MORAL ENCHIRIDION, AND SUPPLEMENT TO THE COMPENDIUM OF MORAL THEOLOGY OF GURY-BALLERINI (ENCHIRIDION MORALE)

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Title Page and Approvals

MORAL ENCHIRIDION

AND

SUPPLEMENT TO THE COMPENDIUM

OF MORAL THEOLOGY OF GURY-BALLERINI

COMPRISING

SELECT DECISIONS OF THE HOLY SEE

AND OF THE SACRED ROMAN CONGREGATIONS

WHICH CAN BE OF GREATER USE TO PROFESSORS AND CONFESSORS

EDITED BY

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[Device bearing the monogram JHS.]

ROME

FROM THE POLYGLOT PRESS

OF THE SACRED CONGREGATION DE PROPAGANDA FIDE

1887.

Approvals

I, Ferdinand Canger, Provincial Superior of the Neapolitan Province of the Society of Jesus, by the power granted to me for this by the very Reverend Father Antonio M. Anderledy, Vicar General of the same Society, grant permission that the work whose title is *Moral Enchiridion and Supplement to the Compendium of Moral Theology of Gury-Ballerini*, by Father Januarius Bucceroni, S.J., duly reviewed and approved, be committed to type.

Rome, on the 1st day of November, in the year 1886.

FERDINAND CANGER, S.J.
Provincial Superior.

Since the work whose title is *Moral Enchiridion, and Supplement to the Compendium of Moral Theology of Gury-Ballerini*, by Father Januarius Bucceroni, S.J., has duly been reviewed and approved, we grant permission that it be committed to type, if it shall so seem good to those whom it concerns.

Rome, on the 19th day of February, in the year 1887.

THOMAS GHETTI, S.J.
Provincial Superior of the Roman Province.

On Conscience

N. 65. Gury-Ballerini - On the Authority of St. Alphonsus

"1. Whether a Professor of Sacred Theology can safely follow and profess the opinions which St. Alphonsus de Liguori professes in his Moral Theology? 2. Whether a Confessor is to be disquieted who follows all the opinions of St. Alphonsus de Liguori in the practice of the sacred Tribunal of Penance, for this reason alone, that by the Holy Apostolic See nothing worthy of censure has been found in his works, with the note, namely, that this Confessor reads the works of the blessed Doctor only in order to know his doctrine accurately, not weighing the arguments and reasons on which the various opinions rest; but judging that he acts safely from the very fact that he can prudently judge a doctrine which contains nothing worthy of censure to be sound and safe, and in no way contrary to Evangelical holiness? - Resp. To the 1st, in the affirmative, yet without this being taken to mean that those are to be censured who follow opinions handed down by other approved authors. But to the 2nd, in the negative, having regard to the mind of the Holy See concerning the approval of the writings of the Servants of God for the purpose of canonization." S. Poenit. 5 July 1831. Cf. *Acta S. Sed.* Vol. 1, p. 497 ff.

"Most Eminent and Most Reverend Lord. The undersigned suppliant, appointed by his Bishop to the office of Prefect of public Moral Conferences, on account of his own devotion and reverence toward St. Alphonsus de Liguori, greatly desires to hold, hand down, and defend in all things the doctrine of the same so great Saint, and to make this openly known in the diocesan calendar shortly to be published, as also pleases his aforementioned Bishop, who is very favorably disposed toward St. Alphonsus, by adhering to and observing the Decision issued on this matter under the date of 5 July 1831 by this Sacred Penitentiary. But with regard to this he is held back by some scruple, because when he formerly obtained academic degrees he swore the oath set forth below, that he would retain the doctrine of that same University, which follows probabiliorism and the opinions of the probabiliorists. Since these things are so, and since moreover the very distinguished Scavini, who took the same oath, in his Moral Theology dedicated to Our Most Holy Lord Pius IX, had the same St. Alphonsus especially as his guide, hence for the quiet of his conscience he most humbly has recourse to Your Eminence, and earnestly begs:

1. That he be taught whether the aforesaid oath prevents him from following in all things and publicly handing down the doctrine of St. Alphonsus de Liguori, as is set forth above? Or 2. that he be dispensed from observing the same oath. - Resp. To the 1st, in the negative. To the 2nd, provided for in the first." S. Poenit. 19 Dec. 1855. But what doctrine the Professors of Theology of the aforesaid University ought to hand down is clear from these words of the Constitutions: "The professors of Theology, both scholastic-dogmatic and moral, must adhere to the principles and to the system of St. Thomas, according to his letter and his school." Cf. Scavini, Milan, 1874, bk. 3, n. 492.

On Laws

N. 84. 151 ff. - On the Obligation of Civil Laws

"That Christians are bound to the observance of civil laws, even if these have been enacted by unbelieving Princes, provided that these are not opposed to the Christian Religion and to the moral doctrine of the Gospel, there is no room for doubt; nor does the Apostle leave any room for doubt, who, making no distinction among higher powers, says: *Let every soul be subject to higher powers: for there is no power except from God... Therefore he who resists the power resists the ordinance of God; but those who resist acquire damnation for themselves... Therefore be subject of necessity, not only because of wrath, but also because of conscience.* Rom. 13, v. 1 and following.

From this most clear testimony it is manifest that those who rule supreme in civil government can enact laws for their subjects which bind them even in conscience; and this is also urged by the reason of the public good, namely, of warding off from civil societies the monster of anarchy, worse than dog and serpent; and it is commended by the illustrious examples of the first Christian faithful, who obeyed the civil laws of gentile Princes as long as they could do this without loss to faith and good morals.

Although these things are most true, nevertheless, with regard to the law forbidding the trade in opium, many doubts can arise because of the various opinions of Theologians concerning the obligation of civil laws; and since the solution of these is not very easy, in particular cases they can trouble not a little the mind of Missionaries and Confessors. The Sacred Congregation has learned from their letters that this has happened several times.

For there are very many Theologians, and these also of the highest name, who judge that there are civil laws whose transgression indeed has a penalty annexed, but by no means also theological guilt, and which therefore they call purely penal. These do not deny what is clear from the cited testimony of St. Paul, that supreme rulers can enact laws which bind subjects in conscience, that is, not only to the penalty but also to theological guilt; but they contend that they do not always will this by their laws, and that those laws are purely penal. According to this doctrine, which seems to be more common among Theologians, it can be doubted whether the civil law forbidding in your regions the trade in opium is a law having theological guilt annexed, or rather is a merely penal law, excluding all theological guilt. It could seem that this latter ought rather to be judged, from the fact that that law was enacted by an unbelieving Prince, who, since he can rightly be thought to make no account of that which Christians call obligation in conscience and theological guilt, seems to have wished to compel his subjects to the observance of that law by the penalty indeed and by its severity, but by no means by fear of wounding conscience and of theological guilt.

Nor does the most grave penalty of death against transgressors of that law seem a sufficient reason to show that it binds also to guilt, and not merely to penalty, because, as Roncaglia says, it is many times expedient for the common good that those also be punished with most grave penalties who violate some law without theological guilt. Thus Theologians commonly admit that a defendant can, without theological guilt, break out of prison in order to avoid, for example, death; yet the civil laws

punish this most gravely. Hence from such penalties the intention of the legislator to bind to theological guilt is not sufficiently gathered. Tract. 3, *On Laws*, q. 2, c. 2, resp. 2, ad 9. 2.

But even if it be supposed that the aforesaid law enacted against the trade in opium binds also in conscience, nevertheless it would not follow from this that its violation in all circumstances brings theological guilt with it; for human laws, ordinarily speaking, do not oblige with grave harm to oneself to their observance. This has place in the divine laws themselves. Thus the observance of the Sabbath in the Old Law, and abstinence from blood, did not oblige with danger to life (St. Thomas, I-II, q. 100, a. 8; Suarez, bk. 3, *On Laws*), and in the New Law the law concerning the integrity of Confession, concerning the reception of the Sacraments, etc., does not oblige with the same danger.

Since these things are so, the mind of the Sacred Congregation is not to define those controversies of Theologians concerning a merely penal law, nor, on the supposition of the existence of laws of this kind, whether the law about which there is here discussion is to be counted among their number. Likewise, considering that a human law, although ordinarily speaking it does not oblige with grave harm, can nevertheless oblige with grave harm when a great public good requires it, which is the supreme law; and likewise considering that this necessity of the public good depends on circumstances which accompany the particular cases that can occur, all of which it is impossible to foresee; therefore it comprises this Instruction in two admonitions to be given to the Missionaries and Confessors of your Vicariate: namely, it teaches and wills that, in the resolutions of the various cases which can happen, they ought not to disregard, but ought to take great account of, the civil law forbidding the trade in opium; secondly, it wills that great account also be taken of the most grave evils which are accustomed to flow from the abuse of opium in the regions of your Vicariate.

As regards the first of these, it is an established matter that public order is guarded by civil laws, that the public good depends very greatly on the observance of the same laws, and that everything is overturned in that society whose citizens do not obey its laws. This reason is very weighty in the regions of your Vicariate, where violations of civil laws on the part of Christians could bring the greatest scandal, and stir up hatred in the civil government against Christians and their Religion, as though they were taught by the Religion which they profess to disturb public order by the violation of civil laws, and at the same time to violate the rights of sovereignty.

But as regards the second, this ought to be very well known in relation to Christians, whose Religion is founded wholly on charity, not only toward God but also toward neighbor. For this teaches that each person is bound to ward off evils from his neighbor, whom he is bound by divine law to love as himself. This law of charity toward neighbor indeed has its limits, but those limits are the broader in proportion as the evils to be removed from him are more numerous and more grave. But there are very many and very grave evils, both temporal and spiritual, which flow from the abuse of opium in the regions of your Vicariate, and which can be removed by the observance of the law prohibiting the trade in opium.

If, therefore, the Missionaries and Confessors of your Vicariate have these two things before their eyes, as the Sacred Congregation wills them to have them before their eyes, it will not be very difficult for them to know what they ought to answer and do in particular cases which can happen to them in relation to the observance or violation of the aforesaid law, and to find the way by which they can extricate themselves from perplexities and avoid anxieties of mind." Instr. S. C. de P. F. 23 June 1830.

N. 89. 108. - Whether a Law Obligates with Grave Inconvenience?

Cf. the preceding number, paragraph beginning *But*, and following.

N. 93. - On Children with Respect to the Laws of the Church

"Children after the seventh year are bound to observe the quality of foods prescribed by the Church." S. Poenit. 15 March 1837.

N. 127. - On Letters to Be Sent to the Most Eminent Cardinal Major Penitentiary

"Although practice and prudence teach that occult cases pertaining to the Forum of Conscience are to be proposed to the Sacred Penitentiary by sealed letters sent to the Most Eminent Lord Cardinal Major Penitentiary and with names withheld, nevertheless someone, whether from among Confessors or from among pastors of souls, departing from this practice, sometimes does not shrink from not only setting forth those cases by open letters and through procurators, even laymen, but also from narrating them to the same Procurators, so that concerning them they may compose supplicatory petitions to be presented to the Sacred Penitentiary. How unbecoming this is, and how much scandal it carries before itself, there is no one who does not see. Therefore the Sacred Penitentiary, wishing wholly to remove this entirely reprehensible manner of acting from the midst, gravely admonishes all and each of the Confessors and Pastors of souls that they entirely abstain from the aforesaid manner of having recourse. Moreover, if they wish to use the service of some Procurator in the gracious City, they will indeed be able to send to that Procurator sealed letters, with names suppressed, to be handed to the aforementioned Cardinal Major Penitentiary; but they must never and in no way dare to narrate or manifest the aforesaid cases to be proposed to the Sacred Penitentiary." Cf. *Acta S. Sed.* Vol. 7, pp. 208-209; Vol. 1, p. 126 ff.

N. 128. - On the Form and Execution of Rescripts of the Sacred Congregations

Cf. Bizzarri, *Collectan.*, ed. 1885, p. 612.

N. 130. - On the Force of Decrees of the Sacred Congregation of Rites

"Whether decrees issued by the S. R. C., and whatever responses, formally issued in writing by it to proposed doubts, have the same authority as if they proceeded immediately from the Supreme Pontiff himself, even though no report concerning them was made to His Holiness? - Resp. In the affirmative." S. R. C. 23 May 1846, with the approval of His Holiness, 17 July 1846. Decrees and responses inserted in the authentic collection of Gardellini are to be held as formally issued. S. R. C. 6 Sept. 1854.

"The decrees of the S. R. C. which, although they do not stand forth in the Gardellinian Edition, are nevertheless known to be authentic, have the same authority which those retain that are read in the said Edition, provided that these Decrees, placed outside the Collection of Gardellini, are not opposed to later Decrees contained in the same Collection." S. R. C. 10 Dec. 1870.

"Whether decrees of the S. R. C., when they are issued, derogate from any contrary introduced custom whatever, even immemorial, and, in the affirmative case, oblige in conscience? - Resp. In the

affirmative, but recourse must be had in the particular case." S. R. C. 11 Sept. 1847.

"Whether decrees, indults, and decisions of the Sacred Congregation of Rites, given or to be given in particular cases, are applicable and to be adopted in similar cases, as though they had been decided everywhere, especially because the Sacred Congregation itself seems to hint at this when, to proposed doubts, it is accustomed to respond: *Let the Decrees be given, according to other Decrees, provided for in one case*, etc. - Resp. In the negative, and recourse must always be had in particular cases." S. R. C. 8 April 1854. Cf. *Acta S. Sed.* Vol. 3, p. 563 ff.

"With the distinction presupposed of the Decrees of the Sacred Congregation of Rites into Decrees formally general, equivalently general, and particular, can the opinion be sustained... that only those Decrees oblige universally which are either formally general or equivalently general, so that they were not issued on account of a peculiar cause of some place or Diocese, and in addition the approval of the Supreme Pontiff has acceded? - Resp. Let him consult approved authors." S. R. C. 10 Dec. 1870. *Acta S. Sed.* Vol. 12, p. 144.

On the Force of the Responses of the Sacred Penitentiary and the Holy Office

On the extension of Resolutions of the Sacred Penitentiary and of the Holy Office from case to case, cf. *On the Sixth Precept of the Church*, n. 513; *On Particular States*, n. 1; *On Indulgences and Jubilee*, n. 1074.

