin, although it is foreseen that pollution will follow, because conjugal affection is a sufficient cause excusing such an act. Thus he himself testifies, part 6. Res. 207. in Tr. 6. Thus far Gobat."

Diana, Tr. 6. de Sacr. matr. R. 205.: "Whether, when the danger of pollution has ceased in each spouse, the husband does not sin mortally if he breaks off begun copulation before semination, lest offspring be generated, provided he does this with the wife consenting or not reasonably unwilling; provided also that the woman does not seminate, otherwise the husband ought to seminate, lest the semen of the other be poured forth in vain?

"The doctors commonly note that, when the danger of pollution has ceased in each spouse, the husband does not sin mortally if he breaks off begun copulation before semination, lest offspring be generated, provided he does this with the wife consenting or not reasonably unwilling. Indeed, if there is a just cause for impeding semination, for example, on account of poverty and a multitude of children, and nevertheless of lying together for the calming of concupiscence, all fault is absent if mutual consent accedes, provided also that the woman does not seminate; otherwise the husband also ought ordinarily to seminate, lest the semen of the other be poured forth in vain. Thus Laymann, and before him Sanchez, T. 3. l. 9. disp. 10. n. 3., asserting thus. Where there is a just cause, for example, lest semination harm health, or the spouses are poor and abound in offspring whom they cannot feed, and they have such copulation without danger of semination, by which they calm concupiscence, I find no fault. These are his words. Hence spouses who are infirm and who would begin copulation for calming concupiscence, and voluntarily by no means complete it, are not to be condemned even of venial fault, and this case can frequently occur."

And R. 207: "Someone began copulation with his wife, and afterward, because of danger of disease, with her consent withdrew himself; but from this pollution sometimes followed. I was asked whether such an act was lawful. I answered affirmatively, because it is not a sin to give work to a lawful thing and to an honorable action, although it is foreseen that pollution will follow, provided the danger of consent is absent, as it was in the case about which I was asked; because then the pollution is not willed in itself, as is supposed, nor can it be said to be willed in the cause, because I am not bound to omit that action, lest pollution follow, when a just cause stands. Therefore...."

Struggl, Tr. XII. de matr. q. 2. a. 7. n. 89.: "It is inferred, third, that a wife can ask and render the debt, even if she knows that the husband is accustomed to break off copulation and pour forth semen, provided she does not consent or cooperate; because thus pollution does not follow from the action of the wife, but from the malice of the husband, as Sporer, l. c., with others, observes. Where likewise with others he teaches that newly married persons can try to complete copulation, although besides the intention it more often happens that the husband pours forth semen outside the vessel of the wife. Of this matter I will treat more fully below, quaest. 3. a. 11. de imp. impot. n. 145. In the same way, an old husband having a young wife, whom he ordinarily knows without pollution, can from conjugal affection exercise the conjugal act, and such a wife can ask it, even if sometimes by accident and besides the intention of each, because of the frigidity of the man, pollution follows; as, with Sanchez, Filliucci, and Gobat, Sporer teaches, l. c. n. 500. The reason of this is that conjugal affection

and the necessity of preserving it can excuse them from all fault or at least mortal fault. Fourth: spouses do not sin mortally when, every danger of pollution having ceased in each spouse, by mutual consent they break off begun copulation, lest offspring be generated, either because of want or because of another cause, as Sporer, l. c. n. 490., wishes with Cajetan, Paludanus, Armilla, Sa, Sanchez, and several others. The reason of this is that such penetration of the feminine vessel, without semination and the subsequent danger of pollution, is considered like the touches of the shameful parts, which are permitted to spouses; therefore such breaking off of begun copulation without danger of pollution is lawful, or only venially sinful. But if the wife has already seminated, having been so excited by the copulation of the husband, that man sins mortally, deliberately ceasing before his own semination, as Sanchez, l. 9. disp. 19. n. 4., observes. But Sylvester, Henriquez, and others contradict with sufficient probability. Indeed Diana, 3. p. res. 37., thinks that it is lawful for the husband because of danger of disease, with the consent of the wife, to break off copulation, even if pollution follows by accident. Yet these more benign opinions seem to me to be restricted on account of the greater estimated danger of pollution or of full consent to it, as Sanchez, disp. 19. n. 3., well observes with others."

Cajetan, in 2. 2. q. 154. a. 1. quaest. 5. par. Ad hoc dicitur: "Just as, when the man seminates outside the due vessel, sin is committed against nature, because the partial matter is contrary to nature, so, when the woman seminates without commixture with male semen, sin is committed against nature, because the partial natural object is voluntarily omitted, namely the male semen. It would be otherwise, however, if a man from temporary impotence, lying together with hope and effort toward semination, as happened to a certain man who had begotten from his first wife, and when lying with the second wife could not seminate for many years. For this man, by the counsel of good men, continually rendering the debt thus, at length after six years begot from her. And in reality he did not sin, since he always intended to consummate the natural act."

Chapter IV: On the Use of Marriage

137. We have spoken chiefly in the preceding chapters about sins outside the use of marriage; now we must speak about sins within the very use of marriage. Therefore first it must be said concerning the lawfulness of this use, with attention to its intrinsic nature and extrinsic circumstances, and then concerning the right with respect to it and the consequent obligation.

Article I: On the Intrinsic Nature of the Use of Marriage

138. The use of marriage can be considered in two ways, physically and morally; and, inspected physically and morally, it can still be considered in two ways according to the twofold circumstance physically affecting the aforesaid use, namely outside the case of impotence, and when impotence is present for completing that act.

139. If the use of marriage is considered physically and morally as to its lawfulness, it is had by the coitus of man and woman, with the bond of marriage preceding, and by the emission of the man's semen into the natural vessel of the woman and its retention there, so that generation can follow, whether the woman also seminates or not. The first reason is that the generation of

offspring, which is the primary end of marriage, is naturally impossible unless the male semen is inserted and retained within the natural vessel of the woman. Therefore conjugal and lawful copulation must necessarily take place with the insertion and retention of semen within the natural vessel of the woman. The second reason is that generation is also naturally impossible if, although the male semen is inserted and retained within the natural vessel of the woman, that is, within the vagina, nevertheless by the use of some instrument it is impeded from reaching the uterus. Therefore that insertion and retention of semen must be such that from it generation can naturally follow. The third reason is that the semen of the woman is not absolutely necessary for generation. For today it is known that the true germ of offspring is present in the woman; but this consists not in the woman's semination, as it is called, or in the emission of vulvo-vaginal humor, but in the ovule secreted from the ovary, adhering to its surface, which gradually grows until, mature of itself, even without coitus, it is shed. This chiefly happens at the time of menstruation; and when thus shed, if it is still apt and nothing else stands in the way, it is fecundated by the male semen, and then offspring is conceived. Hence a certain sign of aptitude for fecundation in a woman is had from the presence of menstruation, since menstruation perfectly corresponds to ovulation; although the absence of menstruation cannot always be a certain sign of incapacity for fecundation, because several examples show the contrary.

140. Corollaries. 1. If, when copulation has begun, "the woman has already seminated, or is in probable danger of seminating, the man indeed cannot deliberately withdraw himself from semination without grave fault, because then he himself is the cause that the semen of the wife is wasted." L. 918.; Billuart, de Matr. Diss. 4. art. 3. at the beginning. Cf. here n. 136. But if the man has already seminated, whether the woman sins lethally if she withdraws from seminating is disputed among theologians. Some affirm, because the semen of the woman at least contributes much to the certainty and perfection of the offspring, since it was instituted by nature at least for this. But others more commonly and more probably deny, because the semen of the woman is not necessary for generation. Nor is it truly an objection that the semen of the woman contributes to the perfection of the offspring; for spouses are not bound to the more suitable mode of generating, but it is enough if they do not stand in the way of generation. L. ibid.

Concerning the first conclusion, modern authors say that the reason of St. Alphonsus rests on a false supposition, namely that the semen of the woman is frustrated. But the aforesaid reason does not rest on a false supposition. For although that semination of the woman is not necessary for generation, nevertheless, if it exists, it is intrinsically ordered by nature itself to generation. Hence it is that those same authors, with others, agree that it renders generation easier and more certain; and because it is destined by nature itself to generation, when copulation has already been consummated on the part of the man, the woman, if she has not completed the act, can seminate and complete the act. Therefore, if after the semination of the woman the man does not also seminate, the semination of the woman is altogether frustrated against the order of nature, and altogether against generation.

2. It is not necessary that each spouse seminate at the same time. For "since generation follows without that semen of the woman, not only where it is not poured forth at the same time, but

afterward, no precept constrains them to pour it forth equally." Sanchez, l. 9. disp. 17. n. 9. Nor again is it an objection that this is more suitable for generation, because, as was just said, "spouses are not bound to choose the more suitable and easier way of generating, but it is enough for them if they do not stand in the way of generation." Sanchez, l. c. Therefore, if the man withdraws himself after his own semination but before the semination of the woman, she can at once excite herself by touches, because that semination of the woman pertains to completing the conjugal act. Likewise, immediately at the very beginning of copulation, the woman can prepare herself by semination itself for completing it, because that semination of the woman then pertains to the beginning of copulation and in reality, as physicians and experience testify, often renders it easier; and although it is not necessary for fecundation, nevertheless it is very useful, rendering fecundation more certain.

141. Note. Generation can take place without any introduction of the penis, but by the presence alone of sperm at the orifice of the vagina. Therefore, if by reason of the narrowness of the woman, or by reason of disease by which the organs of generation are affected, the man cannot penetrate the feminine vessel, it will be enough that he pour forth and apply the semen at the mouth of the vagina, the copulation being only begun. It is said, if by reason of narrowness, or by reason of disease; for this most imperfect mode of congress will be illicit if they can come together in the ordinary and natural mode. For although spouses are not bound to use extraordinary diligence so that offspring may more certainly follow, nevertheless they are bound to abstain from a less natural mode of coming together, by force of which generation can very easily be impeded, if they can come together in the natural mode.

But whether impotence is had and the marriage is null if the man, for example, from excessive heat or frigidity, cannot pour forth semen except above the vulva or near the opening of the vagina, is disputed. Some affirm, because there is truly power to generate. Others deny, because there is not power to generate in the natural mode. And otherwise excessive heat or frigidity would no longer be impediments of marriage, against the common opinion of the doctors and against the laws themselves. Acta S. Sedis, vol. 4. pp. 196. 197. Cf. here n. 152.

142. Is it a mortal sin to pour forth part of the semen outside the vessel?

These are the words of Sanchez, de matr. l. 9. D. 17. n. 12. 13.: "Voluntary effusion of semen outside the vessel, or that mode of coming together from which it follows, is a manifest mortal crime against nature, because it is opposed to the end of natural generation, to which nature itself has destined semen.... And this indeed must be taken whether in the whole conjugal act, or in part, or at its end, the whole semen or a part of it is poured outside the vessel. Thus Cajetan, 2. 2. q. 154. n. 1. Yet this must be tempered. For the man can be excused from fault if, besides his intention, while he is trying to come together legitimately, from a certain hastiness he pours semen outside, even if he approached with some motion of pouring forth in that way. For this must be attributed not to vice, but to the hastiness of nature." Diana, tr. 6. de matr. Res. 181. 185. 186. 187. But in the emission of sperm very many nemasperms or spermatozoa are emitted, of which only one is sufficient for generation. Antonelli, p. 108.

143. Corollary. Hence a woman who would try to cast out the semen, or part of it, after copulation has been had, can sin mortally, although this should be had in those circumstances in which generation perhaps cannot follow, or at least ordinarily does not follow, for example in the time of pregnancy. For then generation would now not follow from the very act of expelling the semen; and therefore that act, as being contrary to generation of itself, is mortal. Sporer, de matr. 490. 514.

144. Because of the sterility of a woman who cannot conceive, can the husband pollute himself outside copulation, so that afterward a physician may introduce the collected semen by means of an instrument into the uterus of the woman, and this in those circumstances in which it is morally certain, as the physician himself asserts, that generation will follow?

Resp. This is illicit, because that pollution outside conjugal copulation of itself in no way tends to generation; indeed, it is against generation. But that generation can be had, this is outside the intrinsic nature of that act, altogether from without and by accident; namely, it happens from without to that act already intrinsically evil. Nor does this principle stand in the way: in marriage there is lawful, at least without grave sin, whatever is not against generation. For this is true only in this sense: that, namely, at least gravely illicit is not whatever from its intrinsic nature does not impede generation. Cf. here n. 146.; Sanchez, l. 2. d. 12. n. 2. de Matr.; L. l. 6. n. 917. par. Dicunt.

Hence, with perfect copulation excluded, artificial fecundation of the woman is illicit. Holy Office, March 24, 1897. Artificial fecundation, namely, by which art is substituted for nature, not by which nature is merely aided by art.

Art is indeed substituted for nature if the man is first polluted and then the semen collected from that pollution is inserted into the vagina by some instrument. But nature is only aided if copulation is first performed in the natural mode, and then, whether by fingers or by a little syringe, the semen already inserted into the vagina is driven farther up to the opening of the uterus for more certainly obtaining fecundation. According to Sanchez, by illicit fecundation marriage is consummated. For he says: "Likewise they agree that marriage is consummated, by whatever art the semen is received within the natural vessel, without its penetration." L. 2. d. 21. n. 2. Sanchez cites several authors. But the contrary seems to have to be said. For that fecundation is not done by natural copulation. For marriage by nature itself is ordered to copulation and to generation through copulation, and through perfect copulation, which cannot exist without that penetration and the effusion of semen on the part of the man and the woman.

And of the woman: for if many ancient theologians denied this, this was because they thought that "feminine semen is not necessary for generation." Sanchez, l. c. n. 10. But, because then the opposite was also probable, the same Sanchez, l. c. n. 11., says: "Therefore I conclude that it is probable that marriage is not consummated unless the woman also seminates, because for the consummation of marriage there is required copulation from which generation can follow." If, therefore, it is certain that for generation on the part of the woman the ovule and the fecundation of the ovule are required, it must consequently be said that marriage cannot be present if the woman perfectly lacks ovaries, or had an impervious vagina, so that the ovules could not be fecundated. Cf. here n. 150.

145. Does a man sin mortally by beginning copulation in the mouth, so that afterward he may consummate it in the due vessel?

Resp. These are the words of St. Alphonsus, 235.: "Sanchez, etc., deny, provided the danger of pollution is absent; but Sporer, etc., more truly affirm, both because in this act, because of the heat of the mouth, there is present the proximate danger of pollution, and because this of itself seems a new species of lust against nature, called by some irrumation; for whenever some other vessel besides the natural vessel instituted for copulation is sought by the man, there seems to be a new species of lust. Yet Sporer with Filliucci and Marchant excepts the case if it is done in passing; and Sanchez also seems really to think this, when he excuses that act from mortal sin if every danger of pollution ceases. Palaus, p. 4. par. 2. n. 6., excepts the case if the man did this so that he might excite himself toward natural copulation; but from what has been said, I think neither is to be admitted." Nevertheless the opinion of Sanchez does not seem altogether improbable; for as to the first reason, it does not seem true that there is always proximate danger of pollution if those parts are received by the mouth only in passing. But as to the second reason, namely that that act is a begun act and of itself tending to a new species of lust, it does not exceed the bounds of probability; and the same St. Alphonsus, l. 3. n. 466. at the end, more probably denies this peculiar species of sin. Cf. here n. 119.

146. Does a man sin mortally by beginning copulation in the preposterous vessel, so that afterward he may consummate it in the due vessel?

Resp. "Navarre, etc., deny, provided the danger of pollution is absent, because otherwise, as they say, all touches even venereal would not be illicit among married persons. But Sanchez, etc., commonly and more truly affirm. The reason is that coitus of this kind itself, even without semination, just as copulation itself in the natural vessel of another woman is true fornication although semination is not present." L. 916.

147. Note. 1. "Sanchez condemns as guilty of mortal sin the man who in the act of copulation would insert a finger into the preposterous vessel of his wife, because, as he says, in this act there is affection toward sodomy. But I judge that such an affection can indeed be found in the act, but, speaking of itself, I do not recognize this affection as implanted in such an act. Moreover, I say that spouses exercising such a foul act are always to be gravely rebuked." L. 935.

2. But is it mortal for a man to rub the male parts around the preposterous vessel of his wife? Sanchez and Bossius with Filliucci and Perez deny, because to touch the mouth of the preposterous vessel is not ordered to sodomitical copulation. Pontius, etc., affirm, and also Tamburini, "who testifies that from some codices the opinion of Thomas Sanchez was deleted; indeed Moya asserts that Sanchez himself retracted himself in the Antwerp edition of 1614. The reason is that at least such a touch cannot morally be done without sodomitical affection." L. 916.

148. When a man cannot coit with a virgin, is the wife then bound to suffer the cutting of the virginal enclosure by fingers or by another instrument, if there is need?

Resp. "Pontius, Palaus, Ledesma, Hurtado, and Leander apud Escobar deny. The reason is that that defect is not of the woman but of the man; therefore she herself is not bound to use a remedy so that

she may render herself apt, but it is enough that she hand over her body to be opened in the mode instituted by nature, not however in an extraordinary mode. But Sanchez, etc., more probably affirm. The reason is that such an opening, on the one hand, can well be done without shame either by the husband or by the girl herself; on the other hand, the trouble which she would have to suffer in such opening does not seem great, nor extraordinary, indeed it is ordinary for all; hence since the woman has already handed over to the man the right to copulation, she is bound to use this means so that she may render herself apt for him who because of his own weakness otherwise cannot coit." L. lib. VI. n. 1100.; Debreyne, 2. p. ch. 1. Sect. 2.

Article II: On Impotence

149. When spouses cannot have copulation of itself apt for generation, impotence is had; and if it precedes marriage and is perpetual, whether absolute and toward all, or respective and toward one or only some, it dirimently impedes marriage. The reason is that a contract cannot be valid when the thing promised will never be able to be furnished, according to the rule of law: one unable to pay is also unable to promise. It is said, if it precedes marriage and is perpetual; for it will be otherwise if impotence, even perpetual, supervenes after marriage has been validly contracted, since marriage once validly contracted is indissoluble; or if it indeed precedes marriage but is temporary, for it is not of the nature of marriage that perfect copulation can always be had, but that it can be had at some time. Yet except the impotence of impubescent age, which, as is clear, is temporary; for by ecclesiastical law it dirimently impedes marriage. By the name of puberty is designated the age at which a man and woman become apt for generation. Puberty in males is in the fourteenth year of age, but in females in the twelfth year. Sporer 525. and following.; Milne Edwards, t. 9. pp. 85-89. 100. 104. 105.

150. Note. Four cases of impotence are listed in men. The first is if they lack both testicles, or have both crushed, because they are incapable of prolific semen. The second is the perfect absence of the penis, so that not even the little extremity of the male member remains, which could at least bring semen into the exterior genital parts of the woman. The third is imperforation of the penis, or a perforation of it which reaches no interior cavity, so that human semen cannot be emitted outside. The fourth is frigidity, or such weakness of the male member, whether it arise from disease, or from a natural aversion of the other spouse, or even from malefice, that by no art and remedy can he experience erection, nor can he penetrate the feminine vessel, nor can he pour forth semen. Excessive heat also is customarily listed by the older theologians, by which the man pours forth semen so prematurely that he cannot wait for conjugal copulation itself; this indeed can very rarely constitute a true diriment impediment. For if, approaching the first time, he cannot do this, it is very difficult that, attempting copulation a second and third time, he would be unable to complete the act.

But three cases chiefly of perpetual impotence in women are listed: first, the absence of both ovaries; second, the absence of the uterus and vagina; third, perfect obliteration of the uterus and vagina. But generally that impotence is judged perpetual which cannot be removed without a miracle, or sin, or danger to life; hence although such impotence is removed, the marriage nevertheless was null and

therefore must be repeated. Debreyne, l. c. Sect. 1.; Milne Edwards, t. 8. p. 383.; t. 9. p. 21., etc.; Sanchez, de Matr. l. 7. D. 92. n. 1. 7.; Reiffenstuel, L. 4. Decret. Tit. 15. n. 3.

There are several modern authors who hold that perfect absence of the uterus and ovaries, as well as occlusion of the vagina, does not constitute the impediment of impotence in a woman. They rely chiefly on the fact that marriage is also for the remedy of concupiscence. Certainly for the remedy of concupiscence, but nature first already presupposes marriage, which is principally and essentially for generation. For in what other thing is that remedy to be sought, except in marriage? Is it to be sought otherwise than by the conjugal act? Therefore marriage is presupposed, and consequently the natural power for marriage, which by its nature is instituted for generation.

Nor truly does it avail to say that power for coiting suffices and not also power for generating offspring; for this must be proved. Coitus is not the end of marriage, but the natural means to its essential end, namely generation. And if impotence for generation were on the part of the woman, then equality would be lacking in the contract of marriage; for the man would hand over that power, but the woman in turn would not be able to hand it over. Eminent Cardinal Gasparri, in his Tr. de Matr., Paris, 1891., vol. 1. p. 119. num. 205., explaining the definition of marriage, excellently says: "The companionship of life signifies in the first place a mutual right, with relative obligation, over the body of the other in order to generate and educate offspring, or THE RIGHT OF COITING, as they say.... Therefore marriage brings to each party an exclusive and perpetual right, with relative obligation, over the body of the other in order to generate and educate offspring." And if marriage is valid with a woman impotent for generation, why then is marriage not also valid with a man impotent for generation, with a eunuch, with a castrated man? For these could use marriage well, not indeed for generation, but for the remedy of concupiscence, for taking pleasure. But it is objected: they cannot take the greatest and full pleasure from marriage. But is pleasure the end of marriage? And if they cannot take full pleasure, nevertheless they take as much as they can take, and this fully suffices for them as a remedy of concupiscence, if, for there to be marriage, it suffices, as they say, that it be for restraining, or rather satisfying, concupiscence. Castration, or the removal of both testicles, brings perpetual inability for generation, but by no means inability for copulation, nor does it carry with it the absence of venereal sense.

Lastly, there are indeed several modern authors who oppose the common opinion of the ancient doctors, but there are also several modern doctors who still hold it and support it by reasons.

R. P. Lehmkuhl, in his very recent Compendium Theol. Mor., year 1907, num. 1019., defines marriage as: "The individual association of male and female, BY WHICH THEY ARE MUTUALLY COMPLETED for constituting by right ONE PRINCIPLE OF GENERATION." And num. 1052 he says that impotence "renders one incapable of consummated copulation, or copulation of itself apt for generating.... Sterility is distinguished from impotence; it supposes the possibility of copulation, but offspring is not generated because, whether on the part of the male semen or on the part of the woman, something stands in the way so that the male semen may not fecundate THE MATERNAL EGG." And num. 1054 he says: "Whether she who lacks both ovaries or even the uterus is judged impotent is disputed. The Holy Office, indeed, having been asked whether a woman rendered sterile by the defect of both excised ovaries can and lawfully may be permitted to enter marriage, on February 3, 1887, responded: Having considered the matter maturely and for a long time, that the marriage of the woman in the case should not be impeded. It answered the same on July 30, 1890,

concerning excised ovaries and uterus. But in those cases there was no certainty about complete excision, nor about absolute impossibility of conceiving."

"If a woman," says Noldin, ed. 2, 1908, de Matr. n. 577., "lacks both ovaries or the uterus, impotence is had. Today indeed many theologians think that the woman who lacks both ovaries or the uterus is not impotent, but sterile. Namely, they define impotence not as inability for generating, but as inability for coiting. But theoretically the opinion once common seems altogether to have to be retained, because according to the mind of the authors it seems certain that impotence is present where there is inability for copulation of itself apt for generation. Nevertheless, since doctors dispute among themselves whether marriage entered with a woman lacking ovaries is valid, and ecclesiastical authority has not yet defined this question, the Holy See recently still declared that practically it did not seem opportune to institute a process for declaring the nullity of a marriage from defect of ovaries in a woman. Holy Office, December 10, 1905."

It was declared to me myself by His Eminence Cardinal Parocchi, Secretary of the Holy Office, that the responses given refer only to particular cases, and suppose that generation could still of itself follow in those cases. It is indeed certain that pregnancy has sometimes been had after the ovaries were removed, because according to the operative method employed, namely the operation performed through the vagina, the removal was not certainly total, or, if total, there was a supplementary ovary. Antonelli, v. p. 148. 154. 155. His Eminence Cardinal Aloisi Masella, Pro-Datary, adhered to the same opinion by unanimous judgment of the Congress. And recently His Eminence Cardinal Di Pietro, now Datary, on May 18, 1908, when a dispensation was sought from the impediment of consanguinity in the first degree mixed with the second of the collateral line, by the unanimous judgment also of the Congress ordered that it be answered negatively, because this cause was adduced: "The physical infirmity of the petitioner, who has undergone a surgical operation by which she is rendered incapable of conceiving." Cf. Institutiones Morales, ed. 5. n. 994. 995.; Appendix n. 958.; Cas. Consc. ed. 5. vol. 2. n. 146.

Nevertheless, since the genital apparatus of the man is wholly apparent and sensible, while the genital apparatus of the woman is only in part apparent and sensible, perhaps from the very institution of nature, by this constitution of nature itself, God permits marital copulation without further and more intimate inquiry being made concerning the intrinsic force of that copulation in order to generation. And it is not to be doubted that several women who enter marriage and who are afterward found sterile are perhaps sterile because they are impotent, their impotence remaining hidden. From this it easily follows that marriage in cases of this kind is not to be impeded. And, since the Supreme Pontiff can well declare doubts pertaining to natural law, he will certainly be able to declare even such a doubt, if he himself judges it necessary and opportune.

151. Corollaries. 1. Those who lack only one testicle are not impotent, because they can penetrate and emit prolific semen. 2. Generally speaking, old men are not to be held impotent, since even in advanced age they can both penetrate and pour forth semen, as is clear concerning several who at the age of eighty, ninety, and even one hundred years have begotten offspring. And it is lawful for them to come together, although sometimes semen is poured forth by accident. L. 954. 1067. Cf. here n. 136. 3. Sterile women are not impotent, because although they do not conceive, nevertheless they can perform an act of itself apt for generation. For they can be penetrated through marital congress and receive male semen. But that generation does not

follow is by accident. Sterility can never be held as absolute and perpetual. A woman can be sterile for several years and afterward become fertile, Debreyne, p. 281. Therefore sterility is only in a certain accidental impediment to generation, whether on the part of the man or on the part of the woman. St. Colette V was born from a sterile and sexagenarian mother. Moreover sterility properly so-called, insofar namely as it differs from impotence, is situated in this: that either the male semen, or the ovule, or both fail for a time, or do not come to due maturity, or other physical conditions are lacking by which both the ovule and the male sperm may arrive at due contact; and thus generation is frustrated. Cf. Milne Edwards, T. 8. pp. 359. 360. 383.; t. 9. pp. 114. 115. etc.; Antonelli, V. 2. p. 155. and following. 4. Women who bring forth fetuses only dead, or only with danger to their own life, are not considered impotent; for in reality they generate. 5. Those about to die shortly are not impotent, because their impotence is only accidental and extrinsic, and regards only the use of the thing, not the power of using. Laymann, l. 5. Tr. 10. p. 4. c. 11. n. 6.

152. Does the narrowness of a woman, by which she cannot be penetrated by a man, constitute impotence?

Resp. There are not lacking those who deny it. For, to have power for marriage, power simply for generation suffices. But it is now known that a woman can conceive when the semen of the man is poured forth near the vagina. For the smallest quantity of semen can suffice for generation, and because of the attractive force which is present in the genital parts of the woman, it can reach all the way to the uterus. And indeed only by the commixture of seeds do spouses become one flesh. But hence, according to the aforesaid opinion, the question which was raised by theologians concerning this narrowness of the woman seems no longer to have place: namely, whether a wife unfit for copulation because of narrowness is bound to suffer incision with danger of grave disease. Physicians note, however, that incision is done in vain, because after the wound has healed the narrowness returns; and other means are now used to correct that narrowness by art, which in no way display danger of grave disease. Debreyne, l. c. Sect. 2.

But others more commonly affirm, and it seems it must be affirmed. For the power for marriage is the natural power for generating by natural copulation. The power for generating without copulation is not according to the order of nature. Therefore generation without copulation is had by accident. St. Alphonsus, l. 6. n. 1097., judges that marriage is null if the woman could not be made capable except by a grave and dangerous incision. And n. 1099. he says: "The very common and more probable opinion ... says that the woman is bound to suffer incision even with grave trouble and pain, but not with danger either of death or of grave disease ... because a woman is never judged to have wished to oblige herself to endure so great a danger, nor by force of the contract of marriage does she seem to be bound to such a burden. But that she is bound with grave trouble and pain to render herself apt for copulation is proved, because the woman seems to be obliged to this by force of the contract, since this is necessary for preserving the right of copulation which she transferred to the man.... But it is very probable ... that if the incision could not be done except by the hand of a surgeon, the woman is not bound to suffer this incision with so much shame, which would be a burden more than most grave." Acta S. Sedis, vol. 12. pp. 629. 630.; vol. 14. p. 68.

153. What is to be done in the case of impotence?

Resp. 1. If the impotence is certain and perpetual, and preceded the marriage, "one must by no means wait, but separation must immediately be made; for in that case the marriage is certainly null.... Hence, once certain and perpetual impotence is known, the spouses can immediately be separated, even by their own authority, if this can be done without scandal; indeed they are bound, if there is danger of incontinence. And the party not laboring under the impediment can also pass to other nuptials, as Sanchez and the Salmanticenses say with Candidus. But if there is danger of scandal, as commonly there is, then they must make complaint before the ecclesiastical judge, by whom they are to be separated, at least as to bed; and if the other should ask, even as to habitation, without awaiting the triennial experience, which is given for doubtful impotence, not for certain impotence: thus Sanchez and the Salmanticenses with Pontius, Guttierrez, and Dicastillo. And it is clear from c. Laudabilem, de Frig. etc., where: If frigidity cannot be proved, let them cohabit for three years. Therefore, if the impediment is proved, three years are not given. But if they wish to cohabit as brother and sister by mutual consent, provided the danger of incontinence is absent, this is permitted from the same text; but Merbesius rightly warns that this must never be permitted if the spouses are not old." L. 1101. "From the present discipline of the Church, it is now no longer permitted to them to cohabit as brother and sister, especially if the spouses are young, although they have not insisted on a declaration of nullity of marriage. Hence Sixtus V, by letters to the Bishop of Novara, legate of the Apostolic See in Spain, commanded that such contracting persons should not cohabit together." Scavini, Tr. 12. D. 3. C. 2. art. 5. q. 1.

2. If the impotence again is certain and perpetual, but supervenes after marriage has been validly contracted, it seems that it must then be said that all and only those acts are lawful to the spouses which of themselves do not tend to produce pollution. The reason is that the impossibility of conjugal copulation of itself apt for generation indeed renders illicit the consummation of the act from the other side, which perhaps is potent, since this consummation of the act then has the true notion of pollution; but it by no means renders illicit other incomplete acts, which remain of the same nature whether the spouses are potent or impotent. Reiffenstuel, l. 4. Decret. tit. 15. n. 65: "Spouses rendered perpetually impotent are bound to abstain from every attempt at copulation, but not likewise from touches, kisses, embraces." And Lehmkuhl, Comp. cit. num. 1055., has these words: "If the spouses were potent, whatever supervenes, the marriage is not dissolved; but if there is no longer any hope of completing the matrimonial act, they must abstain from those acts which expose either one to danger of pollution." But cf. here n. 134.

3. If the impotence is doubtful, "and the doubt precedes marriage, he who doubts about his impotence cannot enter nuptials until, after the matter has been diligently investigated, he lays aside the doubt, because of the grave injury which he would otherwise inflict on the other, who is potent, as Sanchez, Mazzotta, and Palaus rightly say with Guttierrez. But if, notwithstanding the doubt, he has contracted, he will lawfully be able to render and to ask; for then at least triennial experience is given to him.... But Dicastillo apud Croix and Elbel with Cardenas and Viva say that if someone is doubtful about his impotence because of some positive indication, he can lawfully contract marriage if, with regard to the expertise of physicians and experiences, it is at least probable that he is potent; because in doubt the presumption favors him, that he is naturally potent. And this seems sufficiently probable; for since it is most probable that it is

lawful to administer a sacrament under condition if a just cause is present ..., here he has a sufficiently just cause for marrying under condition, if he is able, lest in such a doubt he be forced to remain perpetually celibate. Nevertheless before marriage he ought to warn the spouse about such a doubt. Moreover, apart from circumstances and experiences, everyone is presumed able, even if he has lived most chastely." L. 1102.

4. "But if the doubt of impotence supervenes after marriage, then triennial experience is given from the cited c. Laudabilem, de Frig. etc. While this lasts, spouses can lawfully attempt copulation, although often or always they pour forth semen outside the vessel, as Sanchez, l. IX. d. 17. n. 20., and several others commonly teach." L. 1103. "But this time, according to the truer opinion, begins from the time of attempted copulation; but it must be morally continuous, namely so that the spouses cohabit with each other for the greater part of the year." Scavini, tr. 12. D. 3. C. 2. art. 5. q. 1. Moreover Sanchez has these things in the cited place: "Where there is probable hope of seminating within the vessel, it is lawful to strive for it, although by accident and besides the intention the semen is poured outside the vessel. This is clear, first, because that spouse gives work to a lawful thing, procuring copulation possible and permitted to himself, and that external effusion follows besides the intention. Second, because by c. Laudabilem ... triennial experience is conceded to spouses doubting whether the impotence is perpetual, and therefore whether the marriage was valid; and nevertheless during that space it is clear that it will always or often happen that the semen falls outside the vessel; and while such danger stands, it is lawful to strive for copulation, and it is approved by law. Because, while that doubt remains, the spouses have the right of persevering in the marriage and of investigating that impediment, which cannot sufficiently be done unless by applying themselves to conjugal work. Therefore much more strongly in our case this will be lawful, where the validity of the marriage is certain, and consequently the spouses have a more certain and stronger right to apply themselves to conjugal copulation and to try whether that impotence of seminating within the vessel is perpetual." And n. 24 he adds these things: "Finally you will ask for how long a space of time it is lawful to strive for copulation and to make trial, where there is doubt about the aforesaid impotence? Briefly I say that this is lawful as long as there is probable hope of seminating within the vessel.... But when that probability would not be present, but, all circumstances considered, there would be complete doubt about the perpetuity of the impotence, we can prescribe no other more certain delay than that which was prescribed in c. Laudabilem, namely that triennial experience be conceded. And although in that case the discussion concerns where there is doubt about impotence preceding marriage, and consequently about its validity, whereas in the present case the marriage is certain and there is doubt only about supervening impotence; nevertheless, since in each case there is doubt about the perpetuity of impotence, in the prior case for entirely dissolving the marriage, but in the latter for dissolving it only as to copulation, by merit a lawful and sufficient experience will be taken in each case over that space of three years, whether the impotence is perpetual or temporary." Cf. here n. 136.

5. The triennial experiment is no longer required today. But a dispensation is granted from a ratified and non-consummated marriage by the Sacred Congregation for the discipline of the Sacraments, to which recourse must be had. Judgment about impotence in the external forum

pertains neither to the confessor nor to the parish priest, but to the ecclesiastical judge. Cf. L. 1103. 1104. Since marriage is contracted in the face of the Church, so that because of impotence or another impediment spouses may be separated and pass to other nuptials, the nullity of the marriage must first be declared by the same Church, or a dispensation must be given concerning a marriage that is only ratified and not consummated. When antecedent perpetual impotence certainly appears, the experiment must now cease, and the marriage is to be declared null. But if even after three years the doubt persists, the marriage must be judged valid, for one must stand for the validity of the act. "In an equal doubt on either side, whether impotence preceded or followed marriage, it must be presumed in favor of marriage that it followed it. Cap. fin. de Sent. et re judic. and Cap. Si quis acceperit, 33. q. 1." Billuart, de matr. Diss. 7. art. 9. Petes 6. Cf. here n. 192.

6. If the impotence of generating is from defect of age, although the spouses have already reached the year of puberty constituted by law, which for females in Canon Law, as has already been said, is the completed twelfth year, for males the completed fourteenth, "some say that two or three years must be given to them for experiment, but more commonly they judge that one must wait in the man up to the eighteenth year and in the woman up to the fourteenth, because then nature is strong with perfect vigor, nor here does the rule of three years in c. Laudabilem, de Frig. et malef., proceed; for that proceeds when impotence arises from frigidity or another impediment, but not when it can arise from weakness of age." L. 1067. But D. Bouvier has these words, Supplem. ad Tr. de matr. quaest. 1. q. 6: "If during the time conceded for experience it happens that the parties of the lustful matter are unable to be active for a notable interval, because of a long illness or long absence, it is lawful, according to the more common opinion, to supply that time.... But where spouses have contracted marriage immediately after one has reached puberty, and are unable to consummate it, the time of probation must be computed not from the day of the contract, but from the day of full puberty, because before full puberty there is always doubt whether the impotence arises from a perpetual cause, or rather from weakness of strength. Thus Sanchez, l. 7. D. 110. n. 10.; Collet; Andeg.; Pontas; Collet, etc. But the age of perfect puberty is fourteen years for females and eighteen for males."

154. Note. "Where a woman could not retain within the vessel the semen received, but would altogether expel it, and no hope of retaining it remained ... I judge that the use of marriage must in no way be forbidden, because often the womb retains the semen necessary for generation, the superfluous being expelled." Sanchez, l. 9. d. 17. n. 22. 23.

155. Are there truly hermaphrodites?

Resp. Debreyne denies it, saying that hermaphroditism is not given except as apparent from some defect of organization; but one determinate sex really always prevails, in which case marriage will be possible; or that no determinate sex capable of generation exists, although there is coexistence of the organs of male and female, and then by reason of impotence marriage is impossible. 2. P., Ch. 1. Sect. 1. at the end. But according to Milne Edwards, not only apparent hermaphroditism is possible, but also the coexistence of organs of male and female, Tom. 9., pp. 80. 81. 23.; Tom. 8., p. 369. But where the coexistence of organs of male and female is had, although perhaps in some case marriage could

still be possible, nevertheless it is impossible that one and the same individual himself alone should be naturally fecundated and generate. Antonelli, l. c. v. 1. c. 20. Cf. here following n.

156. Can a hermaphrodite validly receive orders, be professed in a religious order, and enter marriage?

Resp. If the feminine sex prevails in him, he is considered a woman, and cannot validly receive orders, be professed in a religious order of men, and take a wife, just as any other woman could not; but he can validly be professed in a monastery of nuns and marry a man.

If the male sex prevails in him, he is considered a man, and cannot validly be professed in a monastery of nuns or marry a man, just as any other man; but he can validly receive orders, although not lawfully because of an irregularity imposed by positive law, be professed in a monastery of men, and marry a woman.

If neither sex prevails, but each appears equal after examinations and the testimonies of physicians or of experienced matrons, Antonelli judges that the hermaphrodite cannot then enter marriage, v. 2. p. 168. n. 322. But the doctrine of the ancients is that he himself ought to determine which sex he wishes to use, and to promise by oath that he will not use the other sex; and then he can, according to the sex chosen by himself, contract marriage; for he is capable of it. Nevertheless he will not be able validly to receive orders, for he is truly a woman; which doctors also extend to profession in religion, whether of men or of women, so that it too would be invalid. For since there is grave indecency and danger of grave abuses, it must be believed that the Church does not admit such a profession. Lugo, Resp. mor. l. 1. d. 31.; Sanchez, de matr. l. VII. disp. 106.; and Cons. mor. l. 7. c. 3. dub. 31.; La-Croix, l. IV. n. 23.; L. 784. 1095.

157. Can a hermaphrodite, in whom the male sex prevailed and who was validly ordained and professed religion, or accepted a wife in marriage, if afterward the female sex prevails, validly celebrate, and does the bond of religious profession or of marriage endure?