On the Authority of the Congregation of the Index of Prohibited Books

"Holding the Index by these Our Letters as expressly inserted, by Apostolic authority, by the tenor of the present letters, we approve and confirm it, and we command and order that it be observed inviolably and unshakenly by all and singular persons, wherever in the world they exist, under penalties," etc. Benedict XIV, Brief *Quae ad catholicae*, 23 Dec. 1757.

N. 131-133. - On the Obligation of Civil Law in General, and of Penal Law in Particular

Cf. N. 84.

N. 137. - What Is to Be Held as a Legitimately Constituted Custom?

"... Therefore we have judged it good by the present Constitution, in order that abuses may be met, to declare what and of what sort a legitimate custom according to the canons ought to be, by which episcopal and ecclesiastical courts can have the right of taking cognizance of and judging the criminal causes of lay defendants. Therefore we order that not every custom for this purpose, but only that custom, have force which is both forty years old and perpetually constant, not indeed contradicted or interrupted. Moreover, we will that it be constituted by a multiplicity and frequency of acts, not slight but grave, which are known to have been performed with the intention of prescribing secular jurisdiction, not tolerated from favor or connivance; nor such acts as perhaps could have taken place apart from the certain and precise knowledge either of Us and of Our Successors for the time being, or at least of the supreme magistrates of this Our City, whom we are accustomed especially to set over the prosecution of the public vindication of crimes. We command that absolutely no account be

taken, in a matter so grave, of the knowledge and patience of local rectors and of other inferior secular magistrates, to whom, when they are sometimes either negligent, or conniving and tolerating out of a certain reverential fear, we establish that it is not lawful, and has not been lawful, by their favor, acquiescence, and patience, to make legitimate a custom by which the jurisdiction entrusted to them is diminished, with the order of both powers disturbed. If, therefore, a custom such as we have now established is brought forward, we will that it be kept and observed; but a custom introduced otherwise we reprove, and by this Our Constitution we decree it to be of no force..." Clement XIII, Const. *Praestat Romanum*.

On the Theological Virtues

N. 189. - On Public Disputation with a Heretic

The S. C. de P. F. prescribed: "Public disputations are not to be held with heretics, because for the most part, either because of talkativeness or boldness or the circumstances of an applauding people, truth is oppressed while falsehood prevails; and if at some time disputations of this kind could not be refused, first the S. C. is to be informed of them, which, according to the quality of the time and persons, will prescribe what is to be done." 8 March 1625; 27 May 1644; 18 Dec. 1662; S. I. C. 19 Jan. 1644; S. C. C. 6 March 1625.

On the Profession of Faith

"That which from the ancient times of the Church was always customary, that a certain and determinate formula should be proposed to the Christian faithful by which they would profess the faith and solemnly detest the heresies gaining strength in each age, this same thing, after the sacred Council of Trent had happily been completed, the Supreme Pontiff Pius IV wisely accomplished. Hastening to execute without delay the decrees of the Tridentine Fathers, by the Constitution *Iniunctum Nobis*, issued on the Ides of November 1564, he composed the form of profession of faith to be recited by those who were to be placed over cathedral and superior Churches, or who would have obtained their dignities, canonries, and any other ecclesiastical benefices having care of souls; and by all others to whom it pertains from the decrees of that Council; and also by those whom it happened to be provided over monasteries, convents, houses, and any other places of regulars of whatever orders, even military, under whatever name or title. This, by another Constitution issued on the same day in the year beginning *In sacrosancta*, he further salutarily extended to all doctors, regent masters, or other professors of any art and faculty whatever, whether clerics or laymen, or regulars of any order, publicly or privately professing in any places whatsoever in any way, or having or exercising any lectures, and finally to those to be adorned with degrees of this kind.

Now, since afterwards the sacred Vatican Council was assembled, before its suspension announced by the Apostolic Letters *Postquam Dei munere* of 20 October 1870, two dogmatic Constitutions were solemnly promulgated by the same Council: the first, namely, on the Catholic Faith, which begins *Dei Filius*, and the other on the Church of Christ, which begins *Pastor Aeternus*. It is not only opportune, but also necessary, that in the profession of faith there should be made, as by the heart so also by the mouth, public and solemn adherence also to the dogmatic definitions of the aforementioned Vatican Council. Wherefore Our Most Holy Lord Pope Pius IX, having sought on this matter the vote of a special Congregation of the Most Eminent Fathers, Cardinals of the Holy Roman Church, established, commanded, and ordered, as by the present decree he commands and orders, that in the aforesaid Pian formula of profession of faith, after the words 'especially handed down by the sacred Council of Trent,' there be said 'and by the ecumenical Vatican Council, defined and declared, especially concerning the Primacy of the Roman Pontiff and his infallible magisterium,' and that hereafter the profession of faith be made by all who are bound to make it thus and not otherwise, under the threats and penalties established by the Council of Trent and by the above-mentioned Constitutions of Pius IV of happy memory. Therefore let this be observed everywhere, and by all

whom it concerns, diligently and faithfully, notwithstanding," etc. Decree of the S. C. C. 20 Jan. 1877. You have the formula of the Profession of Faith in *Acta S. Sed.* Vol. 10, p. 72 ff.

"1. Whether, besides canons, dignitaries, and curates provided with an immovable title, as they say, pastors also removable or succursalists are bound to the profession of faith according to the prescription of the Sacred Council of Trent? 2. And, in the affirmative concerning succursalists, whether they can make the profession before a simple deputy appointed by the Bishop? 3. Whether the aforesaid profession must be renewed as often as all those of whom above are transferred to another benefice? Resp... according to the Council of Trent, sess. 24, c. 12, *De Ref.*, and the resolutions issued in similar matters: to the 1st, in the affirmative; to the 2nd, in the negative; to the 3rd, in the affirmative." S. C. C. 15 Dec. 1866.

On the Oath to Be Taken by Missionaries

Cf. the Constitution *Ex quo singulari* of Benedict XIV, 11 July 1742, on the Chinese rites; *Omnium Sollicitudinum*, 12 Sept. 1744, on the Malabar rites; *Cas. Consc. resol. in Miss. Nankin.*, Fr. Aloysius Sica, Zi-Ka-Wei, 1881, case 29.

N. 190. - On the Promise Not to Preach the Gospel in Mission Territories

"Whether Missionaries, interrogated by a Tyrant whether they wish to remain in his kingdom, having given pledge that they will not promulgate the Evangelical law, can licitly agree, promise, and accept such a condition? - Resp. They cannot promise this." S. O. 1674.

N. 192. - On Communication in Divine Things with Heretics

"Since often and for a long time various cases, under various circumstances of utility, necessity, dangers, vexations, and even persecution to be endured by the Faithful, have been proposed to this Sacred Congregation by Missionaries and Prelates of the East concerning communication in divine things of Catholics with Heretics and Schismatics; and since by this Sacred Congregation it has constantly and uniformly been written back: it is not lawful; the hope had been conceived that the Missionaries of the East would sufficiently and easily understand that some cases could indeed be thought up speculatively in which it would be lawful to tolerate some communication in divine things, but that practically, with all the factual circumstances considered, cases can very difficultly be found in which that communication is lawful; and that it is even morally impossible that another general rule be prescribed, accommodated to every kind of men, every region, and every time, than that which was given to the repeated questions of the Missionaries of the East by this Sacred Congregation in the Instruction issued in the year 1719; namely, based on that doctrinal principle, that communication in divine things with Heretics and Schismatics is regularly to be held illicit in practice, either because of danger of perversion in the Catholic Faith, or because of danger of participation in a heretical and schismatic rite, or finally because of danger and occasion of scandal. These circumstances indeed, just as they are regularly connected in practice with communication in divine things with Heretics, so universally are forbidden by natural and divine law, in which there is no power which dispenses, nor any connivance which excuses; so that no place has been left for devising and proposing new doubts. Hence in that Instruction it was expressly prescribed:

Missionaries are to be instructed that they must wholly abstain from acts expressive of a false sect, from communication in a schismatic and heretical rite, from danger of perversion, and from occasion of scandal...

Therefore let it be dear to the heart of each Prelate, Missionary, or Director of souls to teach and stir up the faithful to avoid these dangers, which they regularly undergo, either all or some, in communication in divine things with the Heretics and Schismatics of the East. For although these still for the most part preserve the substance and value of the Sacraments, nevertheless they do not allow Catholics outwardly to show those signs of disapproval and segregation which they ought; from which it comes about that that external conformity in the same worship, and reverence toward the Pseudo-ministers of the Liturgy, cannot free any Catholic, however most firm in faith and abhorring the heretical or schismatic rites by which their worship is infected, from the danger of scandal.

This is confirmed the more also from the fact that scarcely any rite exists among the Heterodox which is not stained by some error in the matter of faith. For in their Churches either the dedication is in memory of some schismatic whom they venerate as a Saint, or images are present, or relics are honored, or feasts are celebrated of those who died in schism and are commonly held as saints, or finally commemoration is made of living Schismatic and Heretical Patriarchs and Bishops, who are commended as Preachers of the Catholic Faith. Therefore, all Catholics who come together in that celebration of rite and prayer and worship, in these factual circumstances, cannot be purged of the guilt of perverse communication, or at least of pernicious scandal. Nor does the pretext of merely material assistance excuse them; for it is excluded by the fact itself, whereby those who are present at these functions of Heretics or Schismatics sufficiently show themselves to agree with them in unity of prayer, in unity of worship, in unity of veneration and submission toward the perverse ministers of heresy and schism.

This is also made clear from the fact that the Orientals themselves daily see with their eyes, hear with their ears, and confess with their mouth that no sectarian hardened in schism comes, is present, or gathers in the Churches of Catholics, whether to hear Mass or to receive Sacraments, for this reason, namely, that, blaspheming the assemblies of the faithful as though of perverse communion, they judge this intercourse pernicious and illicit, and the rite damnable. But when they see Catholics come to their Churches, be present at their rites, and partake of their Sacraments, must it not be believed, or at least feared, that from this very fact they are more confirmed in their errors, and by this example also persuade themselves that they walk on the right path of salvation? From this it follows that the danger of pernicious scandal to the Schismatics and Heretics themselves can very difficultly be avoided; and therefore a Catholic is not safe in conscience if with them he communicates in divine things in this kind of case..." Instr. S. C., in Gury-Cretoni, Note (C).

On the Application of Mass for Heretics and Unbelievers

"... We have received letters by which... you signify that the dear son in Christ, the king of Bavaria, in restoring to you the monastery, placed this condition: that the monks in their Church would be bound to celebrate a funeral for the king himself when he shall die, and then in perpetuity on anniversary days; likewise for the queen his consort and for future kings or queens, both at the death of each one and on the anniversary days which will intervene until the death of the subsequent one.

You add, however, beloved son, that you indeed even then foresaw the difficulty easily arising from the fact that the most serene wife of the king is alien from Catholic sacred rites; but nevertheless, from the counsel of a certain prudent man, as you thought, you resolved to accept that condition with this mind: that if thereafter the same queen should die outside Catholic communion, the Sacrifice of the Mass in her funeral and on anniversary days would be offered for the Catholic royal family universally. But since recently, at the death likewise of the non-Catholic woman, the most serene queen dowager, no light dissensions arose throughout the whole kingdom concerning her funeral, you judged it yours to refer to us concerning that condition and concerning the manner to be held by you and your monks in that case, and to ask our judgment. We therefore, insisting on the rules of the most holy Church, respond that that intention of offering the divine Sacrifice or other prayers for the departed of the Catholic royal family universally is by no means sufficient to render honorable, under the cause of a public funeral, that which was requested by name for a non-Catholic person and is celebrated on the day of her death or annually. And hence we ourselves, although we pursue you, beloved son, and your monks with paternal charity, nevertheless will not approve and confirm those things which pertain to that monastery and its affairs before that condition, incautiously undertaken by you, is restricted to the funerals of Catholic princes alone. For we cannot permit that in any way fraud be made against that prohibition which rests on Catholic doctrine itself, concerning a sacred funeral not to be celebrated for departed non-Catholics. Act therefore, beloved son; expend all your industry and work so that the most serene king, according to his piety, may wholly agree to this... Meanwhile, if before the matter has been arranged with his majesty it should happen, which may God avert, that the most serene queen dies outside the true Catholic faith, you and your monks need much firmness of soul and prudence, so that you indeed in no way violate that most grave prohibition of holy Church, and the pious king may understand that, with the duties of religion preserved, it cannot in any way happen that you comply with him in that matter..." Brief of Gregory XVI, 9 July 1842, to Rupert Feiss, President of the Monks of Scheyern. Cf. also the Letter *Officium perlibenter* to the Bishop of Augsburg, 13 Feb. 1842.

"Whether Mass can or ought to be celebrated and alms received for a Greek-schismatic, who earnestly asks and insists that Mass be applied for himself, whether with him standing in the Church or remaining outside the Church? - Resp. According to the things set forth, it is not lawful, unless it is expressly established that the alms are offered by the schismatic to obtain conversion to the true faith." S. I. C. 19 April 1837.

"If in that kingdom (of China) it will be lawful for Christians to pray and to make sacrifice to Our Lord God for their departed, who depart from this life in their unbelief? - Resp. If they truly die in unbelief, it is wholly not lawful." S. C. de P. F. 12 Sept. 1645.

"Whether it is lawful for Priests to celebrate Mass for the intention of Turks and other unbelievers, and to receive from them alms for the application of Mass? - Resp. In the affirmative, provided that there is no scandal, and nothing is added in the Mass, and, as regards the intention, it is established that nothing of evil or error or superstition underlies the unbelievers offering the alms." S. I. C. 12 July 1865.

"The Turks dwelling at Chocim in Moldavia, on the occasion of their goods being lost or taken by theft, send certain offerings to the nearby Friars Minor Conventual, urging through their messenger that by the aid of St. Anthony of Padua, whom the Turks of Kamieniec think to be alive, they may be

able to recover their lost goods. Therefore three doubts are proposed to be asked: 1. Whether the Friars Minor can receive offerings from Turks? 2. Whether Masses can be celebrated for Turks? 3. Whether they can accept those offerings under the title of alms, for Mass to be celebrated at the altar of St. Anthony according to the need or intention of the offerer? - Resp. In the case of which there is question, it is not lawful." S. I. C. 1779.

On Preaching in a Church of Heretics

"Whether Catholic Missionaries and presbyters, when asked by schismatics, can preach in the Churches of these? - Resp. Either they are invited for the purpose that Catholic truth be preached there without restriction, and even against the errors of those same schismatics, and then in the affirmative; or only that a sermon be made concerning virtues and vices which commonly both Catholics and schismatics ought to embrace and avoid, and then in the negative." S. C. de P. F. 1674.

On the Celebration of Mass in Churches of Heretics

The Sacred Congregation "ordered that it be written that he should provide that, in the church of St. John of Cartola, Diocese of Cattaro, Catholics not celebrate Divine things with Greek schismatics; for although they use different altars, nevertheless, because of the identity of the church, it is to communicate with schismatics in Divine things." S. C. de P. F. to the Archbishop of Sardis, 13 Aug. 1627.

"Missionaries ought not celebrate Divine things in churches in which Heretics at the same time have their profane and sacrilegious exercises. But so that satisfaction may be made for Catholics, the Holy Sacrifice is to be performed upon portable altars placed in private homes." S. C. de P. F. 21 May 1627.

"Our Most Holy Lord Clement XI, Pope by divine Providence, in a particular audience given to me, Commissary of the Holy Office, said that, for more easily promoting the conversion of schismatics and unbelievers, and for attracting them to embrace the Catholic Faith by the sight of the sacred ceremonies, he benignly granted to the Father Prefect, or Vice-prefect, of the Missionaries for the time being existing in Ethiopia, that according to their judgment and conscience they can dispense with the same Missionaries, and grant them faculty of celebrating the most holy Sacrifice of the Mass in the Catholic Roman rite upon an altar in the temples of heretics or schismatics in Ethiopia; in such a way that the same altars do not serve except as bare tables, and be arranged in the manner of Catholics with a consecrated stone, cloths, and the aforesaid rite of the Most Holy Sacrifice of the Mass; never, however, generally, but in particular cases, in which other more suitable places are not available, so that there is urgent necessity for more easily promoting the said conversion, and furthermore for the consolation of Catholics, and for other just and most urgent causes, to be judged by the same Father Prefect or Vice-prefect Missionaries, concerning which he burdened their conscience." 12 April 1704. Cf. Zephyrinus Zitelli, *Appar. Iur. Eccl.*, p. 495.

"In the Churches of Catholics of Rhaetia occupied by heretics, Missionaries can continue their exercises." S. I. C. 13 June 1534.

On the Celebration of Mass by Heretics in Catholic Churches

"Nor is it lawful to permit heretics and schismatics to celebrate in our Churches, even if the consecrated stone has first been removed." S. C. de P. F. 16 Sept. 1695.

"Whether it is lawful for Latin Catholics to concede or permit that, in their churches, priests of the Greek rite, schismatics and heretics, celebrate Mass? - Resp. In the negative; especially since they make commemoration of the Patriarch of Constantinople and celebrate the feast of the infamous Palamas. For this is equivalent to consenting to their heretical rites, and to communicating with them in their sacred rites polluted with schismatic and heretical bran; or at least to providing occasion to Catholics entering Latin churches of communicating with heretics in divine things, or at least of conceiving scandal." S. O. C. 10 May 1755.

On the Administration of the Sacrament of Penance to Those Communicating with Heretics

"Whether it is lawful for Latin confessors or priests to administer the Sacrament of Penance to Greek Catholics communicating in divine things with Greek schismatics? The same S. O. C. responded on the same day: It is not lawful outside the case of extreme necessity." For fuller Instruction it ordered to be transcribed what Benedict XIV taught in the treatise *On the Diocesan Synod*, bk. 6, c. 5.

On Catholic Sponsors in the Baptism of Heretics

"His Holiness decreed that it is regularly not lawful for Catholics to be present at the sermons, baptisms, or marriages of Heretics or Schismatics. But absolutely it is not lawful, either by oneself or through others, to perform the office of sponsor in baptisms which are administered by heretics to the children of heretics." S. O. 10 May 1770.

On Heretical Sponsors in the Baptism of Catholics

"As regards the abuse of admitting heretics as Sponsors in the Sacrament of Baptism, the Sacred Congregation ordered that the Decree of the Sacred Council of Trent, sess. 24, *De Ref.*, be recalled to memory for all Apostolic Vicars." S. C. de P. F. 8 Sept. 1869.

On Schismatics to Be Admitted at the Funerals of Catholics

"Insofar as schismatics accompanying the funerals of Catholics exhibit a merely material presence, for the sake of civil honor toward the deceased, not mixing themselves with the Catholic prayers or rites by which it is customary to carry out funerals and lead the dead to burial, it can be tolerated; but insofar as in that function they employ their own rites, or mix themselves with ours, it is not lawful and is not to be permitted." S. I. C. 10 May 1753.

On Catholic Priests Accompanying the Funerals of Heretics

Doubts proposed by the Archbishop of Udine, Apostolic Administrator of the Diocese of Mantua. "1. Whether a Catholic Priest, in places where heretics do not have their own ministers, can accompany the corpse of a heretic from the house to the cemetery, even if the corpse is not brought into the Church, nor the bells rung? And in the affirmative, 2. Whether a practice of this kind is permitted or tolerated only in some special places, or can be extended also to our Italy? And in the affirmative, 3. What sacred vestments can the Priest use in this procession, if he must be preceded by the Cross? - Resp. To the 1st, in the negative. To the 2nd and 3rd, provided for in the first." S. I. C. 19 Jan. 1886.

Whether It Is Lawful for Catholics to Go to the Temples of Heretics?

S. I. C. responded on 14 Jan. 1818: "It is lawful, if they go from mere curiosity, without any communication in sacred rites, in which case such going is commonly held as a protestation of false Religion; when indeed it appears sufficiently clear that to go in this way also to the temples of heretics is an act indifferent in itself, which becomes evil only from a depraved end, or from circumstances. But it becomes evil: 1. If one who goes to sacred functions of heretics has the intention of assisting at them; 2. Or even in the absence of such intention, if the very entrance into the Church of heretics brings in, or seems to bring in, some communication with those heretics in divine things; hence also it would provide occasion of scandal; 3. Or if such going is required by the heretical government, as a protestation of that same faith and religion between Catholics and non-Catholics; 4. Or finally if it is commonly held, as it were, as a token of one and the same communion of Catholics and non-Catholics. In these cases, therefore, it is never lawful for Catholics to go to the temples of heretics, because it is never lawful to participate in the sacred rites of heretics, nor to simulate one's own faith. But where all these things are absent, and they are moved by curiosity alone to see the temples, they can go to them without fault."

Whether It Is Permitted for Catholics to Build Temples of Heretics?

S. I. C. responded: "They are not to be disquieted, provided that scandal is not present and that it is not done in contempt of religion. But let the Bishop take care that, through Missionaries and Confessors, they be opportunely instructed when they ought to abstain from giving their own work in building the churches or synagogues of heretics. Namely, they are bound to abstain from the work: 1. where work of this kind is commonly held as a sign expressive of false religion; 2. or where something is contained in the work itself which directly and uniquely of itself expresses reprobation of Catholic worship and approbation of the condemned worship of heretics; 3. or where it is known that Catholic craftsmen are driven to the work or called by heretics in contempt of the Catholic religion. Moreover, although outside these cases they are to be left in good faith, nevertheless they must always be admonished not to intend to cooperate with the worship of heretics." 14 Jan. 1818.

Whether It Is Lawful for Catholics to Contribute Money for Building a Heretical Temple?

Resp. "In the affirmative, but only in order to free themselves and their own temples from that inconvenient and scandalous simultaneity with Protestants." S. Poenit. 1822.

On the Building of Temples of Unbelievers

"Can Christians be permitted to construct temples or altars of idols, or to make the idols themselves, in order to avoid exile or deprivation of goods? - Resp. It is not lawful to cooperate in building temples or altars of idols, or to make their statues." S. C. de P. F. 7 Dec. 1626. Doubt concerning Japan.

"In no way is it lawful for Catholic Christians, nor can it be permitted or tolerated by any cause or motive, that they devote their labor to building, restoring, and sweeping temples of a false deity, or temples dedicated to the authors of false sects, or to cleaning their walls and pavements, cleaning altars, and opening and closing doors." S. I. C. 1669.

"There are Christian communities which have already been compelled by the Mandarins to erect a public shrine for idols. Moreover, while the most cruel Tyrant who governs this most wretched Kingdom stands, it will be very difficult to destroy these public shrines... I ask whether, with the above-mentioned things considered, the Christian communities which have erected shrines of this kind can truly be judged immune from superstitions, provided they perform no acts of superstition in those shrines? ... - Resp. Deferred, and inquiry is to be made of the Apostolic Vicar whether the erection of the shrine is held as an expressive act." S. C. de P. F. 10 Aug. 1841. But on 8 Jan. 1851 the same Sacred Congregation, having received an affirmative response from the Apostolic Vicar, wrote back: "It is not lawful for Christians to build temples for idols or to cooperate in their construction; and let the Decree for Japan of 7 Dec. 1626 be given, namely: Japanese faithful cannot, in order to avoid danger of death or exile, build altars for idols or cooperate in their construction." S. I. C. 8 Jan. 1851. Cf. T. A. Gallo, *Suppet. Evang. Praeecon.*, etc., Rome, 1872, Vol. 1, p. 197 ff., 251 ff.

"Christians, servants of Turkish masters, are employed to construct mosques..., to repair their walls..., to whitewash the walls... The Apostolic Vicar asked whether such acts are lawful?... Considering the motives, causes, and circumstances set forth by the Apostolic Vicar, showing the miserable servants placed in the hard necessity of performing such labors, their good faith, invincible difficulties, the further danger of the expulsion of Missionaries and the prohibition of the Ministers of Religion from instructing Christian servants and administering Sacraments to them, it was resolved in these Congregations that, if the Christian servants were not compelled by the Turks to these labors out of hatred for our Religion, or out of contempt of it, in which case they ought rather to sustain death, the Apostolic Vicar ought to leave them in the good faith in which they are, provided they do not have the intention of cooperating with superstition." S. C. de P. F. 31 Aug. and 14 Sept. 1780.

Whether It Is Lawful for Catholics to Contribute Money for Building a Temple of Unbelievers?

"It is the custom in the Kingdom of Tonkin that the whole community must concur in the building of a temple of idols and in other superstitious things, as also in other public works, by contributing money or other things. But if anyone refuses, the community will inviolably take from his goods much more than the sum fixed for him, or will impose on him a much more grave fine, or even will accuse him before the Magistrates, with danger for the Christian faithful of denying the faith, of prison, and of other grave harms. It is asked: 1. Whether this is lawful? 2. Whether at least it is lawful after a protestation has been made, by which the faithful person declares that he contributes only to avoid the grave harm threatening him, and asks the village that what they contribute be used for other lawful works? 3. Whether it is lawful for the faithful, when they are compelled to cook foods or contribute rice for the sustenance of the workers, to do these things? - Resp. To 1, 2, and 3: It is not lawful, whether a protestation has or has not been made. To 4. Likewise it is not lawful, as above." S. I. C. 5 Sept. 1736; 5 April 1785; 5 July 1854. Cf. Gallo, loc. cit., p. 215 ff.

In other cases the Christian faithful were compelled by grave penalties in mission places to contribute money for superstitious acts and for public festivity. The Sacred Congregation, having been questioned concerning lawfulness, responded: "Chinese Christians can contribute money, provided that through contributions of this kind they do not intend to concur in idolatrous and superstitious acts, with the cause supposed which is narrated in the doubt; especially if, should it conveniently be possible, a protestation has first been made that they pay the imposed taxes only in

relation to the joy of the people and to indifferent acts, or at least to acts not repugnant to the worship of the Christian Religion." S. C. de P. F. 12 Sept. 1645. "Let Christians first make a protestation that they pay the money taxatively as a mere tribute, provided they do not assist at superstitious rites; and if no one protests against it, they are not to be disquieted." S. C. S. O. 27 April 1847. Cf. *Collectan. Const.*, etc., for the use of Apostolic Workers, Paris, 1880, nn. 1071, 1104, etc.

Instruction of the Most Eminent Cardinal Vicar for the Parish Priests and Confessors of Rome

"1. All those incur excommunication reserved to the Pontiff among the most special cases who, even without the will of adhering to heresy, and only by reason of human respect, give their names to sects of heretics, of whatever denomination. 2. A fortiori they incur the same penalty who are present at non-Catholic functions or services, as it is commonly said, or hear someone preaching with the plan that they may give themselves over to him, insofar as, as they impiously say, they can be persuaded by him. 3. Thus also they incur the same excommunication who, having become promoters of another's spiritual ruin, induce in any way and see to it that others go or come to the halls or temples of heretics to hear conferences. 4. Finally all those are bound by the same penalty who publish in print invitations to the aforesaid conferences and the themes of the same, because of the favor which by such action they furnish to the propagation or confirmation of heresy.

But it is most strictly forbidden, through mere curiosity and knowingly, to enter the halls and temples of Protestants at the time of conferences; and all gravely sin who through mere curiosity listen to the conferences of Protestants and assist, even materially, at non-Catholic ceremonies; and all craftsmen who, even for the sole reason of profit, sing or play instruments in the temples of Protestants; and printers, even secondary ministers, who, lest they be thrown out by their superiors, set type for printing books of heretics. Indeed, if there is question of books of heretics by which heresy is taught and sustained, even secondary printer-ministers incur the major excommunication reserved in a special manner to the Pontiff. Nor are architects, contractors, and master builders excused from mortal sin who contribute their own labor and work to erect some temple of Protestants. As regards other builders and lower workers, they will be able to be excused from sin, provided scandal is absent from their deed, and the work is not done in contempt of the Catholic Religion. But Parish Priests and Confessors will devote diligent work so that they admonish people of this kind that it is necessary to abstain from such material work, insofar as the work is commonly held as an indication protesting false religion; and insofar as the same work carries with it something which alone and directly signifies either reprobation of Catholic worship or approbation of reprobated heretical worship; or when it is certain that the same are forced or called by heretics to work in contempt of the Catholic Religion; and that in no case is the intention of cooperating with heretical worship lawful." 12 July 1878; 28 Sept. 1884. Cf. *Acta S. Sed.* Vol. 11, p. 168 ff.; Vol. 17, p. 164 ff.