Resp. Negatively. The first reason is that, although the sacramental character remains in the soul, nevertheless, since the use of sacerdotal power must be exercised not by the soul alone, but by the soul informing the body, and, in order to be valid, by the soul informing a male body, since the body is now female, that use will be invalid; and thus, although by force of the character sacerdotal power remains in the soul, because of an invalidating impediment existing on the part of the body, its use becomes null. The second reason is that religious profession, both on the part of the one professing and on the part of the one accepting, was the profession of a man; when the subject of the profession is destroyed, the very bond arising from that profession is destroyed; and thus such a person is not bound to enter a monastery of nuns. The third reason is the same, because the matrimonial bond is not a bond of just any persons whatever, but of male and female; therefore, when the bound subject perishes, the bond perishes.

But the same is to be said proportionately about the hermaphrodite in whom the female sex first prevailed, and afterward the male sex began to prevail, both as to marriage and as to religious profession. Lugo, Resp. mor. l. c. d. 31.; Billuart, de Matr. Diss. 7. art. 9. Colliges 5.

Article III: On the Extrinsic Circumstances of the Use of Marriage

158. The extrinsic circumstances of the use of marriage are: 1. the end of the one acting, that is, of the one asking for and rendering the debt; 2. the affection of the same one acting in the conjugal act toward this or another person; 3. the extrinsic impediment of the conjugal act itself from vow and affinity; 4. position; 5. time; 6. place; 7. danger to health; 8. certainty or doubt concerning an intrinsic or diriment impediment.

I. On the Circumstance of End

159. Prop. 1. The use of marriage for the sake of offspring is lawful. - The reason is that marriage is principally ordered by nature to this end.

Note. It is lawful to use marriage for the sake of offspring, "although this need not necessarily be intended while it is exercised, provided it is not positively impeded. Indeed, sometimes it is also lawfully excluded by simple affection, e.g., by a poor man, lest he be too burdened with children." L. 927.; Struggl, de Matr. n. 85.

160. "What is to be done with the wives of onanists, who indeed would not wish to offend God, but also would not wish to beget children?

Resp. Not a few wives are found who are caught in these perplexities, who indeed abhor mortal sin, because they would not wish to incur eternal damnation, but who are also deterred from begetting children. In practice it is required: 1. that they cooperate with the sin of the husband by no positive act, neither by words, nor signs, nor complaints about a more numerous offspring, etc.; 2. that they have displeasure, even external, concerning the sin committed by the spouse. But these things standing, wives are not to be disturbed with respect to onanism, although they experience notable trouble and repugnance in relation to generation; for repugnance because of the pains of childbirth, and fear of death perhaps to follow from childbirth, is natural. Nor are married women to be reproached because they desire not to have more children, since such a desire contains nothing evil, provided they neither cooperate with the sin of the husband nor take complacence in it. Wives of fearful conscience, who fear lest by an internal affection they delight in the wicked action of the husband, so that they may not beget children, are also to be restrained; because, since they for the most part abhor grave sin, they are not judged to adhere to complacences of this kind; and therefore they are to be absolved without difficulty." G. Cas. n. 1114. Cf. what was said above, n. 123 and following; Bouvier, Supplem. ad tr. de Matr. c. 1. art. 2. at the end; Sanchez, de M. l. 9. d. 8. n. 10.

161. Prop. 2. The use of marriage is lawful if it is done from the end of rendering the conjugal debt to the other party. The reason is that the rendering of the conjugal debt, on account of the right of another and one's own debt, is a formal act of justice, and therefore positively honorable.

162. Prop. 3. The use of marriage is lawful for avoiding incontinence, whether of the other party or also of oneself. The first part is proved, first, from 1 Cor. 7:5; second, because to avoid the sin of the other spouse is an act of charity toward one's neighbor. Therefore. The second part is proved, first, from the Apostle, l. c. vv. 2, 5; second, because to avoid one's own sin is an act of charity toward oneself. Therefore. Cf. St. Alph. 882.

163. Prop. 4. The use of marriage is lawful for the sake of health. The reason is that, "since marriage was principally instituted for the propagation of the species, it seems also to have been instituted secondarily for the preservation of the generating individual, since the species cannot be propagated without individuals." L. 927.; Sporer 489.

164. Prop. 5. The use of marriage is generally lawful by reason of the end, if it is done from a motive honorable in itself, and the principal end of marriage is not positively impeded. The reason is "because this is not a disorder, to choose one of the secondary honorable ends before the primary end, provided the latter is not excluded." L. 883.

165. Prop. 6. It is certain that it is illicit to have copulation for pleasure alone. Yet it is common among all that this is not mortal, but only venial sin. The first part is proved, first, from proposition 9 condemned by Innocent XI: "The work of marriage exercised for pleasure alone entirely lacks all fault and venial defect." Further, "because it is a certain perversion of order, since delight, which is intended by nature as a means to generation, becomes the end of having copulation." The second part is proved "because delight concerning some object can be mortal from only two heads, either because the object itself is gravely forbidden, or because one delights in it as in his ultimate end; but in this delight neither intervenes: not the first, as is evident; not the second, as is supposed." L. 912.; Struggl, de matrim. n. 85.

II. On the Circumstance of Affection

166. Prop. 7. It is admitted by all: a spouse sins mortally when in copulation with his own spouse he imagines for himself another person carnally beloved, whether by desiring to have that person here and now as partner, or by morosely delighting himself in the imagination of that person as if present here for his own spouse. The reason is that the former is true mental adultery against the ninth precept of the Decalogue; the latter is at least delight in a thing here and now mortally prohibited and illicit. Cf. n. 70.

167. Note. It is said carnally beloved; "for if the imagination and delight of one having intercourse with his own partner turns upon another person, not as carnally beloved in a base matter, but only as naturally pleasing because of beauty, or a lovable form, and at the same time such imagination has an honorable end, e.g., that thus the man may more easily provoke himself to semination, or that the wife may conceive more beautiful offspring, these doctors (Sanchez and Sporer) recognize no lethal fault, speaking of itself; yet they admit that such imagination is full of danger; because in conjugal coitus they begin to love carnally the person imagined on account of natural beauty, and thus they sin mortally." Struggl, tr. xi. q. 1. n. 95. Hence St. Alphonsus, 913, thinks that it must in no way be permitted "to excite oneself to coitus by looking at images of the different sex; especially if they were sacred, which Croix and Sporer rightly say is mortal because of grave irreverence." Cf. Sporer, de matr. n. 522, 707.

III. On the Circumstance of Vow and Affinity

168. Prop. 8. Any spouse bound by a vow of chastity or impeded by affinity is forbidden under grave sin to ask for the debt; yet he can render it to the other spouse asking, indeed he is even

bound, since the other party cannot be deprived of his or her right. But neither spouse can ask for or render the debt if either both are bound by a vow of chastity, or both have contracted affinity; for, because of the vow and the sin, each is prohibited. S. Th. Quodl. 3. q. 7. a. 18.; Quodl. 10. q. 5. a. 11.; G. v. 2. n. 909.; Cf. ibid. n. 780-783.; Laymann, l. 5. tr. 10. p. 3. c. 1. n. 10-12., and here n. 201. 204. 214. and following.

169. Corollary. One bound by vow or affinity cannot even render the debt if the partner does not yet have the right of asking, as in the first two months, or has lost it, or renounces it. Cf. here n. 204.

170. Can a spouse who is prohibited from asking by reason of vow or affinity ever lawfully exact the debt?

Resp. The doctors commonly affirm in the following cases: 1. If there is danger of incontinence in the other spouse; indeed they say that then he is bound to ask, because this obligation arises from the very institution of marriage. 2. If the other interpretatively exacts, namely when the woman is modest, and the man perceives her will concerning the rendering of the debt; for then it is rather to render than to ask. 3. It will not improbably be lawful for the impeded spouse to ask, if he himself is in danger of incontinence, and the impediment is one imposed by the Church, whose dispensation cannot be obtained shortly, and there is great danger in delay. The reason is that an ecclesiastical law does not oblige in so great a crisis. And this will be confirmed from the following question. L. 930.; Sporer 483.

171. Is it lawful to ask the debt from an excommunicated spouse, and is it lawful for the excommunicated spouse himself to ask?

Resp. To the first, affirmatively, which "is certain from c. Quoniam multos, caus. 11. q. 3., where St. Gregory VII grants it." L. 935. To the second, some indeed deny; but Suarez, Sanchez, etc., commonly and more truly affirm. "The reason is that an ecclesiastical law does not oblige with so great a danger, in which the excommunicated person would indeed be, if he could not be separated from the other spouse (as in fact he cannot), and could not ask." L. l. c.

IV. On the Circumstance of Position

172. Prop. 9. The natural position of conjugal copulation is that the woman be beneath and the man above; for this mode is more apt for the effusion of the male semen, and for reception into the feminine vessel for procreating offspring.

173. Corollary. "But the unnatural position is if coitus takes place otherwise, namely sitting, standing, from the side, or in a preposterous manner after the way of beasts, or if the man is beneath and the woman above... Commonly all say that all these modes do not exceed venial fault. The reason is that on the one hand, although some disorder is present, nevertheless it is not so great as to reach mortal sin, since it turns only upon the accidental things of copulation; on the other hand, the change of position does not impede generation, since the semen of the man is not received into the womb of the woman by infusion, or descent, but by attraction, while the womb of itself naturally attracts the male semen... Hence they commonly say that

spouses sin not at all if they change position for a just cause, namely because of illness, or corpulence of the man, or because of danger of abortion, or scandal of others. Conversely all agree that, if it were known by experience that, when the natural position has been changed, the woman retained nothing of the semen, because of excessive looseness or moisture of the vessel, or because of some natural infirmity, as Palaus says, then it would be mortal; but Sanchez says otherwise if such effusion proceeds not from the position, but from some disease of the woman." L. 917. Cf. here n. 154.; Milne Edwards, t. 9. p. 112.

174. Is it mortal to change the position if, on that account, something of the semen is by chance poured forth?

Resp. The Salmanticenses apud St. Alphonsus 917 affirm; but Sanchez, Pontius, etc., more commonly deny. The reason is that "it is never lawful without a just cause to permit that semen be wasted, when the semen is poured outside the vessel of the wife; but not when it is inserted within and is wasted by accident, not from the act itself; because then the womb, as the aforesaid authors say, already attracts what is sufficient for generation, and expels the rest as superfluous." L. 917.

The change of position is not grave. The reason is that in a change of position the end of generation is obtained. For fecundation of the ovule, only one nemasperm is sufficient. But in the ejaculation of semen several thousand are emitted. Therefore, when something of the semen penetrates into the vagina, by the proper motion of the nemasperms these advance as far as the uterus, the tubes, and the ovaries; all the more because their vitality endures for several days, and if they meet an ovule, fecundation follows. Further, when ejaculation has been completed, and when the man has withdrawn, ordinarily the semen once infused into the vagina is no longer emitted, since then the vaginal walls adhere to each other in such a way that they touch one another, from which there is great difficulty of exit. Ant. vol. 2. p. 189. n. 381.

175. Corollary. The position which alone is possible, whatever it finally is, is in no way condemned, although a slight loss of semen follows; because that part of the semen is not necessary for generation, and is lost by accident, against the will of the spouses. G. 912. 2.

V. On the Circumstance of Time

176. Prop. 10. The use of marriage is lawful during the time of menstruation.

Pre-note. Ovulation, or the ejection of ovules from the vesicles of Graaf, in which they have had their origin, is altogether natural and spontaneous, and without venereal sensation, although this sensation can accelerate erection. Up to puberty the vesicles are imperfectly developed; but at the time of puberty their volume is increased, and they attain perfect development; the same happens concerning the ovule which is contained in them. Therefore, little by little one vesicle approaches toward the surface of the ovary, in which it produces a certain prominence. Meanwhile a greater quantity of blood flows through the vessels of the vesicle, and the internal liquid is increased, until the vesicle swollen in this way is torn and the ovule is cast out. The ovum is transferred from the ovary into the tube, or oviduct, and thence is brought into the uterus.

This physiological operation brings an abundance of blood into the vessels of the uterus, because of which its surface swells. If the ovule to be brought through the tube into the uterus meets the male semen, it is fecundated; otherwise, being corrupted, it is expelled together with blood, which flows partly because of the tearing of the vessels of the uterus, partly by a certain exudation. This emission of blood from the mouth of the vagina constitutes the menses, rules, menstruations. At this time also the epithelium or mucosa of the uterus and of its neck partially falls away. Hence it happens that at first a thick and white liquid flows. In some diseases this resolution of the mucosa is permanent, and from it takes origin the disease constituting white discharges. Menstrual blood does not flow quickly; ordinarily, first mucus, afterward mucus with blood, finally blood; then little by little the emission is lessened, until after a few days it entirely ceases. For the most part it endures for two or three days, or for a whole week or eight days. A space of about twenty-eight days elapses for the return of the menstruations. They begin at the time of puberty, in the thirteenth to fifteenth year of age. It is lessened in the fortieth to fiftieth year of age, until it entirely ceases. Yet there are very many cases of the cessation of menstruation at a very late age, and even of fecundation at a late age. Likewise, once ceased, they can also reappear. Hence it happens that a woman, even at a very advanced age, retains of herself the capacity of suffering fecundation, although in fact she becomes sterile.

Menstruations, therefore, correspond to the tearing of one ovule, and are its effect. Wherefore the absence, from whatever cause, of the ovaries and therefore of the vesicles of Graaf brings about absence of menstrual flow. But whether ovulation precedes the menstruations or follows them is not yet plainly established. It is very probable that ovulation precedes menstruation. For this reason it can be held that the fecundated ovule does not pertain to the ovulation of the last menstruation, but to that ovulation which the menstruations have not yet followed. In this case the menstruations would not take place, because the fecundated ovule would turn the course of blood in the uterus elsewhere. - Ant. p. 117 and following, 130, 131.

Besides this ordinary flow, there is also another extraordinary flow, proceeding from some chronic disease, and it sometimes persists for twelve days or longer.

Now then, "it is certain," says St. Alphonsus, 925, "that it is lawful both to render and to ask" during the time of extraordinary flow; for there would be grave danger of incontinence for the man to abstain for so long a time. But as to the time of natural flow, there are three opinions. The first condemns coitus as mortal, because of the harm which frequently happens to the offspring, and because there is danger of pouring forth semen in vain, since the mother is never, or rarely, apt for generation at that time. L. 925. This opinion now has no intrinsic probability. The second opinion affirms that it is not mortal, but is not excused from venial sin, because the woman is then less apt for the suitable reception and retention of semen, and therefore coitus then is less fitting to the end of generation. L. 925. The third opinion, which seems more probable, asserts that there is no sin. The reason of this proposition is that in the new law there is no positive prohibition concerning this matter. Nor is it prohibited by natural law, since during the time of menstruation, both a little before, and during menstruation, and especially immediately afterward up to the fourteenth day, the woman is in fact more apt for generating. For experience shows that at the time of this flow the ovules are most apt for generation. And thus, just as the aptitude for generating begins when a flow of this kind begins, at the time of puberty, so when it comes to an end, at the time of old age, that aptitude is greatly diminished. Likewise the absence of this menstruation is often joined to sterility; and the

same ceases during the time of pregnancy, so that by almost this sole sign women know that they have conceived. Nor is it a valid objection that the blood of the menstrual flow harms the fecundative power of the sperm. For experience likewise shows that the use of marriage at such a time does not gravely harm either the health of the parents or the health of the offspring. Therefore. Cf. Debreyne, 2. ed. art. 1. p. 105.; Longet, l. c. p. 104.

"A woman," says Antonelli, "can be fecundated at whatever time intervenes from one menstruation to the other, and sometimes during the time of menstruation fecundation can become easier... Yet copulation during the time of menstruation can bring many inconveniences to the health of the woman, and especially grave hemorrhages." Ant. vol. 2. p. 190, 191. n. 387, 388. And if the matter concerns an extraordinary flow, it can be much feared that copulation will greatly aggravate the disease. Hence, speaking of itself, from this head it will be able to be light or grave to have copulation. Ant. l. n. 390.

At whatever time a woman can be fecundated, because, as the same Antonelli also says, other causes can change the time of maturation and the exit of the ovules, namely, regularly, by the very ordering of nature, coitus and the excitation of the genitals.

177. Do spouses sin who, so that they may not have children, reserve the use of marriage for those days after the menstrual flow in which there is a greater probability that generation will not take place?

Resp. 1. From the doctrine of St. Alphonsus, 925, they sin lightly, speaking of itself, because such intercourse, by which spouses deliberately exclude the time more apt for generation, and already soon to come, and choose a time less apt, involves a certain baseness and indecency. 2. Yet they do not sin gravely at all, because in reality they do not positively impede the procreation of offspring; although they exclude it by simple affection, which in no way contains a grave disorder. L. 921. Indeed, experience also proves that those who coit more rarely conceive more easily at any time whatever. Further, to this point pertain the things which St. Alphonsus, 925, has concerning the very time of menstruation: "Although at that time there is an easy danger of frustrating the semen, nevertheless, in order to make coitus honorable, it is not required that generation follow from it, but it suffices that that coitus of itself be apt for generation, even though by accident the semen is scattered, as happens in access to a pregnant or sterile woman." Although, says Sanchez, de matr. l. 9. d. 16. n. 6, if, with the position varied, spouses agreed so that offspring would not be so certain, I would believe that they are not guilty of lethal fault, because they are not bound to choose the more certain mode for conceiving offspring, just as they are by no means bound to use some means serving easier conception; but they satisfy their obligation if they do nothing by which conception is stood against, nor is the desire of lacking offspring mortal, as I proved, l. 9. disp. 8. n. 10. Thus teaches Palacios, 4. dist. 32. disp. fol. 709. But if the intention were wholly to impede the fetus, although by lying together in these modes it would by no means be impeded, it would be a mortal sin against nature. Because, since the internal and external act are of the same malice, just as to impede generation is mortal against the nature of that act which nature has referred to the conception of offspring, so to will to impede it will be. Cf. Resp. S. Poenitent. 16 Jun. 1880, Revue des Sciences Eccles. Janvier 1882, p. 90.

178. Prop. 11. It is probably lawful for spouses to come together during the time of pregnancy, unless there is danger of abortion, which commonly is not present.

Pre-note. It is said probably, for the opinion which asserts that there is venial fault is also probable. Unless there is danger, etc.; for if there is danger of abortion, then, as is clear by reason, it would be mortal.

Pregnancy. It is the natural and physiological development of the fetus, which takes place when the fecundated ovule descends into the uterus and there comes to rest; then the pregnancy is called uterine. Although many nemasperms surround the ovule at the time of fecundation, nevertheless only one nemasperm enters the ovule, effecting fecundation; all the rest die. But since the motion of the nemasperms is slow, and the progress of the ovule through the tubes is also slow, fecundation can be effected even several days after coitus, and is not instantaneous and contemporaneous with it. But any pregnancy which occurs outside the uterus constitutes a true anomaly and irregularity of physiological pregnancy; and because it is outside the accustomed order and physiological laws, it is always the cause of most grave evils for the life of the mother and fetus. Every pregnancy which takes place outside the uterus, wherever the fetus develops itself, is called extrauterine, and the fetuses themselves are called extrauterine or ectopic.

The whole time during which the fetus remains in the uterus is called pregnancy, and it endures for a space of nine months or about 280 days. The fetus in the uterus is covered by several membranes and lies immersed in a certain whitish liquid, the amniotic liquid. In birth it is cast out from the uterus through contractions of the muscles of the uterus, which rupture the membranes enveloping the fetus, whereby it happens that the amniotic liquid begins to flow. The membranes of the fetus after birth are called the secondines.

A probable sign of pregnancy is suppression of menstruation, when previously the woman had regular menstruations. Yet it must be noted that menstruations can cease because of other causes, and even during the time of pregnancy can appear once or twice. To this are added changes in the genitals, and in part the magnitude of the belly and uterus, which moreover can grow from other causes, a greater secretion of the vagina, and swelling of the breasts, which can also secrete milk.

Extrauterine pregnancies for the most part end before the proper time, because of the tearing of the membranes enveloping the fetus. Sometimes the fetus continues a perfect development, but, as is clear, it cannot be born. In each case the life of the mother is placed in great danger. Extrauterine pregnancy supposes a uterus; for the uterus is the necessary way for the passage of the sperm. Therefore when the uterus is absent, whether from birth or by surgical operation, ectopic pregnancy is impossible. - Ant. vol. 1. p. 142 and following.