N. 230. 231. - On Admonition to Be Made, Even When No Amendment Is Foreseen

"As regards the controversy... whether a Confessor is bound to admonish and teach penitents who invincibly are ignorant of the prohibition of certain superstitious rites, or of the condemnation of the

Alexandrian permissions, when he foresees that the penitents, admonished and instructed, will not amend themselves, or whether instead he ought to leave them in good faith: the Supreme Pontiff considers that to leave such ignorant persons in their own ignorance concerning the cases about which there is question is not only the same as to close off every approach for all those Christians, lest they furnish obedience uniform with the Apostolic Constitution, the same as to evade the mind of the Holy See, which prudently commanded that the declarations recounted concerning the aforesaid rites be made known to all Christians; but also that omissions of such instruction tend toward grave scandal of the gentiles and toward public harm to the Christian name in those regions. His Holiness further declares that, although in some cases... Confessors can omit the instruction of penitents... nevertheless in the present case this doctrine has no place... Therefore Confessors and Missionaries ought to admonish and teach not only penitents, but also other Christians who invincibly are ignorant of the prohibition of certain superstitious rites and of the condemnation of the Alexandrian permissions, even if no fruit should be hoped from such admonition; for the instruction of such ignorant persons is incumbent on evangelical Workers, as a proper function of their office enjoined upon them by the aforesaid Apostolic Constitution." Instr. S. C. S. O. 14 Jan. 1753.

N. 252. 255. - On Cooperation in General with Superstitious Rites

"In relation to cooperation with superstitious rites, this rule is to be held. If the cooperation has been part of the superstitious rite, then it will be judged formal, intrinsically evil, and can never lawfully be done. On the contrary it will be judged material if it was not part of the superstitious rite. Some grave harm which would arise to the cooperator, if he wished to abstain from this material cooperation, will make it lawful, even if scandal is present, that which is called scandal of the little ones by Theologians, because by the law of charity no one is bound to remove that scandal with grave harm to himself." S. C. de P. F. 2 July 1827.

Case Concerning Calling a Heretical Minister

"N. sets forth that in the city M... there exists a hospital, of which he himself is rector and chaplain, and in which nuns take care of the sick. But since in this hospital adherents of a non-Catholic religion are sometimes received, and the same repeatedly ask for a heretical minister, from whom they may receive religious helps and consolations:

It is asked whether it is lawful for the aforesaid nuns to call a minister of false religion; furthermore, whether the same solution is to be given when a sick heretic lives in the private house of some Catholic, namely, whether then the Catholic can lawfully call a heretical minister? The S. O. C., on 15 March 1848, responded: It is not lawful; but let them behave passively. Cf. Fr. Clement Marc, *Inst. Mor. Alph.*, 2nd ed., n. 450.

On the Building of Temples of Heretics and Unbelievers

Cf. N. 192 toward the end.

On Cooperation in Political Matters, at Present, for Italy

"Whether it is lawful to give votes for forming Councils and representative Municipal persons; and whether those elected can discharge the office of Councillor and municipal Magistrate? - Resp.

Provided that Municipal officials are not driven to those things which are opposed to divine and ecclesiastical laws, and abstain from furnishing an oath according to the form proposed by the invading Government, it can be tolerated." S. Poenit. 10 Dec. 1860.

"Whether it is lawful to compete for teaching offices and to accept them when offered by some Community, or even by the Government, if those who accept abstain from adherence to be shown to the intruding Government, and from every act which by its nature is directed to holding that Government ratified? - In the affirmative, scandal being removed, if it is present, and under the conditions set forth in the Question; but especially under the condition that in teaching they be wholly conformed to Catholic Doctrine." S. Poenit. 10 Dec. 1860.

"Whether Offices can be retained and accepted under the intruding Government? - Resp. Provided that there is not question of Offices which directly and proximately influence the spoliation, or the maintenance of the same spoliation, and that they can be exercised without danger of wounding Divine and Ecclesiastical Laws, it can be tolerated. But in practice each of the said Officials or Persons of the Pontifical Dominion who is prepared to stand by the commands of the Holy See is to be cautiously admonished to consult the Bishop, or the local Ordinary, who in individual cases will decide according to the mind of the Most Holy Lord." S. Poenit. 10 Dec. 1860. Cf. *Acta S. Sed.* Vol. 1, p. 558 ff.

"An opinion has grown up in very many dioceses of Italy that it is lawful to approach the political ballot boxes, from the fact that the Sacred Penitentiary, when questioned about this, responded only: It is not expedient.

But so that every equivocation might be cast away, the Most Holy Father, having heard the judgment of those Most Eminent Lords Cardinals, general inquisitors, my colleagues, ordered it to be declared that *It is not expedient* imports a prohibition. But while I communicate this declaration to Your Excellency, I am compelled to add that the Most Holy Father, in these circumstances, maintains firm a prohibition of this kind.

It will also be very useful to Your Excellency to know the responses which the Sacred Penitentiary gave in the year 1883 to Bishops asking both about the sin which is committed and about the censures which are contracted by taking part in political elections. As regards sin, whether the same person ought to be held guilty of grave fault who would give a vote for the election of Deputies, the response read: He will behave in particular cases according to his own conscience and prudence, after all circumstances have been weighed. 'But as regards censures: To be ensnared or not ensnared by censures, on account of political elections, depends on the circumstances of the fact and on the dispositions of mind of the electors; the circumstances and dispositions are to be weighed according to the norms which are offered in the subject matter by approved authors.'" 30 July 1886. R. Cardinal Monaco. Cf. *Commentar. de C. Apostolicae Sedis*, nn. 39, 68 ff.

"How ought Ordinaries to conduct themselves concerning the Royal *placet* and *Exequatur*, which the Government arrogates to itself over Bulls, Briefs, and Pontifical Rescripts?

Resp. Private Persons who, in order to keep themselves unharmed, have recourse to the Government for the Royal *placet* or *Exequatur* are not to be disquieted. But in this matter Ordinaries, as far as they can, should behave passively; and if they have been questioned by the Government concerning petitions of this kind, let them make known their judgment according to the laws of justice and

according to the form of the sacred Canons." S. Poenit. 10 Dec. 1860. Cf. *Acta S. Sed.* Vol. 1, p. 557 ff.; Vol. 2, p. 675 ff.; Vol. 7, p. 146.

On the First Precept of the Decalogue

N. 258. - On the Cult of Persons Who Departed from Life with a Reputation for Sanctity

"Our Most Holy Lord... declared, established, and decreed that images and the other things aforesaid, and anything else carrying before itself and indicating veneration and cult, of any persons whatever who have died with a reputation for sanctity or martyrdom, whenever that reputation may exist, are not to be placed in oratories or public or private places, or in churches, whether Secular or Regular, of any Religion, Order, Institute, Congregation, or Society whatsoever, before they are canonized or declared Blessed by the Apostolic See; and, if any have been placed, they are to be removed, just as he commanded them immediately to be removed.

2. And likewise he prohibited that henceforth books of the same persons be printed, containing deeds, miracles, or revelations, or any benefits whatsoever as received from God through their intercessions, of those who have departed from life celebrated by reputation or opinion of sanctity or martyrdom, as stated, without the recognition and approval of the Ordinary, who in recognizing them is to employ Theologians and other pious and learned men for counsel; and, lest henceforth fraud, or error, or anything new and disordered be committed in a matter so grave, he is to transmit the instructed matter to the Apostolic See and await its response. But the revelations and miracles and other aforesaid benefits which hitherto have been printed in books containing the life and deeds of these persons without recognition and approval of this kind, His Holiness wills and commands to be judged in no way approved.

3. He also forbade and prohibited that at the sepulchers of these persons tablets and images of wax or silver, or of any other material whatever, whether painted or fashioned and sculpted, be hung or affixed, and lamps or any other lights be lit, without recognition by the Ordinary to be made wholly as above, and to be referred to and approved by the Apostolic See.

4. Declaring that through the above-written things he does not will nor intend to prejudice in any way those who are venerated either by the common consent of the Church, or by immemorial course of time, or by the writings of Fathers and holy men, or by the knowledge and tolerance of the Apostolic See or of the Ordinary through a very long time.

5. But so that the foregoing may be more diligently observed, he strictly commands all and singular, both Ordinaries and Inquisitors of heretical depravity, that each in his own Diocese or Province carefully keep watch lest, without the aforesaid approvals, images with the aforementioned signs be exposed, or the aforesaid miracles, revelations, and benefits be published, or other things be done against what has been disposed above.

6. But transgressors, if they are Regulars, are to be punished with deprivation of their offices and of active and passive voice, and also suspension from Divine things; but if they are secular Clerics, likewise with deprivation of their offices, suspension from Divine things, and from the administration of Sacraments and the execution of their Orders respectively, and with other

penalties to be inflicted at the judgment of the aforesaid Ordinaries or Inquisitors, according to the manner of the fault.

7. But those who shall have printed books or painted, sculpted, or in any way fashioned or formed images, and the rest of the craftsmen in any way offending concerning the foregoing, let them lose all the aforesaid things, and besides be affected with monetary and other, even corporal, penalties, according to the gravity of the crime, at the judgment of the same Ordinaries or Inquisitors.

8. Anything whatsoever to the contrary notwithstanding." Urban VIII, 13 March 1625.

"Whether the practice of separating Relics of the Most Holy Cross of Our Lord Jesus Christ from Relics of the Saints is accurate and to be observed? - Resp. In the affirmative." S. C. Indulg. 22 Feb. 1847.

N. 287. - On the Washing of Corporals, Etc.

"Whether nuns, or pious women living a common life under a rule, can, with the license of the Ordinary, first wash Corporals, Palls, and Purificators? - Resp. In the negative." S. R. C. 12 Sept. 1857.

"Having received responsive letters of the Bishop of Corneto concerning the petition of nuns who were prohibited by the Bishop from bleaching Purificators for the service of their Church, the Sacred Congregation granted the requested bleaching, not only for the service of their Church, but also of the whole city, provided that the Purificators are first washed by some Priest and the ablution is placed in the sacrarium." S. R. C. 12 Jan. 1636.

N. 289. - On Expenses to Be Compensated for the Most Holy Oils

"Whether the custom of exacting an annual canon is sustained in the case? An annual canon of 35 centesimi to be exacted from any parish whatever for obtaining the material of the Most Holy Oils and remunerating the ministers distributing the same. - Resp. The custom can be tolerated." S. C. C. 20 Dec. 1879. Cf. *Acta S. Sed.* Vol. 13, p. 180 ff.

On the Sale and Purchase of Blessed Things and Relics

"Whether one who buys crosses, medals, etc., in order to distribute them after they have been blessed with the application of indulgences, can ask their price from the recipients without fault, or without danger of losing the indulgences? Whether they are lost only when someone has made those things his own and has used them with the intention of gaining Indulgences? - Resp. In the negative to the first part; to the second, it does not need a response." S. C. Ind. 22 Feb.; 12 July 1847; 2 Oct. 1840; 15 May 1886.

"... His Holiness... strictly commanded that the Christian faithful, under any pretext whatever, even of redeeming Sacred Relics and remains of the Saints, although enclosed in a little case and furnished with a seal, presume neither to buy nor trade for them, both in the City and outside it. Furthermore he commanded that whoever finds sacred relics standing for sale is to notify the Ordinaries of the places, whose concern it will be to provide opportunely. Therefore the same Most Holy Lord ordered

this Decree to be made and published..." S. C. Ind. 21 Dec. 1878. Cf. *Acta S. Sed.* Vol. 11, p. 365. Likewise Letters of the Most Eminent Cardinal Vicar, by command of Our Most Holy Lord Leo XIII, were given to the Bishops concerning the sacrilegious commerce of false relics, on the 16th day before the Kalends of February 1881. Cf. *Acta S. Sed.* Vol. 14, p. 59.

On the Second Precept of the Decalogue

N. 310. - On the Political and Protestant Oath

"1. Whether it is lawful for the Bishops and Clergy to swear the Spanish civil Constitution of the year 1869 according to the formula prescribed by the Government? 2. Whether the Spanish Bishops and the other Ordinaries of places ought, through Pastoral letters, to teach the faithful people concerning the true sense of taking the oath? - As regards the first question, it is easily evident to anyone that the prescribed oath is illicit both for clerics and laymen, the formula of the same oath being considered, circumscribed by no limits. For it cannot be permitted to a Catholic man that he swear that he will observe those laws which are opposed both to divine and to ecclesiastical sanctions. Moreover, the Bishops of Spain do not fail to know, and Your Eminence knows well, that in that Constitution laws are contained by which Catholic unity is gravely wounded, the widest liberty of worships and doctrine is introduced and constituted, and other things opposed to divine and ecclesiastical right are established, which were reproved by the unanimous voice of the Bishops and by the wishes of almost all Spaniards. Hence it happened that there were not lacking those who, with a praiseworthy plan indeed, preferred to resign public offices rather than, with conscience resisting, bind themselves by an oath of this kind. Nevertheless, if the Government perseveres in what it has begun, which may God avert, and the Clergy is driven to issuing this oath, then, in order to avoid greater evils and only in the case of coercion, the Sacred Penitentiary judged that it can be tolerated that the taking of the oath be made according to the prescribed formula, provided that to the text of the formula itself the limitation be added: *excepting those things which are opposed to the laws of God and of His Holy Catholic Church.* - But as regards the second question, since from the taking of this kind of oath, especially when done by ecclesiastics, occasion of scandal would easily be provided because of the peculiar condition of the Spanish people, unless they are rightly taught about the aforesaid appended limitation, hence this Sacred Penitentiary judged it supremely expedient that Bishops and Ordinaries of places admonish and instruct the flock committed to them concerning the appended limitation by pastoral letters. Indeed, it would be desirable that these pastoral admonitions become known to the people before the mentioned oath is issued. But since similar questions have also been proposed by other sacred Prelates of Spain, I most readily persuade myself that Your Eminence will courteously and willingly deliver a copy of these letters to them, so that in so great a matter all may be able and willing to walk with equal step." Cf. Fr. Villada, *Cas. Consc. his present. tempor. accommod.*, Part 1, *De liberalismo*, Brussels, 1884, p. 266 f.; *Acta S. Sed.* Vol. 2, p. 675.

"Whether the oath proposed by the intruding Government is lawful in these or similar words, in which unlimited obedience is contained: I swear fidelity and obedience to Victor Emmanuel, king of Italy, and to his successors. I swear that I will observe the Statute, and every other law of the state, as for the inseparable good both of the king and of the fatherland of Italy. Resp. The oath, as it is set forth, is not lawful; but the oath of merely passive obedience can be tolerated in all those things which are not opposed to Divine and Ecclesiastical Laws, according to the form approved by Pius VII of holy memory, and expressed in these words, namely: I promise and swear that I will never give assistance to conspiracy of any kind, whether assembly or sedition, against the actual Government;

and likewise that I will be subject to and obey the same in all those things which are opposed neither to the laws of God nor of the Church." S. Poenit. 10 Dec. 1860. Cf. *Acta S. Sed.* Vol. 1, p. 561.

"Can a Bishop, when asked, pronounce an oath, or at least what observance can he promise to the new order of things? - Resp. In the negative; both because it is prohibited by the Sacred Canons for Ecclesiastics to issue an oath before lay authorities, and because the oath as proposed is illicit, as is clear from the Response in the Letters of 10 Dec. 1860." S. Poenit. 14 Dec. 1866. Cf. *Acta S. Sed.* Vol. 2, p. 675.

"But it has been reported that in several regions of the Indies, Catholics have been accustomed, if the issuing of an oath occurs, to swear upon Bibles corrupted by Protestants and exhibited by the Government; but from another side, it is by no means difficult to obtain from the civil Government itself that Catholics be granted the power of issuing the oath upon their own Bibles. Therefore all Apostolic Vicars in whose Missions a use of this kind has been accustomed to be employed should diligently take care that the Anglo-Indian Government leave to the faithful the liberty of swearing upon Sacred Scripture received by the Catholic Church.

But until they have obtained this from the civil authority, let them prudently be silent, if they see the faithful furnishing oaths upon Bibles of Heretics, provided that there is question of a lawful oath. Meanwhile let them teach the Sacred Congregation whether the Bibles of heretics, exhibited for the oath, are substantially corrupted, whether they are exhibited so as to be approved by Catholics, whether our Latin Vulgate is customarily excluded. Finally, by whom, and in what circumstances, and for what object, oaths of this kind are exacted." Instr. S. C. de P. F. 8 Dec. 1869.

N. 327. - On Vows of Communities

The vow of Communities to celebrate certain Feasts of precept with vigil and procession, insofar as it is by the force of a vow, although confirmed by the Bishop, obliges no one except those making the vow. S. R. C., in the decrees apud Gardellini, nn. 1444, 1624, 1874, 1963, 2019, 4152.

On the Third Precept of the Decalogue

N. 339. - On the Obligation of Sanctifying Feast Days

"Is it necessary to obligate under sin the faithful of the Vicariate of Chausy, who cannot hear Mass because of the lack of priests, to assist on feast days, in place of Mass, at pious assemblies of the faithful? - Resp. The faithful who, in the proposed case, cannot hear Mass on feast days are not on that account released from the obligation of sanctifying the Feast through prayers or other pious works; and therefore they are greatly to be exhorted, but nevertheless not obligated under guilt of sin, as though disobedient to a precept of the Church, to strive to be present at those pious assemblies, in which they can be instructed and nourished with the food of the word of God and other exercises of religion, and, joined in prayers in the spirit of charity, can more efficaciously implore Divine aid." S. C. de P. F. 4 Jan. 1798.

On the Fourth Precept of the Decalogue

N. 374. 384. 385. - On Schools and Universities

On the schools of heretics. - "... Fathers and mothers become guilty of a most enormous sin all the more who, truly cruel toward the souls of their children, send them to the schools of Protestants; and even worse, if they compel them to go. The matter is evident: parents of this kind are to be reproved and detested in their crime, and their amendment is to be sought by all possible means; and at times they are to be kept far from the Sacraments, as being incapable and unworthy, until they have recalled their children from schools of this kind. - The children also, the matter considered in itself, certainly become guilty of grave fault by going to such schools. But in the case of true coercion, the confessor, having weighed the circumstances of the person and of the fact, should act toward them according to the rules proposed by approved authors for cases of this kind." Instr. of the Cardinal Vicar for the Parish Priests of Rome, 12 July 1878.

"Moreover, what had to fall under deliberation first of all was the very manner of instructing youth, proper and peculiar to schools of this kind, non-Catholic schools. This seemed to the Sacred Congregation, even of itself, full of danger and very adverse to the Catholic cause. For the students of such schools, since their own plan excludes every doctrine of religion, will learn neither the rudiments of faith nor be instructed in the precepts of the Church, and therefore will lack knowledge most necessary for man, without which one does not live as a Christian... In the aforesaid schools... teachers are used indiscriminately from every sect, so that it is free to pour errors and seeds of vices into tender minds. A certain corruption also threatens further from this, that in the same schools, or at least in many of them, adolescents of both sexes are gathered into the same room for hearing lessons, and males are ordered to sit on the same bench next to females. All these things bring it about that youth is miserably exposed to harm concerning faith, and morals are placed in danger. - But unless this danger of perversion is made remote from nearby, such schools cannot be frequented with a safe conscience. The natural and divine law itself cries this out... And these things indeed, as founded on natural and divine right, state a certain general principle and have universal force, and pertain to all those regions where this most pernicious method of instructing youth has unhappily been introduced... - Moreover, the Sacred Congregation is not ignorant that the circumstances of things are sometimes such that Catholic parents can, in conscience, entrust their offspring to public schools. But they will not be able to do this unless they have sufficient cause for so acting; and whether such a sufficient cause is or is not present in some particular case will have to be left to the conscience and judgment of Bishops. According to the things reported, it will then generally be present when either no Catholic school is at hand, or the one which is at hand is little suited for instructing adolescents suitably and congruently to their condition. But in order that public schools can be approached in conscience, the danger of perversion, which is more or less always connected with their own plan, must be made remote from nearby by opportune remedies and precautions. Therefore it must first of all be seen whether, in the school about whose attendance there is question, the danger of perversion is of such a kind that it plainly cannot be made remote, as often as there are either taught or done there certain things contrary to Catholic doctrine or good morals, which cannot be heard or done without loss to the soul. Truly such a danger, as is evident of itself, must be wholly

avoided with any temporal harm whatever, even of life. - Moreover, in order that youth can in conscience be entrusted to public schools, they must duly and diligently receive the necessary Christian instruction and education, at least outside school time. Wherefore let parish priests and missionaries... diligently apply themselves to catecheses... But let the parents themselves, or those who are in their place, carefully watch over their children... It is manifest from Catholic moral doctrine that those parents who neglect to impart this necessary Christian instruction and education to their children; or who allow them to frequent such schools in which ruin of souls cannot be avoided; or finally who, although a suitable Catholic school is present in the same place and aptly instructed and prepared, or although they have the faculty of educating their offspring as Catholics in another region, nevertheless entrust them to public schools without sufficient cause and without the necessary precautions by which the danger of perversion is made remote from nearby, cannot, if they are contumacious, be absolved in the Sacrament of Penance." Instr. S. C. de P. F. on public schools to the Most Reverend Bishops in the United States of North America, 30 June 1875, approved by the Supreme Pontiff 24 Nov. of the same year.

On non-Catholic Universities. - "By letters given on 3 Feb. 1865 to the Right Reverend Fathers and Lords, the sacred Prelates of England, the Sacred Council called Propaganda signified that it had most willingly confirmed the opinion unanimously proposed by the praised Bishops in the recent London meeting, concerning colleges not to be erected near the English Universities of Oxford and Cambridge, and concerning Catholic parents to be opportunely persuaded not to send their sons to those Universities; namely, because the same Sacred Council had seen the judgment of the Bishops to be especially consonant with the principles handed down by itself according to the mind of the Supreme Pontiff, as often as it had been consulted concerning the dangers of mixed schools... But since not all have carried the same judgment concerning non-Catholic Universities to be avoided, and since there were even some who judged that it could be tolerated that Catholic youth frequent the aforesaid institutes, either because of the temporal advantages which are obtained in them, or because in their opinion no certain law appears by which access to them is absolutely prohibited, I think it worthwhile that Your Excellency explain clearly in the Pastoral Letter the doctrine concerning proximate occasions of sinning gravely which are to be avoided, to which no one can expose himself without lethal sin, unless grave and proportionate necessity urges, and unless such precautions are employed by which the proximate danger of sinning is removed. Now truly in the matter of which there is question, to which, from the declaration of the Supreme Pontiff, there belongs an intrinsic and most grave danger, not only for honesty of morals, but especially for faith, which is altogether necessary for salvation, who does not see that there scarcely can, or indeed scarcely even can, be given those circumstances in which non-Catholic Universities may be frequented without sin? The lightness of mind and instability of adolescents, the errors which are drunk in, as it were with the air, in the said Institutes without the antidote of sounder doctrine, the very great force which human respect and mockeries of companions exercise upon youths, bring upon adolescents so present and so proximate a danger of falling that generally no sufficient reason can be conceived on account of which adolescents may be entrusted to non-Catholic Universities..." Instr. S. C. de P. F. 6 Aug. 1867.

On mixed schools of heretics. - "1. Whether it is lawful for parents to entrust their children to be instructed in schools of this kind, mixed schools? - Resp. Generally speaking, it is not lawful, but in particular cases this must be left to the judgment and conscience of the Ordinary; nevertheless it will be his office to take diligent care that not only by himself and by parish priests, but also by individual

parents, opportune remedies be applied by which the danger of perversion is removed from the students, and at the same time to strive with magistrates and presidents that violence not be done to the conscience of Catholics by using books which are hostile to the Catholic religion; and finally assiduously and earnestly to admonish and exhort all, and especially those who have the means, that they send their children to other regions where they may be educated as Catholics."

2. "Whether it is lawful for a priest in the aforesaid schools to hand down the teachings of the Christian faith, or to discharge the office of Chaplain? - Resp. In the affirmative and according to the mind; the mind is that care is to be taken that priests, or upright laymen of well-known religion, be placed in charge, as far as can be done, not only of handing down the Christian faith, but also of schools of other disciplines. But so that every fear of scandal may cease, the people are to be admonished that this is done so that the evils which flow from schools of this kind may be averted as far as can be done; and that this therefore ought to serve no one as an excuse not to send his children to merely Catholic schools, in which their faith and morals are in no way endangered."

3. "Even if those mixed schools can somehow be tolerated, is it lawful for the Catholics of the Jura to send notice that they renounce their right founded on public agreements, by force of which it is unlawful for anyone to take up the office of teaching in their public schools who does not profess the Catholic religion?" - "Resp. In the negative, whether there is question of an express cession, or even of a tacit cession from silence and culpable tolerance. Therefore, although care must be taken that nothing be done imprudently by which the ferocity of adversaries is stirred up to inflicting graver evils, nevertheless nothing is to be remitted of industry and constancy, so that legitimate means which are in the power of Catholics may be employed to recover the aforesaid right together with the sanctity of the compact and the indemnity of the Catholic Religion." Instr. S. I. C. to the Bishops of Switzerland, 17 Jan. 1866.

On Catholic schools without religious instruction. - "By a very recent decree the catechism is cast out of the municipal Catholic schools; a decree worthy of censure, it removes the barrier against rampant heresy and unbelief... But while, in the name of Religion, we lift up our voices to defend its sacred rights, we also will that it become known to anyone how much a mad plan of this kind is opposed to the good of society... For it is not lawful to renew upon the child the judgment of Solomon and irrationally and inhumanely to divide the same in the middle as regards his intelligence and will; because while the first is cultivated, the second must be directed to acquiring virtuous habits and pursuing the ultimate end... And the matter shines with such splendor that it would be held as true, even at the price of contradiction, by those same persons who desire that the document of Religion be cast out of schools; while they direct their efforts not only to the intellect, but to the will also, striving that ethics, which they call civil and natural, be taught in schools, and taking care that youth be directed to the acquisition of civil and social virtues. But moral philosophy of this kind not only is unable to lead man to the higher end, constituted by the Divine Goodness in the beatific vision of God, but also becomes unequal to this, that the mind of the child be instructed toward true virtue and be able to remain constant on the right path. And rightly have we used the word *cast out*: because the method devised of offering religious instruction only to those children whose parents expressly request it becomes altogether a mockery. For it is not easy to grasp how the authors of an impious

plan did not weigh with what bad feeling a child would be affected who would see himself undertaking religious instruction by a manner wholly different from others... But if there should be parents, as is not difficult, driven either by depravity of mind or by ignorance and sluggishness, who would not ask the benefit of religious instruction for their children, a great part of the young would lack most salutary teachings, with the greatest risk not only to the innocent souls of those children, but also to civil Society itself.

When benefits of lesser moment also were expected, elementary instruction was made obligatory by law, with parents being driven by fines to send their children to schools. Who now will dare to snatch away from Catholic youth religious instruction, which presents itself as a wiser protection for living life uprightly? Is it not cruel to require that children of this kind grow up without any notion of religion...?" Letter of Leo XIII to the Most Eminent Cardinal Vicar, *Tot inter*, 26 June 1878.

"The Church, guardian and vindicator of the integrity of faith, which, by the authority handed to it by God its founder, must call all nations to Christian wisdom, and likewise carefully see by what precepts and institutions youth, which is within its power, is cultivated, has always openly condemned schools which are called mixed or neutral, having admonished fathers of families again and again that, in a matter of such importance, they should turn their mind to caution." Encyclical Letter of Leo XIII, *Nobilissima Galliarum*, to the Bishops of France, 8 Feb. 1884.

On mixed schools of Catholics. - "... It can be tolerated that Schismatic girls be admitted into a college which sisters direct, provided that they show a good disposition, that they be instructed according to the things set forth, and yet that they not be obligated to assist at the Sacrifice of the Mass and other ecclesiastical functions, but that this be left to their judgment; with it forbidden indeed that they ever have disputations with Catholic girls about matters pertaining to religion, or go to a Schismatic temple to receive sacraments from Schismatic ministers. But if in some case this can in no way be prevented, let the sisters behave passively. And likewise with it forbidden that the girls be visited by friends and relatives, except parents and tutors, without the license of the Ordinary. Concerning all these things, the parents or tutors of the same girls are to be clearly and explicitly instructed and to consent to them before the girls themselves are admitted to the College. And let this be written to the Right Reverend Archbishop, the Ordinary, with the warning that he take care of the execution of all these things and of the spiritual good of the girls, as far as can be done, even after departure from the college; and let the sisters be instructed that if any girl asks to be converted to the Catholic faith, the matter is to be referred to the Archbishop himself, who will prudently provide according to the circumstances of the case, and should carefully take care that from the admission of Schismatic girls there be no danger, not even the least, of perversion or indifferentism for the Catholic girls. Feria VI, place IV, 1 June 1866." From this decision it can be concluded what is the mind of the S. C. S. O., and what precautions were prescribed by it in this matter. Nevertheless the decree reported cannot be held as a general rule to be applied to any other mixed boarding school, because of the diverse circumstances of each particular case. Instr. S. C. de P. F. 25 April 1880, n. 66. Cf. *Collectan. Constit.*, etc., for the use of Apostolic Workers, Paris, 1868.