The first part is proved: both because nowhere is this had as forbidden of itself; and because it would be a most grave burden, and a thing exposed to innumerable dangers of sinning venially, if spouses were bound to abstain for so long from the use of marriage while remaining in the same bed. L. 924. Further, for coitus to be lawful in marriage, it suffices that the act of itself be suitable for generation, although this by accident does not occur. L. 925.

The second part is proved because, once the semen has been received, the womb is most tightly closed, and ordinarily is not opened again by coitus, as experience itself shows. Therefore there is no

danger of abortion around the beginning of conception, which moreover can scarcely be known. But the danger vanishes especially at the time near birth, because the fetus is then so enveloped in the secondines that, although the womb were opened, the semen could in no way touch the fetus, nor therefore bring harm to it, or suffocate it. Once fecundation has been effected, the ovule is no longer emitted from the uterus, but adheres to the folds of the mucosa of the uterus, which gradually grows around it, and finally entirely covers it; this membrane is called the decidua reflexa. Yet to remove all danger of abortion and suffocation of the offspring, it is lawful to come together then in an unnatural mode. Moreover this kind of danger of abortion is difficult to know. Debreyne, l. c. And to remove the danger of abortion, it suffices not to repeat copulation several times at the same time, nor to accomplish it too vehemently and with force. Ant. vol. 2. p. 193. n. 394.

179. Prop. 12. The use of marriage is probably lawful, speaking of itself, during the time of purgation after birth.

Pre-note. By the time of purgation are understood the days which follow birth. "It is certain that spouses today are not bound to observe the time of purgation prescribed in Lev. 12., where, since the woman was barred from entering the temple for 40 days after the birth of a male and 80 after the birth of a female, the use of marriage seems also to have been interdicted to her at that time. But this precept has now ceased, and just as today women recently delivered are not bound to abstain from entering the Church, as is said in c. un. de Purific. post partum, so neither from the use of marriage, as Sanchez, etc., commonly say." L. 926. But it is said probably, because in this matter there is a threefold opinion. The first says that it is mortal, from c. fin. Dist. 5. The second probable opinion says that it is venial, because such coitus contains some indecency. The third, also probable, says that there is no sin, because uncleanness of this kind is only material, not moral. Speaking of itself, for it will sometimes be able to be mortal, if from intercourse there would threaten grave disease, or notable aggravation of disease. "A danger of this kind," says St. Alphonsus, l. c., "can prudently be feared if coitus is had immediately after birth, namely on the same day or the following."

During the first two weeks the use of marriage can harm the woman most gravely. But in the following two weeks the danger of so grave a harm is diminished. Generally, therefore, the woman is not bound to render except after six weeks, when all danger then has ceased. When this time has passed, the puerperal time has its end, and menstruations appear again, which indicate that the woman is already apt for a new pregnancy. Yet menstruations appear much later if the woman herself nurses her infant. Ant. vol. 2. p. 195. n. 399, 400, 401.

180. Prop. 13. According to the most common opinion of the doctors, it is lawful to ask for and render the debt during the time of lactation. The reason is that no prohibiting law exists. Moreover the danger of infecting the milk, by the testimony of experience, is either none or rare; at least it is not so great that spouses are bound to abstain from the use of marriage for so long a time with continual danger of sinning. Nor does lactation truly impede generation. Longet, l. c. p. 104. But if generation has followed, and, as the fetus grows, the milk is diminished, then the infant can be handed over to a nurse, or be nourished with other food, or partly with the milk of the mother and partly with other food. L. 911.

Lactation, once begun, unless something stands in the way, endures for eighteen or twenty-four months. During the time of lactation menstruations are suspended, and therefore it must be concluded that the time of lactation is less apt for a new fecundation. Yet this can still be had, and is sometimes had; and then the milk is gradually lessened until it ceases entirely. Ant. vol. 1. p. 144, 145.

181. Prop. 14. The use of marriage is lawful during sacred time; that is, 1. on feast days, fast days, and days of Rogations. The reason is that this is prohibited by no law: not by divine law, because on feasts only servile works are prohibited; not by ecclesiastical law, because on feast days and fast days, notwithstanding marital congress, spouses can well observe the things which are of precept. Yet several hold that it is venial to ask, not to render; St. Thom., etc. L. 923. - 2. On the very day of nuptials, on which the spouses have received the matrimonial blessing. For the use of marriage is honorable, and can be meritorious; but the blessing has already passed physically, and, persevering morally, does not impede the use of marriage today, just as it does not impede it tomorrow. Struggl 96. "And likewise the opinion is probable that there is no fault, speaking of itself and with contempt or scandal excluded, if spouses consummate the marriage before the blessing, although others commonly recognize venial fault." Sporer 494. The reason is that the Council of Trent, sess. 24. c. 1. de reform. matrim., only exhorts spouses that they abstain, which signifies counsel rather than precept. - 3. "It is venial to approach the Eucharist on the day when copulation has been had because of pleasure, unless some reasonable cause excuses. But if copulation was had for the sake of procreating offspring, or also of avoiding incontinence, then it is rather of counsel to abstain from Holy Communion. And thus likewise it is of counsel to abstain on the day on which a spouse rendered the debt. But after Communion has been received, there is no sin in rendering. But what about asking? Some say it is venial; others, no sin." L. 922.; Sporer 494. Since to use marriage for pleasure is not a sin, nor even venial, if it does not exceed against the order of reason, to approach Communion after copulation had altogether honorably on the preceding night is not of itself even a venial sin. And if such spouses approach Holy Communion with a right intention and devoutly, there appears no reason why rather the counsel could not be given to them that they not abstain from it.

These are the words of the Council of Trent, l. c.: "But if at any time there has been a probable suspicion that the marriage can be maliciously impeded, if so many denunciations have preceded, then let only one denunciation be made, or at least let the marriage be celebrated in the presence of the parish priest and two or three witnesses. Then before its consummation let denunciations be made in the Church, so that, if any impediments underlie it, they may more easily be detected, unless the Ordinary himself shall have judged it expedient that the aforesaid denunciations be remitted, which the holy synod leaves to his prudence and judgment... Moreover the same holy Synod exhorts that spouses not cohabit in the same house before receiving the priestly blessing in the temple... Lastly the holy Synod exhorts spouses that before they contract, or at least three days before consummation, they diligently confess their sins, and piously approach the Sacrament of the Most Holy Eucharist."

VI. On the Circumstance of Place

182. Prop. 15. Natural modesty itself dictates that the place ought to be secret, and the scandal of others is to be avoided. - But what is especially to be held concerning a sacred place in this matter, we have already explained above, n. 87.

VII. On the Circumstance of Disease

183. Prop. 16. "The conjugal act at the time of disease, at least for the most part, is illicit neither under grave nor under light sin, because often no harm thence happens to the spouses; but the labor which accompanies the act, at least commonly speaking, can scarcely influence the disease." Gury n. 914. - 5. Yet it brings grave harm in diseases joined with fever, and especially in acute and inflammatory diseases, as also in cardiac vices. Ant. vol. 2. n. 434, 436. Cf. the following number here.

184. Prop. 17. The use of marriage is illicit if it is done with grave danger to life or health; unless, however, there is a grave cause, to which bodily harm seems to be postponed, e.g., danger of incontinence in oneself or in the partner. The reason is that spouses are not masters of their own life, or of the life of the other spouse.

185. Corollary 1. "Because of grave danger of disease a spouse can deny the debt, even if in the other there were danger of incontinence." Thus Busembaum apud St. Alphonsus 952. And the same holy Doctor has, from his own opinion, 950: "It is common that a wife is not bound to render the debt, if she has experienced that she cannot give birth without probable danger of death." L. 953. - "Because of notable weakness of body, those laboring under a strong fever or another grave disease are excused from rendering the debt." G. 916. 6. On the contrary, as the same Father Gury has, l. c. 5, "a wife is not excused from the debt to be rendered because of the ordinary inconveniences of childbirth, pregnancy, or nursing, nor indeed because of grave pains, but short in time, nor because of prolonged but moderate pains, e.g., of the head for several months after birth, nor because of health somewhat weakened; because all these things are annexed to the matrimonial condition; otherwise, however, if danger of life, or of a most grave disease, from the judgment of a truly prudent physician, were to be feared, Lig. 952," e.g., of the Gallic disease, or syphilis. There is a most grave danger of transmitting syphilis from a syphilitic spouse to the other spouse, and to the offspring through copulation. But as to copulation to be had in phthisis, grave danger of infection is present through kisses, and sometimes also through copulation, although through the latter it is not proximate. Nor is attention to be paid to even extraordinary difficulties of a first birth, since they are customarily greater in that very birth. Cf. L. 910.; Debreyne, 2. p. ch. 2. art. 1. Sect. 3.; Ant. vol. 2. 423, 430, 433.

2. "If the disease were chronic, and not proximately tending to death, namely such as is not accustomed to bring on death shortly and easily, as would be plague, or leonine leprosy (by which members fall away piece by piece), then it will not be illicit for the healthy spouse to ask, if there is a just cause present, namely of fostering conjugal love, or avoiding incontinence in oneself or in the other, because otherwise it would be very burdensome to abstain so long from the use of marriage, which could scarcely be without danger of incontinence." L. 909. The healthy spouse can indeed ask in this case, but is not bound; for there are other means for

avoiding incontinence. - "Probably a spouse can render to the other infected spouse, even with grave danger to his own health... if the infected spouse asking were in probable danger of incontinence; for although the healthy spouse would not even in that case be bound to render with danger to his own health... both because charity does not oblige with so great a burden, and because the other is not in extreme necessity, since he can assist himself otherwise; nevertheless he can lawfully render and undergo such danger from a motive of charity; because, although a man is not master of his own life, nevertheless he can expose it for charity." L. 950. But soon afterward the holy Doctor again notes: "This is to be understood if the disease is chronic and as it were habitual, as leprosy, the Gallic disease, phthisis, etc., but not if it is of those which are accustomed to bring on death shortly and easily, as is infection of plague or of leonine leprosy." L. 950.

"But just as a healthy spouse cannot render to the infirm spouse with danger to his own health, so also the infected spouse cannot render to the healthy spouse with danger to the latter's health, even if he asks, already aware of his danger: just as it is not lawful to give back a sword to one wishing to kill himself, since no one is master of his own life; thus Sanchez, Pontius, and Bossius with Soto, Coninck, Azor, etc., commonly. Yet Busembaum with Perez, Bonacina with Cajetan, P. Soto, and Crassus and Bossius with Laymann, Pontius, and Reginald probably except if he renders to avoid danger of incontinence in himself or in the other, or to avoid dissensions, or lest he be deprived for a long time of the use of marriage, which can scarcely be without danger of incontinence. And this also is to be understood if his disease is chronic and not proximately tending to death; and likewise if the other healthy spouse asking is already aware of his disease, according to what was said n. 909, dub. 1." L. 950, 952.; Laymann, l. 3. tr. 10. p. 3. c. 6. n. 5, 6.

186. Note. "As to the bath and bloodletting, they seem to agree that conjugal access is not lawful, since it is notably dangerous; they say the same if a spouse labors under fever; as to the time after lunch or dinner, there does not seem to be grave harm in this, as the physicians themselves admit, and therefore we do not dare to condemn one asking for or rendering the debt at that time, unless from experience it were truly established concerning that grave harm." Scavini, tr. 12. d. 5. c. 1. after q. 10.; L. 910. But as to bath, bloodletting, and fever without disease, others deny that notable danger.

187. Can and is a spouse bound to render when harm to the offspring is feared?

These are the words of St. Alphonsus, 951: "They commonly and more truly affirm... The reason... although the offspring would be begotten infirm, nevertheless it is better for him thus to be, than not to be at all." But these are Sporer's words: "By the common opinion of the doctors with Sanchez, disp. 21. num. 8., the one asking then sins only venially, even if he certainly foresees danger of generating offspring defective or monstrous; but the wife will be able lawfully to render because of the importunity of the one asking: for it is better that defective, monstrous, or leprous offspring be born than not be born at all. Yet that she is then not obliged to render, against Sanchez (disp. 21. n. 2.), Sylvester, Henriquez, Bonacina, and our Marchant more rightly teach. Because what is asked with so much harm is truly asked unreasonably and unjustly; and if the other falls into incontinence, let him impute it to himself and to his impotent lust. It would be otherwise in a case of necessity, as when

spouses can never ask for or render the debt without danger of defective offspring; as lepers, or those laboring under another hereditary disease," n. 515. Thus also Struggl n. 108.; Laymann, l. c. n. 8.

188. Can and is a spouse bound to render, if the wife has experienced that she gives birth to dead children?

Resp. Several deny; for it is most grave harm, both spiritual and bodily, to bring upon the offspring; and the mother herself, from the death of the offspring, is exposed to great danger to life. But some make an exception if danger of incontinence were present, which in reality would be present if because of this cause they had to abstain perpetually from the use of marriage. But several affirm, because the death of the offspring is accidental, and otherwise experience shows that women after several abortions have finally given birth happily. L. 952, 953. Cf. Debreyne, 2. p. ch. 2. art. 1. Sect. V. But Sporer has these things in the cited number: "If a woman has experienced that she can never bring forth a living fetus, Sanchez probably teaches with many that nevertheless the woman can render the debt, indeed also ask it; because partly the event is uncertain, and, by the ordinary benefit of God, not impossible, and therefore the spouses seem to remain in possession of their right both of asking and rendering the debt; partly because it seems better for the child that he exist deprived of the vision of God, than that he not exist at all, as St. Augustine indicates, lib. 9. cont. Julian. c. 8." Thus Struggl also thinks, l. c., saying: "Although a woman has experienced that she can never bring forth a living fetus, nevertheless she can render, indeed also ask, the conjugal debt; because marriage and its use, in the state of nature fallen through original sin, was instituted by God secondarily also as a remedy for the concupiscence of the spouses. Nor do they sin against charity toward offspring that will die in original sin, because in the other life it will suffer no pain of sense, and it is better for it to be, than simply not to be; as Sporer teaches with Sanchez and Laymann." Therefore, standing this variety of opinions, a wife who should decide to deny the debt "does not seem to be disturbed of itself, if that misfortune arises from some organic defect, from which childbirth is made most difficult, and the fetus, before it comes forth into the light, is extinguished. The reason is that a remedy for this evil is not available, and this begets too much grief. Yet make an exception if dissensions between the spouses would follow from the denial of the debt." G. Cas. 1082.

VIII. On the Circumstance of a Diriment Impediment

189. Prop. 18. A spouse certainly conscious of a diriment impediment cannot ask for or render the debt, even if the partner is wholly ignorant of such an impediment.

Proof. "The doctors commonly assert that in such a case the woman cannot render the debt; and thus teaches Villalobos, Coninck, etc., whom Sanchez cites and follows, t. 1. de matr. l. 2. disp. 39. n. 6.; whence afterward he himself, n. 8., thus asserts. From these it is inferred, as most certain to be held, that a spouse conscious of the nullity of the marriage because of a diriment impediment, whether by divine or human law, can in no event render the debt to the ignorant husband, even if she undergoes danger of life. Thus he; and the reason is clear: because if the contrary were said, it would follow that fornication is sometimes lawful, namely because of danger to reputation or life; but to say this is erroneous, since fornication is intrinsically evil; therefore in such a case even with danger to life the debt is not to be rendered, because one who renders the debt in such a case certainly knows the marriage to be null; therefore he certainly knows that he is fornicating; therefore if it were lawful in

such a case to render the debt, it would consequently be lawful to fornicate; and thus this opinion is determined in cap. Inquisitioni, de Senten. excommunicat." Diana, tr. vii. de matr. Res. 176. n. 1. Thus also Sporer, nn. 469, 472. Cf. G.-Dumas, Cas. v. 2. n. 772.

190. Note. 1. As to practice in this matter, it must be recalled to memory that the Bishop can dispense in such an impediment in the case in which easy access to the Supreme Pontiff is not open, and there is danger of incontinence in delay. This power is commonly restricted to occult impediments, in a most urgent case of necessity. Yet there are not lacking more recent authors to whom it seems to be extended to public impediments. They take their argument from a Response of the Sacred Penitentiary, 5 Jul. 1831, cf. Enchir. Moral. ed. 4. n. 131, by which the doctrine of St. Alphonsus is declared safe. Cf. L. 1122. But St. Alphonsus has these things, l. c.: "Roncaglia adds with Pignatelli and Tamburini, that even if the impediment were public the Bishop can dispense, when the same reasons (of true urgent necessity) intervene which suffice for dispensing in an occult impediment. But I think this opinion can scarcely ever have place in practice, because when the impediment is public, the reason of scandal ceases if the spouses desist from such a marriage; indeed especially to avoid scandal they are bound to abstain from nuptials." Yet the aforesaid opinion of the more recent authors is favored, for the article of death, by the Response of the Holy Office, 22 Apr. 1890, to the first, Enchir. Morale ed. 4. n. 1044. Cf. L. 1121-1125. - But today there can scarcely be place for the use of such a power, since Bishops customarily receive special faculties from the Supreme Pontiff, and furthermore the following faculty has been granted:

"Any priest who, according to the norm of art. 7 of the Decree Ne temere, when danger of death is imminent, where the parish priest, or the local Ordinary, or a priest delegated by either cannot be had, can validly and lawfully assist at marriage before two witnesses, can also in the same circumstances dispense over all impediments, even public ones, diriment of marriage by ecclesiastical law, except the sacred order of the presbyterate and affinity in the direct line from licit copulation." S. C. de Sacr. 14 May 1909. Acta Apost. Sed. v. 1. p. 468. Wherefore by force of this Decree there is only the natural obligation of sincere penitence and reparation of scandal.

"Whether the faculty of dispensing from matrimonial impediments, when danger of death is imminent in the case of art. VII of the Decree Ne temere, made by the Decree of this Sacred Congregation dated 14 May 1909, is valid only for concubinarii; or also if it is not a case of concubinarii, but another cause is present for providing for conscience, and if the case calls for it, for the legitimation of offspring? - Resp. Negatively to the first part, affirmatively to the second." S. C. de Sacram. 16 Aug. 1909. A. A. S. v. 1. p. 656.

But whether in a case in which access even to the Bishop is difficult, and in delay there is a most grave danger of incontinence, the parish priest or another confessor can declare that the law of the impediment does not oblige in that case, cf. apud the same holy Doctor n. 613.

If a woman were driven to copulation by most urgent fear of death, she could indeed conduct herself merely passively, yet with every danger of consent excluded. G. 787. Cf. here n. 63.

2. "Copulation had between persons whose marriage does not subsist because of an impediment, or who otherwise have been deprived of the right of asking for the debt, then receives a special

malice that must necessarily be explained in confession, when the impediment was introduced by divine or ecclesiastical law chiefly because of the copulation itself, as having a special indecency and deformity between such persons against some special virtue; either of religion, as is seen in the impediment of solemn vow, or of order, or of disparity of worship; or of piety and reverence toward those joined by blood, as in the impediment of consanguinity, affinity, spiritual and legal kinship; or against the virtue of justice, as in the impediment of the bond, etc. For in these, besides the mortal sin of fornication against the virtue of continence, that copulation receives a special species of malice against that other virtue, as of sacrilege, incest, adultery, etc., which indeed must necessarily be explained in confession. But the matter stands otherwise when the impediment of marriage was introduced not because of a special indecency of carnal copulation between such persons, but because of another cause, for example because of punishment of crime, because of protecting the liberty of marriage, etc., as may be seen in the impediment of crime, abduction, fear, etc. In which case, if someone is joined with a woman as with a spouse, he commits only simple fornication, just like others; unless perhaps they did this in contempt of the Church, or with the formal intention of not obeying; for then both by contracting and by using marriage they would commit a special sin of formal disobedience, always and in every matter mortal. Thus the very common opinion. Sanchez, etc." Sporer n. 484.

Concerning consanguinity, affinity, spiritual and legal kinship, cf. here n. 73 and following.