On the Fifth Precept of the Decalogue

N. 402. - On Craniotomy

"Whether it can be safely taught in Catholic schools that the surgical operation which they call craniotomy is lawful, namely, when, if it is omitted, mother and child will perish; but, if it is admitted, the mother will be saved, the infant perishing? - Resp. After all things had long and maturely been weighed, account also having been taken of those things which in this matter were written by expert Catholic men and transmitted by Your Eminence to this Congregation, they judged that response should be made: It cannot be safely taught.

Which response, since Our Most Holy Lord fully confirmed it in the audience of the same feria and day, I communicate to Your Eminence..." S. O. 11 May 1884.

On the Seventh Precept of the Decalogue

N. 539. 541. - On Slaves

"1. It is lawful to capture by force or fraud Blacks and other savages who are hostile to no one. 2. It is lawful to buy, sell, and make other contracts concerning Blacks and other savages hostile to no one, captured by force or fraud. 3. When Blacks and other savages unjustly captured are mixed with others who can justly be sold, it is lawful to buy all, or, as they say, the good and the bad. 4. Buyers of Blacks or other savages are not bound to inquire concerning the title of their servitude, whether they are slaves justly or unjustly, although they know that very many of them have been unjustly captured. 5. Possessors of Blacks or other savages hostile to no one, captured by force or fraud, are not bound to manumit them. 6. Captors, buyers, and possessors of Blacks and other savages hostile to no one, captured by force or fraud, are not bound to compensate their damages. 7. It is lawful for possessors of Blacks and other slaves by private authority to expose them to manifest danger of death, to wound, burn, or kill them. 8. It is lawful to baptize Blacks and other Infidels capable of the doctrine of faith without instruction in the mysteries of faith necessary for salvation; likewise to leave the same baptized persons without that instruction. 9. Masters of Blacks and other slaves are not bound to prevent them from living in concubinage. 10. It is lawful to retain captives in servitude after Baptism, whether or not they are slaves justly. 11. It is lawful to buy Blacks from Heretics mediately or immediately, and after purchase or donation, or any other contract, for them to remain their slaves, and likewise to sell to them. To 1. It is not lawful. To 2. It is not lawful. To 3. It is not lawful. To 4. They are bound. To 5. They are bound. To 6. They are bound. To 7. It is not lawful. To 8. It is not lawful, except in the article of death. To 9. They are bound. To 10. In the negative, if unjustly. To 11. In the negative, with bad faith existing." S. I. C. 20 March 1686.

"From olden time Cambodian Christians have bought Laotians and others from neighboring peoples for their service, and they do this even if there is a founded doubt, indeed sometimes if they know certainly, that those slaves were stolen away in their own country. First of all a distinction must be made whether the captive Laotians who are sold by kidnappers were taken away from their legitimate master, or rather, being free and of their own right, have fallen into the unjust servitude of kidnappers. In the first case it is not lawful to buy them; for although they are unjustly held by the kidnappers, nevertheless it is wrong to buy the goods of another taken by theft, against the master's will. In the second case, again and likewise, a distinction must be made whether the Laotians refuse to sell themselves to Christians, or consent. If they refuse, they can by no means be bought, for the captives themselves are masters of their own liberty, although it has been unjustly stolen from them by kidnappers. But if, after they have been fully taught that liberty belongs to them by right, from which they have fallen only by the injury of others, voluntarily and of their own accord, and from their free and proper will, as masters of their own affairs, they offer themselves to Christians, that they may be received by them and detained in servitude, with this prudent plan: that, freed from the more grave and hard servitude of kidnappers, from which it had not been given to them to emancipate themselves in another way, they may obtain a milder servitude among Christian buyers, among whom also they will easily be able to persuade themselves that they can come to the knowledge of the worship of the true God and profess it with inestimable advantage to their souls; in

those circumstances indeed it will be possible to permit Christians, with regard also had to the favor of the faith, that they can acquire captives of this kind for themselves at a just price, and reduce and retain them in their own servitude, provided that they have this mind: that they treat them according to the precepts of Christian charity, and take care also to imbue them with the rudiments of faith, so that, if it can be done, they may be brought over freely and happily into the liberty of the children of God, which is in the Catholic Church alone, with no coercion however being made, but only by opportune persuasions and exhortations, through their conversion to the true faith." S. I. C. 11 Dec. 1776.

N. 559. - On the Alienation of Ecclesiastical Goods

In the Instruction of the S. C. de P. F., 30 July 1867, these things are established:

"1. In the sale of ecclesiastical goods, let an estimate of the same first be made in writing by upright experts; let all those having an interest be heard; let there be certainty concerning the evident necessity or utility of the Church. Let them be sold in favor of the higher bidder and not for a lower price than that which was estimated by the aforesaid experts. Let the price be paid in full by the buyer in the act of stipulation, and let it be placed in a productive, safe, and lawful investment; but if this is not at hand, let the price be deposited in some public chest, or with some person of proven uprightness and suitability, with security nevertheless received and drawn up in writing, to be most carefully kept by the Patriarch or Bishop of the church to which the goods sold pertain.

2. In exchanges, let an estimate of the properties first be made in writing by upright experts; let all those having an interest be heard; let there be certainty concerning the evident utility of the Church; and in the stipulation of the contract let a return on both sides to the original rights be expressly reserved in case of eviction. But if the value of the ecclesiastical property exceeds the value of the property which is received by the church in exchange, that amount of money which is necessary for equalizing the contract is to be paid to the church in the act of stipulation, and placed in an honorable, safe, and lawful investment; and meanwhile let it be deposited, as above, in a public chest, or with a person of proven uprightness and suitability.

3. In entering emphyteutic contracts, let an estimate of experts first be made; let all those having an interest be heard; let there be certainty concerning the evident utility of the Church; let the canon to be paid by the emphyteuta not be less than that which was established by the experts; let the stipulation be committed to writing, to which a description of the property and a topographical map of the same are to be added; let the emphyteuta furnish a mortgage inscription upon another suitable property of his own, or at least, this failing, the surety of suitable persons for the security of the canons of three years; and in the stipulation itself let him issue an obligation valid for himself and his heirs and successors, never to use any present or future law or privilege of redemption of the canon, and that all improvements cede to the soil.

4. If there is question of pledging the goods of the Church, or of contracting debt, it is necessary that first all those having an interest be heard, and that there be certainty concerning the true and grave necessity of the Church. If this truly intervenes, care must be taken that that debt, as soon as it will be able to be done, be discharged by the church itself; and for this reason there

is to be imposed on it, in individual cases, the obligation of extinguishing the contracted debt by annual installments to be predefined by the Bishop himself. To that effect certain determinate revenues of the same church will have to be assigned, and on each occasion deposited in a public chest, or with an honest and suitable person, so that they can be invested at their time.

5. But when it happens that money of the Church is to be invested, two things must first most diligently be taken care of: first, that any usurious stain be far distant from contracts to be entered; second, that provision be made for the indemnity of the Church. Therefore let its money not be placed except with honest and suitable persons, who furnish a mortgage inscription, or at least suitable surety; and let all contracts of this kind be committed to public records according to the received custom of the regions.

6. Finally, in leases of ecclesiastical goods, care must be taken that the aforesaid leases be made at a just price, and that the payment of the annual return not be made in advance to the prejudice of successors. But it will not be lawful to lease ecclesiastical goods beyond three years; yet the Ordinary, if he has obtained from the Apostolic See a special faculty concerning the alienation of ecclesiastical goods, can permit the aforesaid leases to be made even beyond the aforesaid time, provided that it does not exceed nine years." Cf. Zephyrinus Zitelli, *Apparatus Iuris Eccles.*, Rome, 1866, p. 53.

"Whether goods belonging to a religious family or to another pious Institute, which nevertheless in the civil forum are registered as the property of a private person, can be alienated without previous permission of the Holy See? Resp. In the negative." S. C. EE. and RR. 17 Feb. 1866. Cf. *Commentary on the Constitution Apostolicae Sedis*, nn. 83, 84.

N. 672. - Case Concerning Restitution

"Whether a Christian faithful person who knowingly and willingly destroys and ruins the walls, doors, and implements of an idol temple, and for that reason is seized by the Heathens, ought or can repair the damage, at least under another title? - Resp. He is bound to restitution, under the title of justice." S. I. C. 21 Sept. 1842.

N. 708. - On Restitution in Sound Money

"Whether a simple condition added in a promissory note concerning restitution of money to be made in no other way than in sound money loses its force even in the forum of conscience through a subsequent civil law invalidating it? - Resp. Regularly in the affirmative, unless peculiar circumstances stand in the way, concerning which recourse must be had in particular cases, with the same diligently set forth." S. Poenit. 21 Jan. 1873. Cf. *Acta S. Sed.* Vol. 7, p. 209 ff.

N. 750. - On the Recent Usurpation of Ecclesiastical Goods in Italy; on Protestation, Inventories, Pensions, Absolution, and Reparation of Damages

"It is necessary to hold as a basis that Churches, monasteries, convents, as well as ecclesiastical properties, must not be guarded *more castrorum*; if consequently material resistance cannot be opposed

to force, nevertheless moral force can be opposed to it, and the aforesaid things can be protected with analogous protests, according as the Sacred Canons prescribe in similar conjunctures; to keep oneself in a merely passive manner, and to yield only to imminent coercion..." S. Poenit. 20 July 1855.

"Whether Ordinaries, Parish Priests, Beneficiaries, and the other administrators of Ecclesiastical Goods, if they are required under grave penalties, can hand over to the Government an inventory of the respective revenues? - Resp. It is permitted, but with a protestation put forth in writing in the individual acts by the respective administrators concerning the necessity of the handing over in order to avoid greater evils, and for the protection of the rights of the Church. But the mind of the Most Holy Lord is that Ordinaries, before or after the handing over, if it can be done, make a collective protestation concerning the foregoing, reverently indeed, but with evangelical liberty." S. Poenit. 10 Dec. 1860.

"Whether Parish Priests and other Ecclesiastics, to whom damage has been inflicted by the abolition of Tithes made by the Government, can accept compensations proposed by that Government? - Resp. They can, according to the oracle of the Most Holy Lord, under the title of mere compensation for the damage inflicted on them by the Government because of the impeded exaction of Tithes, receive pensions assigned by the Government; nevertheless with a protestation first made, either by the Ordinary of the place in common, or by any one of the said Parish Priests or Ecclesiastics in particular, that by a receiving of this kind the abolition of Tithes made by the Government is in no way recognized or approved, and with the debtors of the same Tithes cautiously admonished that by force of the law enacted by the Government they are not freed from the burden of paying the same." S. Poenit. 10 Dec. 1860.

"Whether those who seek absolution ought, before they are absolved, to repair those damages which the Pontifical Government has suffered in the present vicissitudes of affairs? - Resp. It suffices that in mind they be prepared to stand by the commands of the Holy See to be issued concerning this." S. Poenit. 10 Dec. 1860. Cf. Gury-Ballerini, Vol. 2, n. 1092 ff.; Scavini, bk. 4, App. 32, Milan, 1874.

N. 822. - On the Succession of Religious

"1. To whom belongs the right of succeeding to the inheritance of a professed Regular dying outside the Cloisters, who obtained an Apostolic Indult of remaining outside the Cloisters for a time, retaining the habit or having laid aside the clothing of his Order? 2. To whom belongs the right of succeeding to the inheritance of a professed Regular who, having in the unhappy time passed been cast out of the monastery by public way, and stripped of the clothing of his Order, was prevented by reasonable cause from returning to his monastery and reassuming the clothing of his Order in the subsequent time of tranquility? 3. To whom belongs the right of succeeding to the inheritance of a professed Regular who obtained an Apostolic Indult of acquiring inheritances and legacies, and of disposing of those acquired, and especially if the disposition was for pious causes and in favor of Religion? - Resp. To 1. Concerning an inheritance of this kind judgment must be made according to the dispositions of common Ecclesiastical Law, namely, that it belongs to the proper Religion of the deceased. To 2. If the religious of whom there is question did not enjoy an absolute Indult of perpetual secularization, as in the preceding case. But if he did enjoy it, a distinction must be made among the goods left by him: namely, the goods which belonged to the Religion and which, leaving the Cloister, he himself had brought out with him, or which had come to him in any way, as also the

goods, if he had any, coming from those, remain with the same Religion. But as regards the other goods acquired by such a Religious outside the Cloisters otherwise than from goods belonging to the Religion, judgment concerning them must be made according to the Constitution *Officii nostri* of Gregory XIII. To 3. If the said Religious legitimately used the Apostolic Indult of disposing of goods, as in the case, namely with a disposition everywhere legitimate of the same goods having been made, the right about which there is question belongs to him in whose favor the disposition was made." S. C. EE. and RR. 26 June 1829.

"... General Responses... 1. A monk, even furnished with an Apostolic Indult of perpetual and absolute secularization, cannot dispose of goods without the special good pleasure of the Apostolic See. 2. If he lacks the said Indult of disposing, or has not legitimately used it, a distinction must be made among the goods left by him, namely, the goods which belonged to the Monastery and which, leaving the cloister, he himself had brought out with him, or which had come to him in any way, as also the goods, if he had any, coming from those, remain with his Monastery. But as regards the other goods acquired by such a Monk outside the cloisters otherwise than from goods belonging to religion, judgment concerning them is to be made according to the Constitution *Officii nostri* of Gregory XIII, where the said Constitution is in force. 5. The right of succeeding to the inheritance of a professed Monk dying outside the cloisters, who obtained an Apostolic Indult of remaining outside the cloisters for a time, retaining the habit or having laid aside the clothing of his Order, belongs to his Monastery." S. C. EE. and RR. 4 Jan. 1862. The cited Constitution of Gregory establishes that goods of Regulars living outside the cloisters, from whatever source they came, under the name of spoils, pertain to the Apostolic Camera.

"1. Whether pensions which are paid from the public treasury to Regulars living outside the Cloisters are to be held as Ecclesiastical pensions, so that by their nature they are subject to spoil? And, in the negative, 2. To whom belongs after their death the right of receiving unpaid installments of the said pensions, if professed Regulars obtained an Apostolic indult of remaining outside the Cloisters, whether for a time or in perpetuity? 3. To whom belongs the same right, if professed Regulars of this kind obtained an indult of making a will and disposing? 4. To whom belongs the aforesaid right, if there is question of Regulars who emitted only simple vows? - Resp. To 1. In the negative. To 2. If the Indult was temporary, it belongs to the proper Religion of the deceased; if perpetual, to the S. C. of Spoils according to the Constitution *Officii nostri* of Gregory XIII. To 5. The right about which there is question pertains to him in whose favor the disposition was made, if the Regular legitimately used the Apostolic Indult of disposing of goods; insofar as he did not legitimately use the same Indult, the resolution given in the second is to be observed. - To 4. It belongs neither to the Religion nor to the S. C. of Spoils, but to his heirs, coming either ab intestato or from a testament." S. C. EE. and RR. 6 June 1836.

N. 825. - Sacred Utensils Which Are Owed to the Cathedral Church When a Bishop Dies

"... In order to cut off all causes of doubt and controversy concerning this matter, by the counsel of Our Venerable Brothers, Cardinals of the Holy Roman Church set over the affairs and consultations of Bishops and Regulars, by Our Apostolic authority we decree and command these things which follow. I. Cardinal Bishops are bound, as regards sacred utensils, by the law enacted in the Constitution of St. Pius V beginning *Romani Pontificis*, except however suburbicarian Cardinal

Bishops, and likewise except Cardinal Abbots Nullius who dwell in the Roman Curia, whose sacred utensils, in view of the cited Constitution *Aequum est* of Urban VIII, Our Predecessor, will pertain to the Pontifical sacrarium. II. The derogatory clauses of the Constitution of St. Pius V, whose beginning is *Romani Pontificis providentia*, remaining firm, in the Letters in the form of a Brief beginning *De benignitate Sedis Apostolicae*, customarily to be appended, in the other Brief, which begins *Cum fel. rec. Urbanus VIII*, let the clause be removed by which the same Pian Constitution is declared saved, and in its place let those things which follow be substituted: But if you have presided over abbatial, cathedral, metropolitan, patriarchal churches, or any others which by Apostolic concession and dispensation you have obtained in title, administration, or commendam, we vehemently exhort you, just as Benedict XIV, Our Predecessor, in his Constitution beginning *Inter arduas*, exhorted Cardinals, that in disposing of the aforesaid things you have those churches before your eyes and prefer them to the rest. But those things which we have prescribed in this article, we extend to individual Cardinals who before the publication of the present Letters obtained the announced faculty of making a will and disposing, just as if they had been expressed in the respective indults. III. The sacred utensils which, by force of the Constitution of St. Pius V beginning *Romani Pontificis*, are owed to cathedral churches, we declare to be these: namely, miters, chasubles, copes, tunicles, dalmatics, sandals, gloves, albs with cinctures, linen amices, and things similar to these; likewise missals, graduals, books of plainchant and music, pontifical books, another book whose title is *Canon of the Mass*; likewise chalices, patens, pyxes, monstrances, thuribles, vessel of holy water with sprinkler, basin with ewer, vessels of the sacred oils, and cruets together with basins and bell, candlesticks, images of peace, archiepiscopal crosses, candlesticks with cross for the use of the altar, pastoral staff, faldstool, and other sacred things, whether vestments, ornaments, or vessels, if there are any, even those by their nature suitable for profane use, provided that not accidentally but permanently they have been destined for divine worship and sacred functions; except rings and pectoral crosses, even with sacred relics, and all those utensils of whatever kind which are legitimately proved to have been acquired by the deceased Bishops from goods not pertaining to the church, nor is it established that they were donated to the church. Therefore we will that Bishops are held and bound to make, in authentic form, an inventory of sacred utensils, in which, according to the truth of the matter, they express when they were acquired, and by a special note describe those which they acquired for themselves from the revenues and proceeds of the church, lest otherwise all those things be presumed to have been acquired from the revenues of the church. But as regards sacred utensils of Cardinals of the Holy Roman Church pertaining to the sacrarium of the chapel of the Supreme Pontiff, we will that no account be taken of the quality and nature of the revenues by which they were acquired; and besides those things which are enumerated specifically in the Constitution of Urban VIII beginning *Aequum est*, we will that the following be understood as expressed only by general words: sandals, gloves, linen amices, albs with cinctures, likewise pyxes, monstrances, vessel of holy water with sprinkler, vessels of sacred oils, and cruets with basins and bell, finally pastoral staff, faldstool, candlesticks, images of peace, thurible, and things similar to these, except rings and pectoral crosses, even with sacred relics. IV. When a Bishop has ruled two or more churches successively, we will that the sacred utensils be divided proportionally among the cathedral churches, account being taken of the fruits and the time, according to the Constitution of St. Pius V beginning *Romani Pontificis*. V. But where some Bishop has presided at the same time over two or more churches united, or conceded in perpetual administration, which have a Chapter and their own distinct cathedral church, we declare

that a division of the sacred utensils must be made in equal parts to the individual cathedral churches, insofar as the revenues of the same united churches, or churches conceded in perpetual administration, are not divided, but perpetually constitute one episcopal mensa. But if the revenues have been divided and separated, we will that the division be made to the individual cathedral churches proportionally by reason of the fruits. VI. But if it is established that a Bishop, who by translation presided over two churches successively, acquired for himself all the sacred utensils from the revenues only of one church, there will be no place for any division, but the same sacred utensils will pertain only to the cathedral church of that diocese from whose episcopal mensa's proceeds they were acquired." Pius IX, *Cum illud*, 1 June 1847.

N. 853 ff. 863 ff. - On Profit from a Loan

"It often happens that questions concerning profit from a loan are referred to the Apostolic See, for which provision has been made by an appended resolution from the Roman Congregations in similar cases. Therefore, so that the Superiors of Missions may have at hand necessary knowledge of those things which thus far have been decreed on this matter, it seemed opportune to the Sacred Council for the Propagation of the Christian Name to publish all the mentioned resolutions together with the Constitution *Vix pervenit* of Pope Benedict XIV; and it pleased it that they be sent to all Bishops, Vicars, and Apostolic Prefects depending on the same Sacred Congregation.

I.

S. C. S. O. under date of 13 Jan. 1780, to the Right Reverend Lord Apostolic Vicar N.N. - "Since equality is required in contracts in order that they be just, nothing in a loan, by force of the loan, as has often been defined, is to be received beyond the principal sum. But if it happens that profit ceases for the lender, or damage arises, or danger threatens of losing the sum, or of assuming unusual labors for its recovery, compensation for these indeed can be sought, yet with two conditions always placed before the eyes: the first, that some new title from these actually concur; the other, that nothing more be exacted than it truly demands. Wherefore all contracts depart from the rule of justice, and are liable to restitution, in which either an interest is feigned which is to be compensated, or more is sought than adequate compensation requires. Therefore it is evident that those act imprudently and illicitly, and commit themselves to manifest danger of injustice, who, from the fact that the danger which we indicate generally occurs in such a place, always require profit, and always the same profit, as if danger always intervenes, and, when it has been present, seek always the same remuneration. Nor are they excused because they receive a usury smaller than what is permitted by the law of the kingdom; since a thing is not therefore right because it departs less from justice, unless it is composed entirely to the form of right; and human actions are to be weighed not by human law but by divine law and natural law, which holds fast to equity. Those alone conduct themselves rightly who, looking to individual cases, then only demand compensation when danger truly intervenes, and then seek no other compensation than that which corresponds to the gravity of the danger, which is to be estimated by the judgment of upright and therefore prudent men."

II.

Sacred Roman Inquisition, year 1784, March 18, to the Apostolic Vicar D. D. M., on the question of a loan. - "And that first of all is certain, that by reason of the loan immediately and precisely nothing is to be received beyond the principal sum. But if something is received by reason of a probably

imminent danger, the lenders are not to be disquieted, provided that account be had of the quality of the danger and of its probability, and that proportion be observed between the danger and that which is received. In these very words it was thus defined by the Sacred Congregation de Propaganda Fide on 12 September in the year 1645, whose decree issued for the Chinese Missions is joined here. But the following doubt was:

In the aforesaid kingdom it was sanctioned by law that in a loan thirty per cent be received, without regard to ceasing profit or emerging damage. It is asked whether it is lawful for the Chinese, for the loan of their money, although ceasing profit or emerging damage does not intervene, to receive the aforesaid quantity of thirty per cent fixed by the law of the kingdom; and the cause of doubting is because in recovering the money there is some danger, namely, that he who receives the loaned thing may flee, or that he may delay in paying, or that it may be necessary to seek recovery before a judge, or because of other things of this kind.

The Most Eminent Fathers judged that by reason of the loan immediately and precisely nothing is to be received beyond the principal sum. But if they receive something by reason of a probably imminent danger, as in the case, they are not to be disquieted, provided that account be had of the quality of the danger and of its probability, and proportion observed between the danger and that which is received.

At the supplication of the same Congregation, Our Most Holy Lord, in order to preserve uniformity in preaching and in its practice, strictly commanded and ordered all and singular Missionaries of whatever order, religion, and institute, even of the Society of Jesus, existing for the time being, or to exist, in the kingdoms of the Sinas or of China, under penalty of excommunication latae sententiae specially reserved to His Holiness and to the Holy Apostolic See, that they diligently observe the aforesaid responses and resolutions, use them in practice, and cause them to be observed and practiced by those to whom it will pertain, until His Holiness or the Holy Apostolic See shall have ordered otherwise.

It can now be asked what the danger ought to be, and what its character and nature, so that, this title concurring, the lender can receive something beyond the principal. But in this question it is to be held as certain that not just any danger whatever is to be judged sufficiently apt and suitable so that some profit can be received from a loan. For since the title from which a just and legitimate cause arises that something more beyond the principal due from the loan be rightly exacted must always be extrinsic, and not joined and innate to the nature of the loan, hence it plainly follows that if the danger proceeds only from those circumstances which are common there to all lenders and cannot be separated from the nature itself of the loan, then certainly any profit whatever which is taken from the loan can by no means be purged from the stain of usury. Therefore, since plague, fires, persecutions of the Turks, and other misfortunes of this kind, although they are more frequent at Constantinople, nevertheless always threaten lenders in any city whatever, great care must be taken lest because of this common danger, which the force and nature of the loan itself carries, something beyond the principal be exacted in a loan. It seems rather to have greater inquiry when danger of losing the principal threatens either from the fault of the borrower himself, because he is crafty, deceitful, sly, because by flight or by malicious evasions he can deceive the creditor; or when, apart from the fault of the borrower himself, other dangers threaten the creditor from circumstances of place, time, and persons, which keep him very anxious and solicitous in recovering the principal. But

although dangers which proceed from the fault of the borrower ought always to be held as more important, nevertheless in all these cases whether, how, and at what value such danger can be estimated, from which a legitimate title is furnished to the lender for taking profit above the principal, is indeed very difficult to establish generally. Let the skill and doctrine of Confessors be incumbent on estimating each matter and weighing it by its own moment. Let them weigh individual cases, inquire concerning the quality and probability of the danger, see whether by the security of a pledge every danger is absent, observe proportion between the danger and that which is permitted to the lender to gain above the principal, consult approved authors, and especially adhere to the opinions and principles approved by this Apostolic See, both in the above-praised decree of the Sacred Congregation de Propaganda Fide of the year 1645, and in the Encyclical Letter of Benedict XIV, *Vix pervenit*, issued in the year 1745, an example of which is alleged here."

Encyclical of Benedict XIV of Holy Memory — On Usuries and Other Unjust Gains

"It scarcely reached our ears that, on account of a new controversy, namely, whether a certain contract ought to be judged valid, certain opinions were being spread through Italy which did not seem consonant with sound doctrine, when at once we judged it part of our Apostolic office to bring an opportune remedy, lest an evil of this kind acquire more strength by length of time and silence; and to block its access, lest it creep more widely and shake cities of Italy still unharmed.

§ 1. Wherefore we undertook that method and plan which the Apostolic See has always been accustomed to use. Indeed we explained the whole matter to some of our Venerable Brothers, Cardinals of the Holy Roman Church, who are much commended by their knowledge of Sacred Theology and by their zeal and skill in Canonical Discipline. We also called several Regulars excellent in both faculties, some of whom we selected from Monks, others from the Order of Mendicants, and finally others from Clerks Regular. We also employed a Prelate endowed with the laurel in both laws and long versed in the forum. We appointed the fourth day of July, which recently passed, that all these should come together before Us; to them we declared the nature of the whole matter, which we found had been known and perceived by them beforehand.

§ 2. After these things we commanded that, freed from every party zeal and every desire, they accurately weigh the whole matter and write out their opinions. We did not, however, ask from them that they render judgment concerning the contract which had initially given cause to the controversy, since several documents were not available which were necessarily required for this; but that they establish certain doctrine concerning usury, to which those things which recently began to be spread among the people seemed to bring no slight detriment. All carried out the commands: for they openly declared their opinions in two Congregations, the first of which was held before Us on 18 July, but the other on the first day of August, months which have recently elapsed; and finally they handed the same opinions in writing to the Secretary of the Congregation.

§ 3. Moreover, with unanimous consent they approved these things.

I. That kind of sin which is called usury, and which has its proper seat and place in the contract of loan, is placed in this: that someone, from the loan itself, which by its own nature demands that only as much be returned as was received, wishes more to be returned to himself than was received, and

therefore contends that some profit beyond the principal is owed to him by reason of the loan itself. Therefore every profit of this kind which exceeds the principal is illicit and usurious.