But concerning disparity of worship these things are furthermore to be noted for greater precision of the matter: "Fornication of a believer with an unbeliever, for instance with a Hebrew or Mohammedan woman, in the common opinion is far graver than with a Catholic woman. Indeed this circumstance of unbelief, from the continuator of Tournely, changes the species; because just as Christians are prohibited by the Church from marrying an unbeliever in honor of the Catholic faith and for removing the danger of perversion, so for the same cause any copulation with an unbeliever is judged prohibited by the Church, which always tends to the disgrace of Religion; therefore it is not only against chastity, but also against the virtue of Religion. Yet others deny that this special circumstance is mortal." Scavini, Adnot. (A) ad Tr. 4.; Billuart, diss. 6. art. 2. app. 1. And Voit says this is more probable, de praec. Decal. n. 739. - The same is to be said proportionately concerning the circumstance of marriage between a Catholic and a heretic. Cf. Lugo, de Poenit. d. 16. n. 336-341, 343.

191. In doubt concerning the validity of marriage, can someone ask for and render the debt?

Resp. 1. If, after marriage has been contracted in good faith, someone falls into doubt concerning its validity, and the doubt is negative, as being an imprudent doubt, it is to be spurned, and therefore he can render and ask for the debt. But if the doubt is positive, and remains even after diligence has been applied, and it is such that there is indeed a probable reason for the invalidity of the marriage, but none for its validity, then there is a twofold opinion: 1. affirms that one is bound to render to the other, who contracted in good faith, but cannot ask; 2. asserts that he can both render and ask. This opinion is called sufficiently probable by St. Alphonsus, n. 905. The reason is that in doubt the condition of the possessor in good faith is better. For this good-faith possession prevails over any opposed probability, and produces moral certainty. Further, the same possession gives an acquired

right to the thing possessed; whence no one is to be deprived of his certain possession until it is certainly established concerning the nullity of his right. Wherefore, as such a possessor in good faith can retain the thing, so he can use it. This holds a fortiori if, besides that legitimate possession, there is also a true probable reason for the validity of the marriage. It is said after diligence has been applied; for otherwise it is certain that while the doubt lasts he can indeed and is bound to render, but he cannot ask. The first reason is because, as was just said, no one is to be deprived of certain possession which is had in good faith until it is certainly established concerning the nullity of his right. The second reason is because before diligence has been applied the ignorance is still vincible, and unless it becomes invincible, one cannot act. L. 903, 904, 905.; Ithur. Cas. 33. n. 29.

2. If marriage has been contracted with doubtful faith concerning an impediment, it is certain that while the doubt lasts, before diligence is to be applied for laying aside the doubt, the doubting spouse cannot ask, but can and is bound to render to the other asking in good faith. The reason is the same as that which was given in the first Response. But whether the doubting one, after diligence has been applied, can also ask for the debt is disputed. The first and more common opinion denies. "But the second opinion, sufficiently probable, affirms... The reason is that, granted that the doubting person cannot lay aside the doubt from the title of possession, nevertheless he can lay it aside from other principles, namely first, because in doubt one must stand for the validity of the act, as is had in L. Quoties, ff. de Rebus dubiis. Secondly, because, since marriage is a favorable cause, in doubt one must stand for its validity, as Sanchez himself proves, l. 1. d. 18. n. 6., with Covarruvias, Lopez, and Menochius, because, just as in the external forum in doubt judgment must be made for the validity of marriage, according to the common opinion there from c. fin. de Sentent. et re judic., so also judgment must be made in the internal forum, which ought to conform to the external when the latter does not rest on a false presumption." L. 906, 903. Cf. here n. 153.

3. Although St. Alphonsus has as sufficiently probable the opinion asserting that in the case of a doubt after marriage has been contracted, and also in the case of a marriage contracted with doubtful faith, after diligence has been applied, the spouse can lawfully ask for and render the debt, nevertheless he excepts the case of doubt "concerning the death of the prior spouse, whether the nuptials were entered with good faith or with doubtful faith." For the holy Doctor says that in that case "the doubting spouse will never be able to ask, unless concerning the death of the prior spouse there is had certainty, or at least so great a presumption that it establishes moral certainty." But the holy Doctor adds this reason: "both because then the probable danger of injury to the prior spouse remains; and because in that case the prior marriage possesses, until it is established that it has been dissolved." But that reason by no means seems demonstrative: for the right of the prior spouse and the possession of the prior marriage, since it is not certainly established, for it is supposed probable that the spouse has died and the marriage has been dissolved, do not present a certain right and a certain possession against which it is not lawful to use probability. Indeed, on the contrary, the later marriage, certainly contracted in good faith and certainly existing, brings a certainly acquired right to its use; and no one can now be despoiled of this right, unless the opposite right is certainly established. And indeed several and grave theologians in reality admit this. These are the words of Struggl: "If each spouse entered nuptials in good faith and certain knowledge

concerning the life of the prior spouse cannot be had, each can render and ask for the debt, because in doubt the condition of the possessor is better, and each is in possession of a marriage begun in good faith." And he admits the same also in favor of the party contracting in good faith, if the other party contracted in doubtful or bad faith: "If only one party entered the marriage in bad faith, or while the doubt stood, but the other in good faith, the former is bound to render the debt to the latter asking, but cannot ask, because only one party, and not the other, is in possession of the marriage," de Matr. n. 90. But after sufficient diligence has been applied, it plainly does not appear why the other party also, who contracted while doubting, if not by force of a possession begun in good faith, at least by force of other principles, could not claim for himself the right also of asking. For if the right of the prior spouse is not certain, nor the possession certain, because his death is probable, even here one can invoke for himself those principles: in doubt one must stand for the validity of the act; favors are to be amplified; a marriage certainly contracted and certainly existing ought, in doubt, to prevail over a doubtfully existing marriage, until the certainty of the latter is established and destroys the later one. Further, as Elbel, de Matr. n. 205, teaches, one who thus doubted, and applied every diligence possible to himself in this matter, but nevertheless did not attain certainty, but only a great probability and presumption, could contract marriage; and consequently could ask for the conjugal debt. And indeed the praised author asks "what sort of certainty concerning the death of the prior spouse is required for this, that the spouse may lawfully pass to second nuptials." He immediately responds: "moral certainty is required, at least in the external forum," l. c. n. 204. But soon he adds: "Yet it has been said that moral certainty is required at least in the external forum; for in the internal forum, so that a man or woman may lawfully pass to second nuptials, Sylvester, Rosella, St. Antoninus, Sporer, and Laymann hold that a likely and most probable presumption suffices. Indeed Father Kugler, although with us he holds that moral certainty is required at least regularly, nevertheless in a case where such cannot be had, very probably with several others he thinks that it is enough that there be great probability and presumption, or a greater probability of death than of life, for this, that the ecclesiastical Judge can permit passage to second nuptials." But Laymann has these words, lib. v. tract. X. p. 3. c. 3. n. 2: "The difficulty turns on this: whether, because of a likely presumption and probable cause for believing that the death of the husband has intervened, it may be conceded to the woman to pass to second nuptials? I respond, and say, 1. The opinion of Rosella, St. Antoninus, Sylvester, and Philiarus is very probable: that a woman in such a case would sin in nothing, if with such a very probable persuasion and presumption, and a most just cause for believing that the husband is dead, and therefore in good faith if no one opposed her, she were to pass to second nuptials. Wherefore the confessor in the forum of conscience could permit this to her, and the Judge in the external forum, if after the nuptials have been celebrated he understood the cause, ought neither punish the woman nor separate her from the second husband, until it were known that the prior husband was still living. And this is plainly taken from c. Cum per bellicam, c. 34. q. 1. But the reason is that in moral matters, in which for the most part certainty cannot be had altogether, a most probable opinion or presumption, although not altogether certain, ought to suffice for man for instituting his actions."

4. If the other spouse also is not certain, but each doubts, then before diligence has been applied neither can ask, and therefore neither can render the debt. But after diligence has been applied, sufficiently probably each can ask, and therefore also render. The reason: for this openly follows from what was said in the preceding responses. G. 790.

As to the proposed questions Genicot, Theol. Mor. vol. 2. n. 493. ed. 4., says: "If one contracted with probable doubt concerning the life of the prior spouse... if, after moral diligence has been applied, the probable doubt remains, some opine that he who began possession in bad faith must always abstain from asking for the debt, until it is morally established concerning the death of the other spouse... But the common and certainly probable opinion of Sanchez, the Salmanticenses, etc., holds that then a conscience can lawfully be formed by force of a probable opinion favoring the validity of the new marriage... If each contracted with probable doubt... if after diligence has been applied the doubt remains, it is disputed whether they can render and ask for the debt, by the same reason as was said above concerning one doubting party."

The following cases resolved by the Holy Office also bear upon the matter:

Certain women in Italy after the war in Africa fruitlessly awaited their husbands returning. Since no further information was had concerning them, although diligent inquiries had been made by the Italian Government, supposing them dead in the war, they asked that they could contract another marriage. The Holy Office rescribed: "Provided that the matter concerns men who certainly were present at the battle of Adua, and, after suitable investigations have been carried out, it cannot indubitably be known whether the husband in fact fell dead, with attention to the special circumstances occurring in the case set forth, and to the valid presumption of death, the Ordinary will be able to permit passage to other nuptials." His Eminence Cardinal Gennari notes that this Document is universal, and that it is one thing that passage to other nuptials can be permitted, another thing that the death of the husband is established. The first imports only great probability of the death of the spouse; the other, absolute certainty of it. Monit. Eccles. vol. 10. part. 2. p. 145.

"A woman, when she had fruitlessly awaited the return of her husband, after three years, thinking that he was already dead, in good faith joined herself in marriage to another man; and since it is now impossible to investigate whether the first husband is still living or in fact dead, it is asked whether she can be left in the use of the second marriage contracted until certainty is had concerning the life of the first husband? - Resp. They are to be left in good faith." Holy Office, 22 Mar. 1865.

"This too must furthermore be guarded against: that if perhaps it should happen that the prior spouse, whom they thought dead, is still among the living, then the second nuptials are altogether to be made void, and, the later spouse having been dismissed, each one is bound to return to the prior." S. C. de Prop. Fid. 1792.; Enchir. Morale ed. 4. n. 1032.

192. Can spouses be separated by dissolution of the marriage, if the marriage is judged probably null?

Resp. "In doubt concerning the infirmity of a marriage already contracted, one must stand for firmness, as the common opinion of experts in both laws holds, and as is established from cap. fin. de Sent. et re judic.; cap. Ex litteris, De Probation.; cap. Licet ex quadam, de Testibus et Attestationibus, where Innocent III, in the Lateran Council, giving the reason of this our assertion: 'For it is more

tolerable,' he says, 'to dismiss some who have been joined contrary to the statutes of men (attesting concerning an impediment), than to separate those legitimately joined contrary to the statutes of God.' From which it is invincibly concluded that the law must be declared for the validity of the marriage, as long as the testimonies of men prove its nullity only probably, and not evidently. Hence Hostiensis, etc., and several others, whom Sanchez and Palaus cite and follow, so amplify the favor of marriage that if the opinion is singular of someone favoring the firmness of the marriage by a solid reason, it ought to be preferred to the common opinion of others standing against firmness, unless it is supported by some evident reason, or by a manifestly contrary text." Ithur. Cas. 33. n. 27, 28. Cf. here n. 153.

Article IV: On Asking for and Rendering the Debt

193. The use of marriage has the nature of a right and of a debt. For in the matrimonial contract spouses mutually hand over to each other the right to their own body, in order to its legitimate use through copulation of itself apt for generation.

194. Prop. 1. Neither spouse is bound, speaking of itself, to ask for the debt; although by accident one is sometimes bound, either from charity, e.g., to avert a danger of incontinence threatening the spouse, or from legal justice, because the public welfare is endangered unless offspring be born. L. n. 938. - The first reason is because anyone can yield his own right. The second reason is because in those circumstances the precept of charity toward one's neighbor and of legal justice presses.

195. Note. 1. By accident the man is sometimes bound to ask for the debt, namely if the wife tacitly exacts it; for instance, if she shows some indication by which she signifies a tacit petition; because in women, on account of innate modesty, such signs are held as a true petition. Wherefore the man rather renders than asks. Conversely, "a woman is not bound to render to the man unless he expressly asks; for since men are not ashamed to exact expressly, wives can well presume that men who do not expressly ask do not wish to oblige them to ask; indeed I judge that they cannot, because the husband cannot bind the woman to ask the debt with such great embarrassment on her part. Yet Sanchez rightly excepts, with St. Antoninus, Navarre, Sylvester, and Manuel, unless such embarrassment should sometimes rather be presumed to be on the part of the man than of the woman (which otherwise rarely happens); for instance, if she were of very great authority, or of a fierce condition, and the man very fainthearted and modest. Yet regularly (Sanchez well adds) the wife is not bound to ask, unless it is evident to her concerning this faintheartedness and shame of the husband." L. 298.

2. Hence "it is certain that ordinarily the wife is not bound to ask, because this is notably immodest for women. It is also certain that when the other spouse is in danger of incontinence, both husband and wife are bound to ask, in order to free the other from danger." But since more probably the spouse is then not bound to ask except from charity, "because where there is no express or tacit petition of the other spouse, there is no obligation of justice to render," "one is not bound to ask with great inconvenience; hence probably the wife is then

excused from asking, if in this she would have to undergo great modest embarrassment." L. 229.

196. Prop. 2. The obligation of rendering the debt to a spouse seriously and insistently asking, speaking of itself and from its own genus, is grave.

Pre-note. 1. It is said seriously and insistently asking; for "they commonly agree that the wife does not sin by denying if the man asks kindly or remissly... Likewise, if the spouse asking, even insistently, yields to the prayers of the one denying, who denies with a just cause; otherwise he also would sin venially... unless the prayers were so importunate that the other seemed as if forced to yield; or unless there were danger of incontinence in the other; for then it would not be lawful, even by prayers, without grave cause, to turn him away." Speaking of itself; for by accident such obligation can cease, as will be clear from the following questions. From its own genus; for 1. "the wife does not seem to sin if she delays rendering for a short time, namely until night..., or if from night she delays until morning..., yet with danger of incontinence always excluded. But after copulation has been had in the day, she cannot deny at night." L. 940. - 2. "The one denying does not sin when the other asks immoderately, yet without danger of incontinence, and in this also all agree. Hence Laymann, etc., say that it is not mortal, after the third copulation has been had in the same night, to deny a fourth." L. 940. - 3. But whether it is grave to deny once or twice, see below n. 198.

The proof is because the conjugal debt is a debt from justice, and in a matter of great moment. Therefore if it is asked seriously and insistently, the obligation of itself and from its own genus is grave. Diana, tr. 6. de Matr. res. 178. n. 1.; I, 179. n. 1.; Sporer 506.; Laymann, l. 5. tr. 3. p. 3. c. 1. n. 1.

197. Corollaries. 1. The man or woman sins gravely if, against the will of the partner, he or she renders himself or herself impotent even by other lawful means, e.g., fasts, etc.; indeed, if otherwise one cannot render the debt, he lawfully does not observe the fasts of the Church. L. 942.; Billuart, diss. 4. art. 4. de matr. - 2. By reason of rendering the debt, spouses are bound to cohabit not only as to the house but also as to the bed, unless they are separated by consent, and then danger of incontinence and harm to education is absent. But the man can lawfully undertake some brief pilgrimage from a cause of devotion, or another honorable cause, even against the will of the wife; but not the wife, against the will of the husband. Indeed the man can also be absent for a long time, if this is fitting for the public good or for the family; thus commonly Sanchez, Castropalaus, Bossius, Laymann, etc. But Bossius says with Toletus and Sayrus that the man is then bound to lead the wife with him, if he conveniently can. But when the wife is bound to follow the husband, and when the husband is bound to lead her, see what was said concerning the fourth precept, t. 1. tr. VII. n. 13.; L. Homo Ap. tr. XVIII. n. 59. - But in that place the holy Doctor has these things: "The wife sins... if she unjustly refuses to follow the husband who changes domicile, even without sufficient cause, and even if he goes forth to distant parts, where he must remain for a rather long time; because if he had to return shortly, neither is the woman bound to go, nor the man to lead her, just as the man also is not bound if great expense were needed to lead her with him. Thus commonly. On the contrary, the woman is not bound to follow the man: 1. if such an agreement had been entered into in the betrothal, and no new and grave cause, not then noticed, had arisen; 2. if the man wished to lead her to

an evil end; 3. if on the journey she would have to expose herself to grave danger of death, or of another grave harm; 4. if the man wished to go abroad. But whether the wife is bound to follow an exiled husband, some deny, but more probably they affirm...," tr. VII. 13.

198. Does a spouse who denies the debt once or twice sin gravely?

Resp. The first opinion says that even to deny once, or to delay the debt for one seriously and insistently asking, speaking of itself, is mortal, even when the danger of pollution is removed. The reason is that this seems matter sufficiently grave, both by reason of offspring, which can well be begotten from one copulation, and by reason of discord and danger of incontinence, which can follow from such denial. But the second opinion denies, provided danger of pollution is absent, because this in reality does not seem matter so grave as to constitute lethal fault. Several and grave theologians hold this opinion; whence concerning it St. Alphonsus, 940, says: "It does not seem improbable, since the gravity of matter depends on the estimation of men, and so many grave doctors judge this to be light matter; but they themselves say this on the supposition that danger of incontinence or great dissension is absent; otherwise, the procreation of offspring for that turn is very uncertain."

199. Is it a just cause for denying the debt, if more children are born than the spouses can support?

Resp. The first opinion denies: both because the procreation of offspring looks to the principal end of marriage, to which any inconvenience whatever must be postponed, for it is better that the offspring live poor than not exist at all; and because either the spouse would deny for a long time or sometimes. If for a long time, he would expose the other to danger of incontinence; if sometimes, he would deny in vain, for spouses by coiting more rarely conceive more easily. The second opinion affirms: both because the multiplicity of future offspring would yield to the harm of children already begotten, and because in all debts great difficulty excuses from payment. - Yet they commonly agree: 1. that there is an obligation of rendering if there is danger of incontinence in the other, which in fact will scarcely not be present if they lie in the same bed, and the other asks for the debt; 2. if matters were situated at that point that, because of the generation of new offspring, parents or offspring would have to be reduced to extreme poverty, then the conjugal debt could justly be denied; 3. if the wife denied the debt to a husband who consumed everything, and allowed her with the children to endure hunger and miseries, until he amended himself, she would not easily be accused of grave sin. L. 491.; Sporer n. 516.; Struggl n. 109.; Laymann, l. c. n. 16.

200. Is a spouse bound to render the debt to one insane or drunk?

Resp. "Navarre and others affirm, because a drunken spouse, or one made insane, still retains the dominion acquired over the body of the other; nor does insanity stand in the way of the procuring of offspring. But Busembaum, Laymann, Paul Laymann, Bonacina, Sanchez, and others very commonly and more probably deny... The reason is that although these retain dominion, nevertheless they are incapable of the use of dominion. Make exception, 1. if in them there is danger of wasting semen, because although they themselves sin, nevertheless an act materially evil is to be impeded. Make exception, 2. if someone were not universally insane, but only in one or another matter; or if he were only foolish, but not altogether deprived of mind; or if he asks while he has a lucid interval. But although there is no obligation of rendering to an insane or drunken spouse, nevertheless it is lawful

to render to him, as the aforesaid authors commonly say, since the use of marriage is lawful of itself, and the offspring can be educated by the spouse of sound mind. Provided (it must be understood) that danger of scandal or abortion is absent. Hence Sanchez and Bossius well add that it is not lawful to coit with a furiously insane wife, unless by experience she is known to be sterile. He also would sin who joined spouses, both insane, to copulation, because he would be the cause that children would lack due education." L. 948.; Laymann, l. c. n. 9. It must be added that those conceived in drunkenness are very easily born prone to alienation of mind, to insanity and scrofula; and alcohol can infect even the ovule itself and the semen. To this is added that offspring can easily be born dull and deaf-mute. Wherefore a spouse is not bound to render to a drunken spouse. Antonelli, vol. 2. p. 205. n. 438.

201. Is it lawful to render to one asking illicitly with mortal sin?

Resp. If the fault is on the side of the act, for instance when the man wishes to exercise onanism or sodomy, or wishes to use marriage in a sacred or public place, or with evident danger of abortion, or with grave harm to health, if the man or woman, e.g., labors under an organic vice of the heart, in which case copulation could then cause sudden death, and this were established, cf. here nn. 184, 185, all agree that the spouse is not bound, nor able, to render without grave fault. The reason is that to render then is to cooperate in the sinful act itself. But no one can be obliged to sin. - If the fault is on the side of the one asking, for instance because he is bound by vow, asks for a depraved end, etc., there is controversy. The first opinion says not only that one can, but also is bound. The reason is that, although the spouse asks illicitly, nevertheless he does not ask unjustly, since he does not lose the right of asking because he exacts the debt with sin. But this kind of reason, as is clear, holds only for the case in which the spouse retains the right whole, as if he has made a vow of chastity; but by no means for the case in which he has lost this kind of right, as if he has committed incest. Cf. Laymann, l. c. n. 17., and here n. 214. The second opinion says neither is one bound, nor able. The reason is that if that conjugal act is illicit to the one asking, it is not lawful for the other spouse immediately to cooperate in that illicit act. The third opinion says that one can render but is not bound. One can; for the spouse rendering gives his work not to the sin of another, but to a lawful thing; for the sin of the other spouse is wholly subjective. One is not bound, speaking of itself; because a debtor is not bound to restore to the owner a thing which he is going to abuse gravely for sinning. "When the thing to be restored appears gravely harmful to him to whom restitution is to be made, or to another, it should not then be restored to him; because restitution is ordered to the utility of him to whom it is restored; for all things which are possessed fall under the notion of the useful." St. Thomas, 2. 2. q. 62. a. 5. ad 1. - But Lugo apud St. Alphonsus says that, since this obligation is only of charity, the debtor is not obliged to deny if he cannot deny without grave inconvenience, which will altogether excuse from cooperation in the material of sin, which rather is a permitting of the sin which the other commits. But it is said speaking of itself; for if it would be an occasion of other sins also for the spouse, of indignation, dissension, etc., with grave inconvenience of the other spouse excluded, he is then bound by reason of charity to render the debt. Cf. here n. 125 and following. Furthermore this third opinion is deduced as a corollary from the two prior ones; for each of those opinions is probable both intrinsically and extrinsically. - "Yet Sanchez and others well observe that in that case the spouse is bound to warn the one asking, who is bound by vow, to desist from the petition, provided he can warn without fear of great dissension, or indignation, or

incontinence of the other; which inconveniences Sanchez and Bossius say are present for the most part." L. 494.; Struggl n. 105. Cf. here n. 127.

202. Is the other bound to render to one asking with only venial fault?

Resp. If the fault is on the side of the act, one can indeed render when a just cause is present, since any just cause excuses here from venial sin; but one is by no means bound, because since the act is illicit of itself, the other does not have a right to it. "Indeed he is truly bound to render if the one asking would have a just cause on his side for asking even in that way, for instance if he asked copulation in an unnatural position because the wife is pregnant, or he himself is corpulent, or otherwise there would threaten danger of scandal...; or if he asks during the time of menstruation or puerperium with danger of incontinence, according to what was said n. 917 and 925 toward the end." St. Alphonsus, n. 946.; Lessius, de Iust. et Iur. c. 4. c. 3. d. 13. n. 89. - But if the fault is on the side of the one asking, one can again render; for he himself gives his work to a lawful thing, and almost always there is also an extrinsic cause excusing from cooperation, or rather making the permission honorable, lest he displease the spouse. But one is by no means bound, speaking of itself and by reason of justice, because of the same reason just given; for neither is a debtor bound to restore a thing which the owner is going to abuse even lightly for sinning, but he can delay restitution. Indeed, charity rather obliges to this, yet it does not press with proportionate inconvenience of the spouse. Wherefore, such inconvenience being excluded, if from denial a far graver sin of the spouse would follow, e.g., hatred, quarrels, etc., then one would be bound to render by reason of charity; and therefore for the most part one is obliged to render. Laymann, l. c. n. 18. St. Alphonsus contradicts, who in this question, as also in the preceding one, simply affirms that the spouse both can and is bound to render the debt because of the reason explained above for the first opinion. Cf. here n. 125 and following.

203. As a spouse is bound to render the debt to one asking, is he also bound to admit touches and other incomplete acts which the other spouse may wish to exercise in the other, independently indeed of the conjugal act, but short of onanism or pollution?

Resp. St. Alphonsus affirms, l. c. n. 934. But it seems one must respond: negatively, by reason of justice. For the spouse, properly and strictly speaking, does not have a right except to asking for the debt of the conjugal act; but to other things he does not have a right, properly and strictly speaking, in the rigor of justice, except in order to the rendering of that debt. But by reason of charity, for instance to avoid the spouse's sin, to foster his love and the peace of the family, etc., a spouse can also be bound to admit those acts, unless, however, grave inconvenience is present, since charity does not oblige with grave inconvenience. Cf. L. l. 6. n. 946.

204. Prop. 3. The aforesaid obligation of rendering the debt does not press in certain cases, namely: 1. in the first two months; 2. if the other party has committed adultery; 3. if the one asking has committed incest with blood relatives of the other party within the second degree; 4. if there has been a pact concerning non-use of marriage; 5. when, because of grave danger to soul or body, divorce or separation from bed, or even habitation, is lawfully made; and this divorce indeed can also lawfully be made either for a time or in perpetuity because of adultery or by mutual consent.

205. Proof of the first part: The obligation of rendering the debt does not press in the first two months. "In the first two months after marriage has been entered into by words de praesenti, spouses are not obliged to render the debt by which the marriage would be consummated, because by the sacred canons, c. Ex publico, de Convers. coniug., in those two months, while the marriage is only ratified and not consummated, they can deliberate about assuming Religion: read Sanchez, lib. 2. de matr. disp. 22. But if they are certain that they do not wish to be Religious, they are still not obliged to render. Thus Praepositus in 3. p. q. 3. dub. 6. n. 47. apud Diana, p. 4. tr. 4. res. 33.; Sanchez favors this, l. c. n. 16., against Coninck, de Sacr. d. 26. dub. 4. concl. 2. n. 46., because that intention does not remove the right which they have during that whole two-month period, which right indeed was given absolutely, although for that extrinsic end of deliberating. After consummation of the marriage, at whatever time made, it will always thereafter be necessary to render; because there is no longer place for Religion." Tamburini, Explic. Dec. l. VII. c. III. Sect. 5. n. 25.

206. Note. The aforesaid faculty of entering religion "is understood," says St. Alphonsus, 958, "provided the marriage was not necessary for legitimating offspring, or repairing scandal, or the honor of the betrothed woman, who because of infamy would no longer be able to find nuptials. But Sanchez, etc., say that if, after the two months have passed, a spouse enters Religion, he would profess illicitly, but validly, because the Council in d. can. 6. pronounced indistinctly thus: If anyone says that a ratified and non-consummated marriage is not dissolved by the solemn profession of Religion of one of the spouses, let him be anathema. But for a marriage to be called consummated, penetration of the feminine vessel is not sufficient, but effusion of semen into it is required; thus commonly the doctors, etc. But either spouse can lawfully deny the debt within the two months, although he does not have the intention of entering Religion, because he uses his own right; thus commonly Palaus, etc. Yet a spouse would sin who contracted marriage with the intention of entering Religion." Cf. also n. 870 at the end.

207. After the two months have passed, if the marriage has not yet been consummated, can passage to religion still be made?

Resp. Affirmatively; "whether the cause why the marriage has not been consummated was that the other spouse did not ask, or that the other, when it was asked by him, denied... Because although after the lapse of the two months the spouse denying the debt sins against the spouse, nevertheless he still retains the right of entering religion, as being what Christ, in view of religion, conceded to spouses as long as the marriage has not yet been consummated, without determination of time." Schmalzgrueber, in tit. de Conversione coniugatorum, n. 9.

208. Proof of the second part. The obligation of rendering the debt is not had in the case of adultery. "For Christ, Matt. 5:32 and 19:9, said: Whoever shall put away his wife, except for fornication, and shall marry another, commits adultery. The same is clear from canon law, cap. Significasti, 4. tit. de Divortiis, where it is said: If it is notorious that the woman herself has committed adultery, the aforesaid man ought not to be compelled to receive her back. But the reason of the response is: because spouses in marriage hand over to each other the right to matrimonial use with the condition and obligation of mutual fidelity; therefore an adulterous spouse loses

the right of asking for the debt, and the innocent party is not bound to render the conjugal debt to that spouse." Struggl 102.

209. Note. 1. By the name of adultery here is more commonly and more probably understood any division of flesh, although it is not adultery properly so called; such are bestiality and sodomy with another than one's own spouse. "For sodomy, when it is exercised with one's own spouse, is not a sufficient cause of perpetual divorce, because through it the flesh of the spouse is not commingled with the flesh of another subject. Yet the wife can separate for a time if the husband, having been warned by her, is unwilling to desist from this crime; as Babenstuber observes with Sanchez and Bonacina here, art. 6. n. 30., and others commonly." Struggl, tr. 12. q. 2. art. 6. n. 69.; Billuart, de matr. diss. 5. art. 2. Sect. 6. Thus also L. 962., who at the end adds these things: "but the authors of the first opinion (namely the one denying that it is lawful to make divorce because of sodomy or bestiality) could always reply that the flesh is truly not divided without natural copulation. Moreover Pontius well says that one must not recede from this opinion, since it is common, but that in reality it is not proved." Hence it is further inferred "that the mere will of committing adultery does not suffice for divorce, even expressed by words and other signs, nor other immodest acts, such as kisses, touches, etc.; indeed neither does pollution suffice which someone exercises with himself or another person. The same is true of lying with a dead woman, or a dead beast, as the doctors commonly observe. The reason of this is: because by such things marriage is not completely violated, nor is the flesh of the spouse divided with another subject." Struggl, l. c.; L. 960, 962.

2. The adultery must be morally certain; for no one is to be stripped of his certain right, which he possesses, because of a doubt or an opposed probability. L. 961. - The adultery must be altogether voluntary, not perpetrated because of violence inflicted, or fraud, or in good faith. Struggl 70, 75.; L. 966. - It must be not condoned, whether expressly or implicitly, for example through the conjugal act, or other services and signs of conjugal affection, which the spouse knowingly and spontaneously shows to the spouse. Wherefore, first: "If the innocent spouse through these things truly does not have the intention of remitting, in conscience he can always withdraw." L. 966. - Secondly: it is not lawful to institute divorce when one spouse is the direct cause of adultery committed by the other; e.g., if a man prostitutes his wife, or counsels adultery to her, or consents to it. The reason is because then by that very fact he remits the injury. Conversely, it is lawful for the man to institute divorce, even if indirectly and by accident he gave her a cause of committing adultery, e.g., by expelling her from the house, or by denying her necessary food. The reason is because then he is not judged to consent to the adultery of the wife. Struggl 72, 73.; L. 966. - Thirdly: "After the innocent spouse has once remitted, he will no longer be able to deny the debt by force of the prior adultery already remitted. It is otherwise if a new one has been added, because an injury once remitted cannot revive and give the right of denying, according to the common opinion of the doctors." Sporer 510. - Further, the adultery must not be mutual. For if the other also is adulterous, now he cannot lawfully deny the debt, because the injuries of adultery have now been compensated between them. Hence "it is inferred first, that divorce cannot be instituted even if one spouse committed adultery earlier than the other, or more often and more gravely than the other, e.g., one once with an unmarried person, the other ten times with a bound person, as Reiffenstuel

teaches with Sanchez, Bosco, Pirrhing, and others, n. 82. The reason of this is: because in such a case, although there is not parity of offenses as to number or individual malice, nevertheless there is parity as to the specific notion of adultery as such, insofar, namely, as it is against the fidelity given to the other, and is a division of flesh with another person. Secondly, it is not lawful for the internal forum to institute divorce, even if the adultery of one spouse is public and of the other occult; and therefore he would sin mortally who, before God guilty of occult adultery, would repel the other spouse because of a similar public offense, or would deny the conjugal debt to that spouse (as they commonly teach with St. Thomas). The reason of this is: because for the internal forum proof is not required, but the truth known to God suffices." Struggl 77.

3. "The adulterous spouse loses the right of asking for the debt not simply, so that he can neither validly nor lawfully ask (as if he had committed incest with a blood relative of the spouse in the first or second degree); for an adulterer always lawfully asks, and the spouse lawfully renders the debt, according to all; but he loses the right only in this way, that he cannot validly and obligingly ask, so that the innocent spouse is bound to render; since, as was just said, the innocent spouse can justly deny it to him." Sporer 510. Indeed then the innocent spouse can enter religion, or even receive sacred orders; but the guilty one cannot, except with the consent of the innocent one, or unless the other has already assumed an irrevocable state. "Otherwise, if he wishes to receive religion or priesthood, although he has already assumed it, he can be recalled by that spouse, and is bound to render. But tacit permission suffices for this, as if the other, knowing that this one wishes to change state, does not impede, although conveniently able. And it also suffices if the other, having been asked, denies reconciliation, as Sanchez and several others say... But if after two years the adulterer is not recalled, he can freely enter religion, or be initiated in sacred orders, because then the other is judged to consent to him in this, the law so disposing in Authentica Sed hodie, C. ad L. Jul. de Adult." L. 960, 969.

4. "The adulterous spouse can both validly and lawfully exact the debt, that is, not only as lawful, but also as owed to him by right, as long as the innocent spouse, because of ignorance, makes no exception, or spontaneously, making no exception, is prepared to render... Thus the common opinion of the doctors. The reason is that the adulterer is deprived of the right of asking for the debt because of adultery; it is a certain penalty, to which the adulterer is not bound to condemn himself or inflict upon himself, no one acting or excepting against him; but, as I just said, by the will and quasi-sentence of the innocent spouse that penalty is to be inflicted on the adulterer. To this is added that the adulterous spouse, especially the man, for the most part cannot abstain from asking for the debt in the mode formerly customary, without coming under suspicion of the crime before the other spouse, or without other evils arising... Indeed, if the adulterous spouse notices that the innocent spouse does not have his adultery certainly ascertained, but, led only by slight suspicions, withdraws herself from rendering the debt, he will even be able to compel her to render the debt. For, as was said above, the innocent spouse cannot by the exception of adultery inflict that penalty by denying the debt unless it is established, not by slight conjectures, concerning a crime worthy of that penalty, namely adultery committed." Sporer 511.; Ithurriaga, Cas. 6.; Laymann, l. c. n. 4.

210. Can a spouse dismiss an adulteress by his own authority?

Resp. "Concina and Bellarmine with St. Thomas, suppl. q. 62. a. 3., absolutely deny; for the separation of spouses is a public action pertaining to external governance; whence it cannot be done by private authority without disturbance. Others with St. Antoninus, Laymann, and the Salmanticenses affirm if the adultery is notorious; but not if occult, because it is not lawful to betray the reputation of the adulterer. But Bonacina, Filliucci, Ledesma, Sanchez, and Sa absolutely affirm (with scandal precluded), whether the adultery is notorious or occult; for neither did Christ distinguish when he permitted dismissal of one committing adultery. This opinion is more probable to us, at least if the adultery is on the part of the woman; for it would be hard to compel a man to make the crime of his wife public in judgment with his own perpetual disgrace." Scavini, tr. 12. d. 6. after q. 7.; L. 968.

211. Is a man, having learned of his wife's adultery, bound to dismiss her; and conversely, a wife her adulterous husband?

Resp. To the first: negatively, by reason of adultery; for Christ indeed permitted, but did not command such dismissal. Affirmatively, by reason of fraternal correction; provided however, 1. he cannot correct in another way; 2. grave inconveniences are not feared from such dismissal. This is established from the general precept of charity. Again affirmatively, by reason of scandal, when the adultery is public; provided however, 1. one cannot meet the scandal in another way; 2. there is no just cause excusing, such as, e.g., on the part of the innocent one, his own grave inconvenience; on the part of the adulteress, a prudent fear lest she become worse. This is established from the same precept of charity. Hence rarely is the man bound to dismiss an adulterous wife. L. 963.

Resp. To the second: the first opinion says she is never bound. Not by reason of scandal, because a wife is never presumed to consent to the adultery of the husband; not by reason of correction, because it belongs only to a superior to correct by a deed, and the wife is subject to the man. - The second opinion, truer according to St. Alphonsus, says that the wife is sometimes bound to separate from an adulterous husband, because sometimes even a subject is bound, if he can without grave inconvenience, to correct a superior in the mode in which he can; and a fortiori a wife is bound to this, to whom it has now been conceded to leave an adulterous husband; provided however that there is probable hope of amendment, and the wife can depart without grave inconvenience. - Hence rarely, or very rarely, is the wife bound to this; "and therefore neither is she bound to deny the debt to him; all the more because by denying the man would become worse." L. 964.

212. Once divorce has been made by sentence of a judge, can the innocent one compel the other to return to him?

Resp. The first opinion, which Sanchez calls probable, says that by the sentence even the adulteress remains freed from the obligation of cohabiting and of rendering the debt. The second opinion, which St. Alphonsus calls common, teaches that the adulteress is bound to return, because the innocent one does not lose his right by a sentence, which is issued only as a penalty of the adulteress, not in her favor. But the doctors rightly say that rarely can an adulterous wife be compelled to return to the man, because of prudent fear of death or savagery easily to be inflicted by him. L. 967.

213. Is the innocent spouse bound to receive back the other now amended from adultery?

Resp. "Concina and Busembaum with Laymann and Perez affirm that he is bound to this from charity, if otherwise the other is in danger of relapsing. But I would by no means dare to bind the innocent one to this under fault, since on the one hand Christ the Lord perpetually freed him from the obligation of cohabiting with the adulterer, and on the other charity does not seem to oblige to so great a burden, that a spouse receive back the other who broke faith with him." L. 965.

214. Proof of the third part: There is no obligation of rendering the debt in the case of incest. This is established from Canon Law, cap. Transmissae, cap. Tuae fraternitatis, De eo qui cognovit consanguineam, and cap. Si quis viduam and following, c. 32. q. 7. For an incestuous spouse who has committed incest with a blood relative of the spouse in the first or second degree, as a penalty of his crime because of the affinity contracted with his spouse, loses the right of asking for the debt.

215. Corollary. One who commits incest with his own blood relatives is not prohibited from asking for the debt, because although he has committed a graver sin, nevertheless from that sin affinity with his own spouse does not arise, and therefore it is not in that way opposed to marriage.

216. Note. 1. The incestuous spouse cannot ask for the conjugal debt, although the incest is occult. Struggl 103.; L. 1074. For incest is very often occult; wherefore otherwise that law would be altogether useless. - In order that the penalty of losing the right of asking for the debt be incurred, the incestuous copulation must be perfect, at least on the part of the man. For odious things are to be restricted. But whether it is required that copulation also be consummated on the part of the woman, some probably affirm, others probably deny. "In doubt, one must presume for perfect copulation, because from things commonly occurring it is prudently presumed to have been present... And thus the semination of the woman is also always presumed when she has felt great pleasure in coitus, even if she did not notice semination." L. 1075.

2. But ignorance excuses from undergoing this penalty, even crass ignorance, even affected ignorance not improbably: whether of fact, i.e., if the spouse knew a blood relative, while ignorant that she was a blood relative, or so near; or of law, i.e., of human law; or of the penalty, i.e., if someone has knowledge of the law and fact, but does not know that there is a penalty of not asking. The reason of these things is that this privation is imposed in Canon Law only on one sinning knowingly, and the matter concerns an extraordinary penalty. Yet this is more commonly not admitted concerning affected ignorance, but only concerning crass ignorance. L. 1072, 1074.; Scavini, tr. 12. d. 5. c. 2. q. 3. - It also excuses from the same penalty if one is known by a blood relative through violence, even if the spouse sins gravely. The reason is that just as fear here excuses from ecclesiastical law, although it does not excuse from natural law, so it also excuses from the penalty imposed by that law. L. 1071.

3. The innocent spouse can lawfully ask for the conjugal debt from the incestuous one, as also render it, "for since he most fully possesses the conjugal right, he can use it either by asking or

by rendering." Laymann, l. c. n. 15. Cf. here n. 201. - Someone can be restored in the lost right of asking for the debt by a legitimate superior. Besides the Supreme Pontiff, Bishops and Regulars have this faculty of dispensing. In this matter observe that a superior dispenses only in ecclesiastical law, but not in natural law or the right of a third party, which has been violated by the offending spouse by going to another; hence the innocent spouse will be able to deny the debt to the guilty spouse, even when he has obtained a dispensation, by reason of the adultery which is present in such incest. Scavini, l. c. q. 3. Cf. here n. 170.

217. Is one impeded from copulation because of incest also impeded from incomplete touches?

Resp. Negatively, because the law prohibiting copulation, since it is penal and odious, is not to be extended to touches. L. 933.

218. Can and is a spouse bound to render the debt to an incestuous spouse asking?

Resp. Some say one is bound; others say neither bound nor able. But others more commonly and more probably say that one is not bound, but can. The reason of the first is that the incestuous one is deprived of the right of asking; the reason of the second is that since the innocent spouse has the right of asking, a fortiori he has the right of rendering. But the reason that there not be the burden, especially for the wife, of always asking, and of avoiding all dissension, is sufficient for permitting the sin which the incestuous spouse asking commits. L. 945. Cf. here n. 125 and following, and n. 201.

219. Do parents who baptize or receive their children from baptism contract an impediment of asking for the debt?

Resp. "It is certain, 1. that they do not contract it if they baptize in necessity... It is certain, 2. that parents sin gravely who deliberately and without necessity baptize their children... It is certain, 3. that they do not contract kinship if the parents baptize through ignorance... 4. if they deliberately baptize their children outside necessity... a sufficiently probable opinion denies it, and several and grave doctors hold it... The reason is that in reality in no law (as Sanchez himself admits, and therefore calls this opinion probable and safe) is it found expressed that the supposed kinship is contracted." L. 150, 158.

220. Proof of the fourth part: The obligation of rendering the debt is not present if a pact has intervened concerning the non-use of marriage. Because neither party is bound to ask, but only to render the conjugal debt; therefore, if each party consents to not asking from an honorable cause, they can lawfully make a divorce as to bed and habitation. Struggl 66.

221. Note. 1. Spouses can rescind this pact by mutual consent, but one cannot against the will of the other, as is evident of itself. - The same pact is valid and lawful as long as danger of incontinence is absent; because the matrimonial contract is indissoluble until death, and no spouse can expose himself or the other to danger of incontinence; and therefore when danger of incontinence arises, such a pact does not oblige, but rather the matrimonial contract obliges to rendering the debt. - This divorce by mutual consent of the spouses can be made for a threefold cause: 1. because of continence from free choice, or because of a vow of it having been emitted; 2. because of the reception of a major Order; 3. because of religious profession.

But it is said by mutual consent; for otherwise justice would be injured. Further, from Canon Law, as to a married man who wishes to pass to another state, the express and spontaneous permission of the wife is required, cap. Consuluit, de Convers. coniugatorum. Hence if the husband, without the wife's knowledge and against her will, should profess, the profession would be invalid and the professed one would be bound to return to the wife, and to render the debt to her asking, as is established in cap. Quidam, de Convers. coniugat. But he himself cannot ask for the debt, because he is presumed to have obliged himself to continence as much as he could. Yet if such a professed man had not intended to oblige himself except depending on the validity of the profession, that presumption in the forum of conscience ought to yield to the truth, and thus he could also ask for the debt, and, when the wife has died, marry another; as Laymann here, cap. 7. n. 4., commonly teaches with others. Finally, if without the permission of the wife he received sacred orders, although he received them validly, nevertheless he sinned mortally and incurred irregularity, as is established in Extravag. Antiquae, de Voto. Whence he can be recalled by the spouse, and having been recalled is bound to render the debt, but cannot ask because of the vow of chastity annexed to Sacred Order. Struggl 66.

2. Moreover, a married man is not to be ordained unless the wife vows chastity, cap. Coniugatus, de Convers. coniugator.; likewise a spouse is not to be admitted to sacred profession unless the wife giving permission, if she is young or suspected of incontinence, also professes religion (but there are not lacking those who say that then she is indeed bound to enter a Monastery, but not to profess, G. Dumas, v. 2. n. 43); or, if she is old and in no way suspected of incontinence, at least emits a vow of continence in the world before the Bishop and witnesses, so that there can be no doubt concerning its pronouncement. Alexander III, cap. Cum sis, 4. de Convers. coniugator.; Bouix, de Iure Regular., Paris 1857, t. 1. p. 531.; Scavini, tr. 12. d. 6. q. 7.; L. l. 6. n. 812.; Benedict XIV, de Syn. l. 13. c. 12. n. 10. and following. - "Yet the wife would have to assume the religious habit, although she were an old woman and every danger or suspicion of incontinence were absent, when the man initiated in sacred orders should perhaps be assumed to the Episcopate, as c. Sane, 6. de Conv. coniugat., expressly has (see Schmalzgrueber, l. 4. tit. 6. n. 38). But although the vow of continence which wives left in the world emit in the aforesaid case is simple, and insofar as it is simple seems of its own nature not to be a diriment impediment of marriage, it is nevertheless disputed whether, after the ordination of the man and when he is dead, they can validly enter marriage. The first opinion denies, and rests on Canon Law, c. Quia sunt, 10. d. 28., where it is said concerning such marriage: Those things which are badly joined, let them be disjoined. But the reason of this decision is that the Church, because of reverence for the Order truly assumed by the first man, renders the wife incapable for a subsequent marriage. St. Alphonsus, n. 812, calls this opinion the more common and very probable. - The second opinion affirms. The reason is because it is not established that such a marriage is invalid. For: 1. it is not invalid by reason of the simple vow of chastity emitted by such a wife; 2. nor is it invalid from a special law of the Church; for from the fact that spouses are ordered to be separated, it does not follow that their marriage is invalid; for separation can be ordered as a penalty of a second marriage contracted against vow and prohibition. The same St. Alphonsus says this is sufficiently probable in the same place." Gury-Dumas, vol. 2. n. 44. It is said after the death of the man initiated in sacred orders;

because if the husband, without receiving sacred orders, merely professed in religion, after his death she would marry another illicitly indeed, but not invalidly, notwithstanding the vow of continence. G. Ball. 761. note 1.

222. Proof of the fifth part: The obligation of rendering the debt is not present when, because of grave danger of soul or body, divorce is lawfully made. - 1. The cause of divorce can be spiritual danger to the soul threatening from the companionship of the other spouse. This is clear from that general doctrine of Christ, Matt. 5:29: If your right eye scandalizes you, pluck it out and cast it from you. But the reason is: because the obligation of not sinning and of avoiding danger to eternal salvation is greater than the obligation of cohabiting with a spouse; therefore in such a case the prior obligation prevails. - 2. Likewise the cause of divorce can be danger to life, or another grave evil or inconvenience of body threatening from the companionship of the other spouse. This is clear from cap. Litteras and cap. Ex transmissa, de Restitutione spoliat. But the reason is because the obligation of cohabiting, which arises from the matrimonial contract, is not judged to extend itself to cases of this kind. Therefore. Struggl 81, 83.; L. 970, 973, 974.; Billuart, de Matr. diss. 5. art. 2. Sect. 6.

223. Corollary. 1. A spouse can make divorce because of heresy, "which holds from the Salmanticenses even if, diligence having been applied, danger of perversion is absent; for the laws do not distinguish, c. ult. de Conv. coni., c. Quanto, de Divort., etc. This was established as a penalty of infidelity. Under the name of heresy apostasy is understood much more. - Separation can also be made by one's own authority, even if the heresy is occult. But if the heresy has been declared by the authority of the Church, the innocent one has this, that he is not bound to receive back the converted party, and can also become Religious. If heresy is on each side, neither can separate, because this right belongs only to a Catholic. If the Catholic party falls into adultery, he is not therefore bound to return to the heretical party; for they are different offenses, one against God, the other against marriage. Hence then the heretical party can withdraw from the Catholic by reason of adultery, but the Catholic from the heretical party by reason of heresy, because each crime gives the right of separation." Scavini, tr. 12. d. 6. q. 7.; L. 974. - 2. A spouse can make divorce because of other crimes, "but only because of pernicious ones." L. l. c. "Also because of danger of other sins, which threatens from cohabitation, divorce is lawful for the innocent spouse when the other, even after admonition, does not desist from causing a similar danger of sin. Thus, therefore, the wife lawfully separates herself from a man who with her exercises sodomy or mere pollutions, or procuring, or who prostitutes her or keeps a concubine at home. Likewise from one who incites her to conceal thefts, or is a poisoner; because of such association of the man with the devil, the woman can rightly fear grave evils both of body and of soul, as Laymann and others everywhere observe with Coninck and Sanchez." Struggl 82. - 3. "Divorce is lawful if the spouse is leprous, infected with venereal disease, plague, or another contagious disease. If the man contrives death or mutilation against the woman. If because of his savagery, or anger and fury, grave blows and continual wounds are to be feared and endured, as is had in Canon Law, ll. cc. Moreover such divorce is not of its nature perpetual, as is divorce because of adultery; but when the savagery or another similar cause ceases, the woman is to be restored to the man... To make divorce because of the savagery of a spouse, the authority of an Ecclesiastical judge, or of the Bishop, or of the

Consistory, is needed; as is clear from cap. Porro and cap. Significasti, de Divortiis; and the savagery must be proved by witnesses. The same is true concerning other dangers of body or soul, unless the danger itself is also in delay, as Laymann observes with Gutierrez and Sanchez." Struggl, tr. 12. q. 2. n. 83.; Scavini, tr. 12. d. 6. q. 7. and note (2).

Note. 1. "The doctors agree that, when juridical divorce has been made, the children are to be educated with the innocent spouse... When one of the spouses is an infidel or heretic, the offspring must always be educated with the faithful spouse, although the faithful spouse was at fault." L. 976. - 2. The dispositions as to divorce you have in the Italian Civil Code, art. 148 and following, and the French, art. 229 and following. - 3. From divorces several evils arise, both as to the spouses themselves, who perhaps are cast into grave danger of incontinence, and as to the children, if there are any, who can bear only with difficulty the division of the parents, and as to the rest, who cannot receive this without grave scandal. Hence the care of the confessor ought to be to advise reconciliation, and to procure it as much as he can. But if nevertheless they contend to make divorce without a most grave and proved cause, they are not worthy of absolution. Scavini, tr. 12. d. 6. q. 8. Mon.

Chapter V: On the Internal Sins of Lust

We have hitherto explained the external sins of lust; it remains that we speak of internal sins.

224. In this matter, besides thought on the part of the intellect and imagination on the part of the phantasy, three internal acts are chiefly and generally distinguished: morose delight, desire, and joy.

Impure thoughts and imaginations excite venereal delight, and of themselves they have a great influence upon it.

Thoughts of dishonorable things of themselves contain no sin. Consequently, to have them from an honorable end, even not without the wrong effect of venereal delight, is of itself no sin.

But if an honorable and just end is lacking, if they are had from a wrong affection, or if they are of things very dishonorable, even from mere curiosity or levity, or if one dwells on them too long, they contain a grave influence upon venereal delight, and then they cannot be excused from grave sin. But impure thoughts of things not very dishonorable and only slightly moving are not of themselves, by reason of their light influence upon venereal delight, except a light sin. And, since impure thoughts of this kind tend only to exciting venereal delight, they are all of the same species; and consequently then there is no need to explain their various objects in Confession.

225. Delight, in its most general acceptance, is the resting of a cognitive or appetitive faculty in its own proper object, from the conformity of such an object with that faculty. It is threefold according to the threefold faculty: spiritual or intellectual, which has place in the intellect and the will; such, for example, is the delight of the intellect in the contemplation of truth; sensible, which arises in an organ of sense, the organs of generation being excluded, for example, the delight of sight from a beautiful thing, of hearing from music, of touch from smoothness, of taste from flavor, of smell from sweetness of odor; carnal or venereal, which is

felt in the organs of generation, and so is the resting of the sensitive faculty in matters of generation.

Sensible delight and carnal or venereal delight look to exterior acts. Concerning both, with respect to the present matter, it has already been said above, n. 2, and in the preceding chapters.

But spiritual delight is contained under interior acts; and when it regards a prohibited thing, it is usually called in moral theology morose delight; and it is a simple and voluntary complacency concerning an illicit thing. Simple, that is, without desire and intention of accomplishing it by deed, so that one is content with delight alone, with an interior thought, for example, concerning the killing of an enemy, or carnal copulation. Voluntary: hence delight is not called morose on account of any delay of time whatever, but on account of its continuation after full advertence of the intellect to the malice of the thing; and so delight is morose, even if the will, after such advertence, persists and freely dwells in it for one instant, or moment of time.

Therefore morose delight concerning a venereal thing merely spiritual, namely one which remains in the will alone, even joined with no base commotion of the flesh, will always be grave sin outside legitimate marriage, because it concerns an object gravely prohibited. Cf. here n. 2. And consequently the same must be said of desire and of joy concerning a venereal thing, which likewise are always grave. - Morose delight regards an object present according to apprehension, as "when through the imagination of the phantasy someone renders the work of sin present to himself, namely the act of fornication, and delights in it by deliberate consent, as though he were actually fornicating, yet without a desire of executing it." L. l. 5. numero 15.

Desire is an act of the will by which someone deliberately intends the object itself as future, and therefore as to be placed in himself. It is twofold: one is simple desire, or desire of itself inefficacious, and it is the mere concupiscence of the external work and of the means without intention of executing such a work, the means not being applied; the other is desire of itself efficacious, or purpose, and it is the interior concupiscence of the external work and of the means with an absolute intention, or at least a hypothetical one, if it could be done, of executing the work, the due means being applied.

Joy, finally, is an act of the will by which someone deliberately approves, and is complacent within himself concerning, the past object itself, that is, the object carried out in execution, and therefore as that object was placed in himself. Ithur. Cas. 18. n. 2-6.; Billuart, Diss. 6. art. 15. Sect. 1. III.; Lugo, de Poenit. D. 16. n. 363 and following.

Note. "Not a few, especially from the ruder sort, are involved in this deception, that they think they consent only when they have the will of executing, and of perpetrating by the work itself, fornication, deflowering, or some other external lustful act. This error is enormous and must be extirpated by priests, according to their strength." Ithur. Cas. 18. n. 5.

226. Desire, whether it be efficacious or inefficacious, takes on the species both of the real object and of the circumstances of that object. Joy likewise takes on the species both of the real object and of the circumstances annexed to it. Morose delight varies in species according to the variety of the apprehended objects and of the circumstances exhibited to the mind. - This is

established from the very intrinsic tendency of such acts, already explained. Billuart, l. c.; Lugo, l. c.

Corollary 1. The sentence is very probable "that if someone delights concerning copulation with a married woman, not because she is married, but because she is a beautiful woman, etc., he does not contract the malice of adultery; for the circumstance of adultery then does not enter into the delight. For this reason chastity only is harmed, not justice. And Tamburini probably says the same, if someone, with venereal affection, without desire, looks upon a married woman. Yet, this notwithstanding, what Holzmann has greatly pleases me, namely that although by reason of the delight there is no obligation of explaining the circumstance of adultery, nevertheless in practice it must be explained by reason of the proximate danger of coveting, at least inefficaciously, that married woman, into which danger one casts himself who delights concerning her. But there is no doubt that adultery is committed as often as joy, or complacency, is had concerning copulation had, or desire concerning copulation to be had, with a married woman, because then the will embraces the whole wrong object with all its circumstances, and cannot prescind from them, and therefore harms chastity and justice. Likewise, if someone delights concerning sodomitic copulation. Likewise, if the person who delights is bound by a vow of chastity, he also sins against the vow." L. l. c. Cf. Billuart, l. c. Sect. III.; Lugo, l. c.

2. Delight concerning the evil work itself, for example, of fornication, etc., is always evil, gravely or lightly, according as the work itself is gravely or lightly evil. But delight concerning the thought of an evil work, so that not the evil work itself, but only cognition of it, is the object of the delight, is of itself indifferent; and so it can be good, if there is a just cause of thinking, for example, for the sake of study, consultation, etc., always with abhorrence of the object itself; or it can be venially evil if it is done from curiosity, levity, etc.; or it can also be gravely evil, if it is done from an end mortally evil, or if proximate danger is present of deliberate delight in the object itself. What has been said concerning delight of thought must also be said concerning delight in the artful, skillful, etc., manner of an evil work carried out; for example, if you delight in the ingenious abduction of a bride carried out by another, from an honorable end the delight will be honorable, but if from an evil end, the delight is evil. St. Thomas, Quodl. 12. a. 33.

3. The doctrine of St. Thomas saying, 2. 2. q. 154. a. 4, that it is not a sin if nocturnal pollution pleases as an unloading or relief of nature, can in no way be understood of the delight inherent in pollution, which, as being base, is in itself and objectively evil; and in this way the holy Doctor explains himself in IV. Dist. 9. q. 1. a. 4. q. 1. ad 5. Indeed St. Alphonsus, lib. V. n. 20, wishes St. Thomas to be understood of a purely natural pollution, which naturally proceeds from nature unloading itself, and by no means of nocturnal pollution which has happened from touch or from a base dream, because under this respect it is again objectively evil. Moreover, in practice complacency of this kind, although in itself and speculatively honorable, is to be avoided because of the danger which it brings. G. Dumas, v. 1. n. 173. "Concerning pollution had in sleep," says Ithur. Cas. 18. n. 6, "someone can rejoice, not insofar as it is venereally delightful, but insofar as it is useful, either for quieting temptations, or for consulting health."

Cf. Scavini, Tr. 4. d. 1. c. 2. a. 4. q. 13.; Ithur. Cas. 23. n. 31 and following.; Sanchez, in Dec. l. 1. c. 2. n. 19.; Billuart, Diss. 6. art. 14, I say 1, I say 2.; D'Annib., p. 1. n. 275. (18), ed. 4.

4. "It is not a sin, at least not mortal, if spouses delight by the rational appetite only concerning a past, future, or possible act of marriage, with respect to the partner present or absent. Likewise if a betrothed man desires future copulation, or delights concerning it; or a widow concerning past copulation. The reason is because these acts have a lawful object. I said: by the rational appetite; because if a betrothed man or a widow voluntarily consents to sensitive and carnal delight, which arises naturally from the remembrance of future or past copulation, he or she sins mortally, as Lessius, Bonacina, Tanner, Palaus, and Diana teach against Medina. But since sensitive and carnal delight, and indeed also the danger of consent to fornication, for the most part follows the aforesaid delight of the will, that delight of the will scarcely has a place in practice, at least in a widow and the betrothed; among spouses, however, provided danger of pollution is absent, Filliucci, Bonacina, Sanchez, Lessius, and Diana teach that even sensitive and venereal delight is not mortal; both because the state of marriage excuses these things, as also immodest touches undertaken for the sake of pleasure alone, and because these tend of themselves to the conjugal work, although by accident the work is not exercised." Busembaum apud S. Alph., l. V. n. 23. - Struggl, Tr. VII. q. 7. art. 2. nn. 18. 19.; Sporer, de matr. n. 505.; Ithur. Cas. 18.; L. l. c. n. 24, 25, lib. VI. n. 937.; Billuart, Diss. 6. art. 15. Sect. IV.

Chapter VI: On the Confessor's Practice Regarding the Matter of Lust

227. As to the questions to be asked, the rule admitted by all must be carefully observed: "In the matter of lust it is much better to be deficient in many things than to abound excessively in one thing by reason of the integrity of confession." Therefore, in doubt whether in such a case you can or ought to question, one must always stand for the negative part; for it is a lesser evil that something be lacking to the integrity of confession than to create scandal for the penitent, or even for oneself. G. 616.; Sporer 661.; Tamburini, Tr. 2. de 2. Eccl. praec. cap. 17, Monitio, etc.; Ithur. Cas. 38. n. 4.; Lugo, de Poenit. D. 16. n. 595. Hence St. Alphonsus, Hom. Apost. Tract. ult. c. unic. p. IV. n. 37: "Let him beware," he says, "that is, the confessor, of inquiring from girls or from boys whether emission of semen was present; for with these it is better that there be deficiency in the material integrity of confession than that he be the cause that they apprehend things which they have not yet known, or be placed in curiosity of learning them." And in the same place, p. 3. n. 27, the same holy Doctor has these things concerning the conjugal debt: the confessor "is not bound, ordinarily speaking, nor is it fitting, to ask," namely insofar as it may be necessary, "except wives, whether they have rendered it, in the most modest way possible; for instance, whether they have been obedient to their husbands in all things. Concerning other things let him be silent unless he has been asked." And if a bride-to-be asks about these things, so that she may know what will be lawful for her in the future, let him respond that she should ask her mother, or meanwhile, in doubts, obey her husband as head, and afterward consult a confessor concerning these things if they happen to her. Gobat, Theol. Exper. Tr. X. Cas. 17. n. 648. 649.

Therefore if at any time questioning must be done in this matter, it must be prudent. But the confessor will question prudently if, as St. Thomas says in IV. Dist. 19. q. 2. in fin. Expos. text. V. Et idem, the questioning is so done "that if he has committed it, he may learn; if he has not committed it, he may not learn." - But if the questions to be asked must be few and cautious, from that very fact it is sometimes necessary to question the penitent, and he acts badly who establishes for himself, as a general rule, never to question concerning this matter. For it is one thing to question cautiously, another never to question. And indeed, as the same St. Alphonsus teaches, Hom. Apost. Tract. ult. n. 37. app. 4. p. 1. n. III. and Prax. Confess. n. 90., and as others commonly teach who have written on the practice of confessions, penitents often, because of shame and modesty, say nothing concerning this matter, and expect the confessor to question and so, as it were, add courage to their mind. But now, if the confessor does not question, that shame and modesty altogether increase, so that penitents are strengthened in the purpose of keeping the matter silent, and that will which before perhaps was a certain velleity of telling the matter now becomes a purpose of keeping the matter silent. G. 924. The Angelic Doctor has these things, l. c.: "It must be said that the Priest ought to search out the conscience of the sinner in confession like a physician searching a wound, and a judge a case, because frequently what the one confessing would keep silent out of confusion, he reveals when asked. But in making questions three things must be attended to... Third, that concerning sins, especially carnal ones, he should not descend too much to particular circumstances; because delights of this kind, the more they are considered in special, are of their nature more apt to move concupiscence. And therefore it can happen that the confessor, seeking such things, harms both himself and the one confessing, and thus sometimes those searching out iniquities fail in their scrutiny." The aforesaid questioning can well be done with very few and very modest words.

228. The remedies for lust which the confessor can suggest to the penitent are some negative, others positive. The negative are: 1. flight from idleness; 2. abstinence from the reading of books which treat of matters of love; 3. in men, flight from familiarity with women, even if they seem upright, indeed most devout; but in women, flight from familiarity with men, especially young men; 4. flight from occasions; 5. flight from drunkenness and from all intemperance in food. Scavini, Tract. 4. D. 2. C. 3. art. 2. q. 2.; Voit, de praeceptis Decalogi, n. 758.; and others commonly. - The positive are: 1. frequent prayer; 2. frequent confession with the same confessor; 3. frequent communion; 4. memory of the last things; 5. constant cult and frequent invocation of the Blessed Virgin Mary; 6. custody of the senses; 7. mortification of the body; 8. they add that sometimes marriage should be counseled to those who can marry, as the sole remedy, or at least as the more efficacious one, by which they may be able to free themselves from the habit of masturbation, if, however, they do not wish to use other means; 9. it is a useful remedy to elicit a vow of chastity for some brief time, for example, only in the morning, and again to vow in the evening; or for one day, and again on the following day to vow; and if the matter, by the help of God's grace, has had a good outcome, a vow of this kind can be made on individual days, or even for a longer time, according as a prudent confessor shall judge expedient. Cf. St. Thomas, 2. 2. q. 88. art. 4.; C. Gent. c. 138.; Scavini, l. c.; L. Prax. Confess. n. 94. and l. 6. n. 74. 75. Op. mor.; Voit, l. c. n. 739.; and others commonly.

229. Whether it is expedient in this matter to use the more benign opinions is declared thus by the general doctrine of St. Alphonsus, l. 6. n. 605: "Holzmann wisely says that, in the choice of

opinions, the confessor ought to follow the more benign sentences when those rather induce the penitent to avoid sin. But otherwise, if those rather lead to transgression of the law, as are, according as Roncaglia and Sporer well note, those opinions which, although speculatively they may seem probable, nevertheless in practice are very dangerous; as in the matter of the sixth precept there are some opinions concerning touches, kisses, dances, comedies, the repressing of sensual motions, and the like." The same holy Doctor, more particularly concerning base books, says: "Let confessors carefully strive to prohibit this, namely to read such books, as much as they can, to young people, who from readings of this kind generally drink in a great ruin of the soul," l. 3. n. 426. And universally concerning the reading of books, the holy Doctor says in Append. de prohibitione libr. c. 5. n. 8: "in this matter it is ordinarily expedient to follow the stricter opinions." - Prax. Confess. nn. 119-120.

230. Besides these, the following are especially to be noticed:

1. As regards the rude, Elbel, speaking explicitly and generally concerning interior desires, has these things, de Consc. n. 125: "that many, at least from the ruder and less learned, inculpably persuade themselves that desires of this kind are not evil unless they are fulfilled in deed, seems sufficiently certain, which Sanchez, Stoz, and La Croix also expressly teach." St. Alphonsus says concerning this opinion, l. 1. n. 9: "I could never judge it probable... with other learned recent authors I judge it little probable." The reason for this sentence is that, if someone certainly knows the malice of the exterior action, and nevertheless wills to execute it, he already knows that he wills an evil. How then will he be excused from sin? G. v. 1. n. 123.; Cas. v. 1. n. 40. But as regards simple delight, it can more easily happen that invincible ignorance of it is present. Moreover, the rude rarely accuse themselves, of themselves, of internal acts of this kind. Therefore they are to be prudently questioned, when a prudent suspicion of acts of this kind is present. But whether concerning interior acts or concerning exterior acts, it often profits, and profits greatly, to question them not once only, but again and a third time, with diverse formulas. For what they deny the first or second time, they confess the third time, either because of shame, or because they themselves often have their own formula of speaking; and if this is not used, they do not easily understand the question.

2. As regards boys, speaking absolutely, at least in some rare case and at the beginning of a depraved habit, they can invincibly be ignorant of the malice of pollution. The reason is that the fact that an immodest look or touch, or the seizing of pleasure from pollution procured, or even naturally arisen, etc., are mortally evil and illicit, does not become known so easily from the comprehension of first principles, but needs discourse in order to detect their malice. Therefore their malice can at least for some time be ignorantly and inculpably unknown. From this a prudent confessor will easily conclude that, in such a contingency of fact, one must proceed cautiously and prudently; and this caution and prudence, though it must be observed with everyone, especially in this matter, must be observed above all with boys and girls. Cf. Elbel, de Consc. n. 128.; G. Cas. v. 1. n. 41.; Struggl, Tr. 3. q. 1. n. 13. Nor indeed must this be passed over in silence here, that boys and girls who still preserve the innocence of Baptism often accuse as sins against purity, with a certain vague and confused manner of speaking, things which either are no sins, or contain only a certain light lack of polish or immodesty.

3. "Nor should the confessor indulge girls that they be taught by men to read, and much less to write. How many simple girls, because they learned to read, have mourned the loss of the soul! If this is not a proximate occasion of sin, at least it is not a little dangerous. If they desire to learn such things, let them see to it that they are taught by some other woman, or by some little brother, and still with caution. Nor let him concede to young women that they wander about, visiting churches, and that they linger in church more than is necessary, with the disturbance of their parents; but let him admonish them to attend to obeying their parents, by embracing domestic labors." L. Prax. Confess. n. 101. And this indeed is an excellent and very easy remedy for avoiding many sins against chastity. The Sacred Congregations of Bishops and Regulars, in the Remarks on the more recent Constitutions of Congregations of Sisters, have not once only disapproved that Sisters teach boys, or admit male professors in their schools; or that the Sisters themselves be introduced into Seminaries and Colleges, since the matter is full of danger; or, what is more dangerous, that Sisters dwell alone in parishes. Cf. Bizzarri, Collect. toward the end, Animadvers., etc.

231. "On the penitent who fears that he gives assent to any evil thought whatever against chastity, let the confessor impose that he wholly despise scruples of this kind, affirming that not wrong thoughts, but only wrong consents, are sins. And in this matter let him never omit to use that rule wisely handed down by the doctors, namely that those who are of a timid conscience, unless they know with moral certainty that they have consented to grave sin, are to be judged immune from sin; for, as Father Alvarez says, it is impossible for sin to enter a soul abhorring it without being clearly recognized by that soul. For this reason it will often be expedient expressly to impose upon the scrupulous that they abstain from confession of thoughts of this kind, unless they know so certainly that they have consented to them that they could swear to it." L. l. 1. n. 15.

232. Concerning giving or denying absolution to a cleric habituated in occult sins of lasciviousness, who wishes to ascend to sacred orders without a prior experiment of continence, St. Alphonsus, l. 6. p. 64 and following, has these things, altogether practical and to be approved: "I. The present and ancient law of the Church, always constant, binds Bishops, confessors, and those to be promoted alike, so that when some recidivist or habitual cleric in the vice of the flesh desires to ascend to sacred order, whether to the subdiaconate, or to the diaconate, or to the presbyterate, although he has been sincerely converted to the Lord, and therefore can immediately be absolved, nevertheless he will not be able to receive sacred order unless for some time he gives effort to extirpating the depraved habit. And if he himself persists in receiving the order immediately, he is not judged disposed for absolution, because he violates the law of the Church in a grave matter. II. Yet a case can be given in which God gives to the penitent so extraordinary a grace of compunction that it renders him so approved that he himself can immediately assume sacred order; and therefore... receive the benefit of absolution without its first being proved by experience of time... But that simple sanctifying grace by no means suffices for receiving sacred orders, but beyond it interior perfection is required, is established from the common consent of the holy Fathers and Doctors, who with one mouth demand it." Moreover the holy Doctor adds at the end: "It must be noted that the confessor must take care with every effort to render persuaded an initiate of this kind, although

extraordinarily contrite, that he defer receiving Orders until by the proof of some notable delay he show himself more purged from the crimes perpetrated... provided, however, that from this delay of Ordination he is not going to undergo a stigma, or the proximate danger of infamy." Cf. St. Thomas, 2. 2. q. 184. art. 6. 8.; q. 189. art. 1.; Suppl. q. 35. art. 1.; q. 36. art. 4. - The author of the book whose title is Istruzione per li novelli confessori thinks otherwise. He teaches that, if the one to be ordained sincerely and from his soul believes that he can live chastely and put off evil habits, proposing to furnish and fulfill all those things which, in his own judgment and in that of a discreet confessor, are judged necessary and opportune for amendment of life, this man can indeed be promoted lawfully, nor can the confessor forbid this to him; since he ought to be judged sufficiently disposed both for receiving the Sacrament of Penance and consequently also for sacred Order, for the worthy reception of which nothing is required except the state of grace. Cf. S. Alph., l. c. - But does a cleric of this kind make sufficient hope of himself, and does he not rather induce grave fear lest, with the progress of time and with the multitude and gravity of occasions in the exercise of the sacred ministry, he himself become worse and be about to be a scandal to the Christian people, with grave ruin of souls and damage to the Church? But Benedict XIV has these things, de Syn. l. 1. c. 2. par. 18: "The case which can be brought into controversy is that in which a penitent, habituated up to that point in sins, intends to be promoted to sacred Orders, and at the same time offers such judgments of a contrite heart that the confessor can deservedly judge his conversion sincere and trust that he will no longer relapse into the former sins by whose habit he had been entangled... Certainly it cannot be denied that the Spiritual Director of a penitent of this kind will be distracted by an overly anxious care in this species of fact; but that no general rule presents itself which can be applied by him indistinctly in cases of this kind. Wherefore we judge that no other counsel can be given to him than that he diligently inspect and maturely weigh all the circumstances of the person, of things, and of cases; that he also remember that the parts not only of a judge, but also of a physician, have been imposed upon him; and that the office of a physician is to apply that care to the sick man, and to prescribe to him those remedies which he believes will be more opportune and advantageous for his health." Cf. Lugo, de Poenit. D. 14. n. 171.

233. To the preceding question there is joined another analogous question, namely concerning one habituated in lasciviousness who likewise wishes to enter Religion without a prior experiment of continence. The reason of the state of clerics and of monks is not the same, speaking of itself. "Sacred orders," says St. Thomas, q. 189. art. 1. ad 3, "pre-exact sanctity; but the state of religion is a certain exercise for attaining sanctity. Hence the weight of orders is to be imposed on walls already dried by sanctity; but the weight of religion dries the walls, that is, men, from the moisture of vices." Cf. also art. 10 and Quodl. 3. art. 13. But although in the religious state more helps are found, which promote and aid the religious in acquiring sanctity of life, and which indeed are wholly lacking in the state of secular clerics, nevertheless, where there is question of religious who give work, as today is almost common, to exercising the sacred ministry and other pious works toward their neighbor, it is evident that dangers of falling are not absent even for a religious man, whose fall indeed will excite greater scandal and will bring detriment to the good name of his own Order. Hence very great prudence and caution altogether must be applied in this matter by confessors. But since, before someone is admitted

to religious profession, he undergoes a novitiate, in which he is occupied solely with his own sanctification, and an experiment is made of the sincerity and firmness of a penitent of this kind, that circumspection and caution is indeed required less in the earlier confessor, who would first induce him to the religious state, but much more in the confessor of the novices themselves, lest within Religion a useless and harmful race be multiplied. Yet in this matter a certain excessive severity must be avoided, by which even suitable persons would be kept from the religious state by a certain vain fear; and thus they themselves would be deprived of this greatest good of Religion, and Religion perhaps of better religious. Those who have been sinners, faithfully cooperating with the grace of God, not rarely arrive at great sanctity. Cf. Lugo, Resp. Mor. l. 1. D. 28.; G. Baller. Tom. 2. n. 718.

234. "It does not seem that this should be passed over, because certain persons, deceived by seductive spirits or by their own false opinions, think that either Christ himself, or his most glorious Mother, appears to them in a vision, and that they are soothed by them not only with embraces and kisses, but also with other more indecent gestures, so that just as their spirit interiorly, so also their flesh exteriorly, may be sensibly soothed with a congruent sense of delight and carnally consoled. This is clearly proved to be not only false and seductive, but also a grave blasphemy. The visitation of the Holy Spirit, just as it is infused against all vices to be repressed and detested, so also is it set in opposition especially against carnal allurements. And where the spirit of cleanness shall have shone forth with its brightness, it is necessary that all motions of depraved pleasure immediately vanish and disappear like darkness when light comes upon it. But concerning those who sometimes feel spiritual sweetness and are soon defiled by the itching of carnal delight, I do not know what I should judge, except that I rather choose them to be without those flowers which I would have to gather from the filth of mud. And just as I do not dare to condemn those who, unwillingly, are sometimes stained in spiritual affections by the fluid of carnal flux, so also I cannot excuse those who with consent take delight together in such a flux, whatever their intention may seem to be." De Profectu Religiosorum, among the works of St. Bonaventure, l. 2. c. 76, otherwise 75.

235. "Those who are wont more greatly to involve the mind of confessors in graver difficulties are those who are troubled by base visions, motions, and even touches from the devil, who not only excites the sensual tinder, but also sometimes has carnal commerce with them under the form of a man or of a woman, wherefore he is called a Succubus or Incubus... Here, however, a doubt arises whether the devil, with God permitting, can without any fault move the hands of that person to himself so that he be defiled by touches. Father Gravina, a Dominican, affirms, and indeed probably... The confessor ought to strive much to fortify the penitent in so horrid a conflict... If the confessor can judge that no fault at all is present in this temptation on the part of the penitent, before all else let him admonish him to apply these things: let him assist himself by continual prayers, frequently invoking the most holy names of Jesus and Mary; let him diligently turn himself away from the pleasures of the senses; let him frequent Communion; let him often protest that he does not wish to consent to any temptation or delight which he might feel by the work of the devil; let him often use the sign of the cross, carrying it also with him, and holy water, sprinkling with it his bed and room; let him also bring with him some relic of the Saints and the book of the Gospels; let him likewise apply

private exorcisms to himself, saying: Wicked spirit, in the name of Jesus Christ I command you to depart from me, and not to trouble me further; besides, let him exhort that the afflicted person often humble himself, and frequently exercise himself in acts of humility of this kind, since God sometimes permits temptations of this kind in order to remove some internal pride from the soul. But if someone falls miserably in temptations of this kind, or seeks their occasions more than he flees them, his cure is very difficult... Nevertheless, if any of them should come, let the confessor not distrust, but see to it that he apply the greatest charity toward him; and let him comfort him by saying that where there is no will, there is no sin; hence if he resists by the will, he sins not at all. In these cases, before all else let the confessor send ahead an exorcism, at least a private one, against the devil; this certainly is lawful, in this way: I, as the minister of God, command you, or you, unclean spirits, that you depart from this creature of God. Then let him ask the penitent whether he has ever invoked the enemy and entered some pact with him; whether at any time he has denied the faith, or has exercised an act against it. Let him ask in what form the devil appears to him, whether of a man, woman, or beast. For then, if he has intercourse with him, besides sin against chastity and religion, he will be guilty of the sin of fornication, or sodomy, or incest, understand affective incest, of adultery or of sacrilege. Likewise let him ask in what place and time he had this commerce. Let him then show him the enormity of a crime of this kind, and seek to induce him to true conversion and to making an integral confession; for these ruined men, even if they confess, easily commit sins. Finally let him prescribe to him the same remedies noted above. Then let him defer absolving him, but exhort him to return often, so that in this way it can be known how he conducts himself in resisting the attacks of the enemy and in applying the remedies; nor let him absolve him except after a long experiment, for such conversions, as we have said, are rarely true and very rarely persevering." L. Prax. Conf. n. 110 and following.

236. Rare also are the true and sincere conversions of certain little women who frequent confession in order that they may converse with the confessor and be basely delighted together. Depraved women of this kind are wont to institute a lengthy confession of sins against purity, lingering over all the minute circumstances to be explained. Often they also lie and narrate sins which they have by no means committed, in order to excite themselves venereally. And that they may more easily deceive incautious confessors, they sometimes pretend that they are scrupulous and are troubled by anxiety of soul, so that they may more easily have opportunity of instituting base discourses of this kind. If at any time there is a prudent suspicion of a diabolical fraud of this kind, the prudent counsel will be: 1. to avoid excessive frequency of confessions of the same person; 2. to abstain from every question which is not absolutely necessary; 3. to teach the penitent in what way she can institute confession by a very brief and honorable formula, and not to permit her to depart from it; 4. to abstain from every admonition and observation which is not absolutely necessary, but to complete the confession with as few words as possible and altogether seriously. If these things are observed, no inconvenience will have to be feared; because if that person is proceeding fictitiously, after one or another time she will return no more.

237. Moreover, speaking generally, "the confessor ought to be exceedingly cautious in hearing the confessions of women. And first it must be noted that in the Decree of the Sacred

Congregations of Bishops, January 21, 1610, it is said: Confessors should not, without necessity, hear the confessions of women after evening twilight and before dawn. But speaking of the prudence of the confessor, he regularly should be, in the confessional with younger women, rather strict than gentle; nor should he permit them to approach the confessional in advance in order to speak with him, and much less to kiss his hands. In the act of confession, let him not show that he recognizes them; for some, who wish to be held religious, sometimes, noticing that they are known by the confessor, do not make an integral confession. It is also imprudence to cast the eyes upon penitents when they withdraw from the confessional, and to look at them for some time. Outside the confessional, let him not even linger to converse with them in the Church, and let him avoid every familiarity. Let him also abstain from receiving little gifts; and especially let him never go to their houses, except in the one case of grave infirmity, and then let him go only when called. Then let him apply great diligence in hearing their confessions, whence he should leave the door open; let him sit in a place where he can be seen by others, and never fix his eyes on the face of the penitent. And this especially holds if they are spiritual persons, with whom there is a danger of greater adhesion... Such persons do not immediately notice this, since the devil at the beginning does not send forth poisoned arrows, but only those which wound a little and increase affection. But in a short time persons of this kind come to this, that they no longer act with themselves as angels, as they had begun, but as clothed in flesh; they look at one another in turn, and strike one another's minds with flattering speeches, which still seem to proceed from the first devotion. Hence one begins to desire the presence of the other, and thus spiritual devotion is converted into carnal." L. Prax. Confess. n. 119.; G. Cas. t. 2. n. 725-727.; Reuter, Neo-Confessar. n. 110.

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