II. Nor indeed, to purge that stain, will any assistance be able to be fetched, either from the fact that that profit is not excessive and too much, but moderate; not great, but small; or from the fact that he from whom that profit is demanded because of the loan alone is not poor, but rich; nor that he is not going to leave idle the sum given to him as a loan, but is going to expend it most usefully for enlarging his fortunes, or for buying new estates, or for carrying on profitable businesses. Indeed, against the law of loan, which necessarily turns on the equality of what is given and what is returned, he is convicted of acting, whoever, once the same equality has been posited, still does not fear to exact something more from anyone by force of the loan itself, to which satisfaction has already been made by an equal amount. And therefore, if he has received it, he will be liable to restitution, from the obligation of that justice which they call commutative, and whose office it is, in human contracts, both to preserve holily the proper equality of each one and exactly to repair it when not preserved.

III. By these things, however, it is by no means denied that sometimes, together with the contract of loan, certain other titles, as they say, can perhaps concur, and these by no means universally innate and intrinsic to the nature itself of loan, from which an altogether just and legitimate cause arises of rightly exacting something more above the principal due from the loan. Likewise it is not denied that many times money belonging to each person can rightly be placed and expended through other contracts entirely different in nature from the nature of a loan, whether for obtaining annual revenues for oneself, or also for exercising lawful commerce and business, and for receiving honorable profits from the same.

IV. But just as in so many diverse kinds of contracts of this sort, if the equality proper to each is not preserved, whatever is received beyond the just amount, if it pertains less to usury, because every loan, both open and disguised, is absent, yet certainly is known to pertain to another true injustice, likewise bringing the burden of restitution; so, if all things are rightly performed and are exacted according to the scale of justice, there is no doubt that a manifold lawful mode and reason is available in the same contracts for preserving and carrying on human commerce and fruitful business itself for the public advantage. For let it be far from the minds of Christians that they think profitable commerce can flourish through usuries or similar injuries against another; since, on the contrary, from the divine oracle itself we learn that justice exalts a nation, but sin makes peoples miserable.

V. But this must diligently be observed: anyone will falsely and rashly persuade himself that there are always found, and everywhere at hand, either other legitimate titles together with a loan, or, even with loan excluded, other just contracts, by whose support of titles or contracts, whenever money, grain, or anything else of that kind is credited to any other person, it is always lawful to receive a moderate increase beyond the whole and safe principal. Thus if anyone should think, he will without doubt be opposed not only to divine documents and to the judgment of the Catholic Church concerning Usury, but also to common human sense itself and natural reason. For no one at least can be ignorant of this: that in many cases a man is bound to help another by a simple and bare loan, especially Christ the Lord Himself teaching: *From him who wishes to borrow from you, turn not away*; and that likewise in many circumstances, besides the one loan, there can be place for no other true and just contract. Therefore whoever wishes to consult his conscience must first diligently inquire whether truly with the loan another just title occurs, or truly another just contract different from the

loan occurs, by whose benefit the profit which he seeks may be rendered free and immune from every stain.

§ 4. In these words the Cardinals, Theologians, and men most skilled in the Canons, whose counsel we requested in this most grave matter, comprise and explain their opinions. We also applied our private study to the same cause before the Congregations were held, and while they were being held, and even after they had been completed; for we most diligently went through the votes of the outstanding Men whom we have just mentioned. Since these things are so, we approve and confirm whatever is contained in the opinions set forth above; since plainly all Writers, Professors of Theology and of the Canons, several testimonies of the Sacred Scriptures, Decrees of Our Predecessor Pontiffs, and the authority of Councils and Fathers seem to conspire well for proving the same opinions. Furthermore, we have most clearly known the Authors to whom contrary opinions must be referred, and likewise those who foster and defend them, or seem to provide an opening or occasion for them. Nor are we ignorant with how much wisdom and gravity Theologians neighboring those regions where controversies of this kind had their beginning undertook the defense of truth.

§ 5. Therefore we have given these Encyclical letters to all Archbishops, Bishops, and Ordinaries of Italy, so that these things may become known to you, Venerable Brother, and to all the rest; and as often as it happens that you celebrate synods, speak to the people, and instruct them with sacred doctrines, nothing at all alien from those opinions which we have reviewed above should be brought forward. We also vehemently admonish that every solicitude be spent, lest anyone in your dioceses dare to teach the contrary in writings or sermons. But if anyone refuses to obey, we declare him liable and subject to the penalties proposed by the Sacred Canons against those who have contemned and violated Apostolic commands.

§ 6. But concerning the contract which has excited these new controversies, we establish nothing at present; nor do we now decree anything concerning other contracts for which Theologians and Interpreters of the Canons go into different opinions. Nevertheless we judge that the zeal and religion of your piety must be inflamed, so that you commit to execution these things which we set forth below.

§ 7. First, show your peoples in most grave words that the stain and vice of usury is vehemently disapproved by the divine Scriptures, and indeed that it puts on various forms and species, so that it may again drive headlong into extreme ruin the Faithful restored by the Blood of Christ into liberty and grace. Wherefore, if they wish to invest their money, let them diligently take care that they not be carried away by cupidity, the fountain of all evils, but rather seek counsel from those who are raised above the rest by the glory of doctrine and virtue.

§ 8. In the second place, those who so trust their own powers and wisdom that they do not hesitate to bring a response concerning those questions, which nevertheless require no slight knowledge of Sacred Theology and of the Canons, should abstain far from extremes, which are always vicious. For some judge concerning those matters with such severity that they accuse any utility taken from money as illicit and joined with usury; but on the contrary some are so indulgent and remiss that they think any advantage whatever free from the baseness of usury. Let them not cling too much to their private opinions; but before they render a response, let them examine several Writers who are more praised among the rest; then let them take up those parts which they understand to be plainly confirmed both by reason and by authority. But if a dispute arises while some contract is brought into

examination, let absolutely no insults be fabricated against those who follow the contrary opinion, nor let them assert that it must be marked with grave censures, especially if it is by no means lacking in reason and in the testimonies of outstanding Men; since reproaches and injuries break the bond of Christian charity and carry before themselves a most grave offense and scandal to the people.

§ 9. In the third place, those who wish to present themselves immune and intact from every stain of usury, and to give their money to another in such a way that they receive only a legitimate fruit, are to be admonished that they first declare the contract to be established, explain the conditions to be introduced, and what fruit they seek from the same money. These things contribute greatly not only to avoiding anxiety of mind and scruples, but also to proving the contract itself in the external forum; these things also close the way to disputes, which more than once are stirred up so that it may clearly appear whether the money which seems to have been rightly given to another nevertheless in reality contains disguised usury.

§ 10. In the fourth place we exhort you not to leave a way open to the foolish speeches of those who keep saying that in this time a question about usury is being instituted which consists in name alone, since from money which is granted to another by any reason whatever, fruit is generally obtained. For how false this is, and alien from truth, we plainly discover if we weigh that the nature of one contract is entirely different and separated from the nature of another; and likewise that the things which follow from contracts different among themselves differ greatly among themselves. In truth, a most clear distinction lies between the fruit which by lawful right is taken from money, and therefore can be retained in both forums, and the fruit which is illicitly procured from money, and therefore is decreed by the judgment of both forums to be restored. Therefore it is clear that the question about usuries is not proposed in this time in vain because of that cause, that generally from money which is given to another some fruit is received.

§ 11. These things especially we judged had to be indicated to you, hoping that you will command whatever is prescribed by Us through these Letters to be put into execution. You will also, as we trust, consult by opportune remedies if perhaps, because of this new controversy concerning usuries, disturbances are stirred up in your diocese, or corruptions are introduced to shake the brightness and purity of sound doctrine. Finally we impart the Apostolic Benediction to you and to the flock entrusted to your care.

Given at Rome at St. Mary Major, on the 1st day of November, 1745, in the sixth year of Our Pontificate."

III.

Pius VIII, in the audience of the Assessor of the Holy Office, to the doubts of the Bishop of Rennes. - "The Bishop of Rennes in France sets forth to the Sacred Congregation of the Inquisition that there is not the same opinion among the Confessors of his diocese concerning profit received from money given as a loan to merchants, that they may become rich.

Concerning the sense of the encyclical letter *Vix pervenit*, there is sharp dispute. From each side arguments are brought forward to defend the opinion each has embraced, either favoring such profit or contrary to it. From this come complaints, dissensions, denial of the sacraments to many merchants adhering to that manner of becoming rich, and innumerable harms to souls.

In order that they may meet harms to souls, some Confessors think that they can hold a middle way between each opinion. If someone consults them about profit of this kind, they try to deter him from it. If the penitent perseveres in the plan of giving money as a loan to merchants, and objects that the opinion favoring such a loan has many patrons, and furthermore has not been condemned by the Holy See, which was consulted on this matter more than once, then those Confessors demand that the penitent promise that he will obey with filial obedience the judgment of the Supreme Pontiff, if it should intervene, whatever it may be. And, this promise having been obtained, they do not deny absolution, although they believe the opinion contrary to such a loan to be more probable. If the penitent does not confess concerning profit from money so given as a loan, and seems to be in good faith, those Confessors, even if from another source they know that such profit was received by him, or is even now being received, absolve him, with no interrogation made on that matter, when they fear lest the penitent, having been admonished, refuse to restore or to abstain from such profit. Therefore the said Bishop of Rennes inquires: I. Whether he can approve the manner of acting of these latter Confessors. II. Whether he can exhort other stricter Confessors who approach him for the sake of consultation to follow their manner of acting, until the Holy See renders an express judgment concerning this question. C. L., Bishop of Rennes.

Place of the Seal.

Feria IV, on the 18th day of August 1830. Our Most Holy Lord Pius VIII, Pope by divine providence, in the usual audience imparted to the Right Reverend Lord Assessor of the Holy Office, having heard the report of the above doubts together with the vote of the Most Eminent Lords Cardinals, General Inquisitors, responded: To I. They are not to be disquieted. To II. Provided for in the first. For Lord Nicholas Soldini, Notary of the Holy Roman and Universal Inquisition, Angelus Argenti, Secretary."

Place of the Seal of the Holy Inquisition.

IV.

Of the Sacred Penitentiary to the doubts of Lord Denavit, Professor of Theology in the Seminary of St. Irenaeus of Lyons. - "When doubts concerning the matter of usury are proposed to the Sacred Penitentiary, it always refers to the doctrine of the Supreme Pontiff Benedict XIV, which in truth is sufficiently clear and plain for those who wish to examine it in good faith.

Nevertheless there are certain Presbyters who contend that it is lawful to receive an increase of five percent by the force alone of the law of the Prince, without another title either of emerging damage or of ceasing profit, because, they say, the law of the Prince is a legitimate title, since it transfers dominion of the increase just as it transfers dominion in prescription; and thus they utterly annihilate the divine law and the ecclesiastical law which prohibit usuries.

Wherefore the undersigned Orator humbly begs that the following doubts be resolved: I. Whether he can in conscience deny absolution to the aforesaid presbyters. II. Whether he ought to. Lyons, 25 May 1830. Denavit, Professor.

The Sacred Penitentiary, after the proposed doubts had been diligently and maturely weighed, judged that response should be made: The Presbyters of whom there is question are not to be disquieted until the Holy See has issued a definitive decision, to which they are prepared to subject themselves; and therefore nothing stands in the way of their absolution in the sacrament of Penance. Given at

Rome, in the Penitentiary, on 16 September 1830. E. Cardinal De Gregorio, Major Penitentiary; F. Fricca, Secretary of the Sacred Penitentiary."

V.

The Sacred Penitentiary communicates to the Bishop of Verona responses given at other times by the Supreme Congregation of the Holy Office. - "The Sacred Penitentiary, having read the things set forth by the Venerable Father in Christ, the Bishop of Verona, in his supplicatory petition on the 1st day of the recently elapsed month, judged that it should abstain from the resolution of the four doubts which were proposed in it, but communicates to the orator the responses given by the Supreme Congregation of the Holy Office to certain other doubts concerning the same matter. These are of this kind:

I. Whether a Confessor can in conscience deny absolution to presbyters who contend that the law of the prince is a sufficient title for receiving something beyond the principal without another title either of ceasing profit or of emerging damage. II. Whether he ought to. It is answered: To both, they are not to be disquieted until the Holy See has issued a definitive decision, to which they are prepared to subject themselves; and therefore nothing stands in the way of their absolution in the sacrament of Penance.

Other doubts. - I. Whether that Confessor can be absolved who, although he knows the definitions of Benedict XIV and of other Supreme Pontiffs concerning usury, teaches that from a loan made to the rich or to merchants there can be received beyond the principal a profit of five percent even by those who have absolutely no other title extrinsic to the loan except civil law. II. Whether a Confessor sins who leaves in good faith a penitent who from a loan exacts profit established by civil law without an extrinsic title of ceasing profit, or emerging damage, or extraordinary danger. It is answered: To I. The Confessor of whom there is question is not to be disquieted until the Holy See has issued a definitive decision, to which he is prepared to subject himself; and therefore nothing stands in the way of his absolution in the sacrament of Penance. To II. Provided for in the preceding, provided the penitents are prepared to stand by the commands of the Holy See.

Other doubts. - A certain man was persuaded that the encyclical of Benedict XIV did not prohibit profit received from the lending of money according to the things disposed by civil law. His heirs ask: I. Whether he understood the encyclical rightly. II. Even supposing that he understood it badly, yet was persuaded that he understood it rightly, whether the heirs can think themselves exempt from every reparation. It is answered: To I. Let them acquiesce, provided they are prepared to stand by the commands of the Holy See. To II. Provided for in the first.

Other doubts. - I. Whether the manner of acting of those Confessors can be approved who, while they hold as more probable the opinion contrary to profit from money given as a loan to merchants, absolve penitents receiving profit in that way so that they may become rich, when namely those penitents, objecting that the opinion favoring profit has not been condemned by the Holy See, nevertheless promise to obey the judgment of the Supreme Pontiff, if it should intervene; and who act similarly when penitents receiving profit in good faith do not confess concerning it, although from another source they know that the same persons receive profit as above, with no interrogation made on that matter when they fear lest the penitents, admonished to restore or to abstain from such profit, refuse. II. Whether a Bishop can exhort stricter Confessors approaching him for the sake of

consultation to follow the manner of acting of the former Confessors, until the Holy See renders an express judgment concerning this question. It is answered: To I. They are not to be disquieted. To II. Provided for in the first. Given at Rome, in the Sacred Penitentiary, on 14 August 1831. V. D. Solimei, Secretary of the Sacred Penitentiary."

VI.

Of the General Congregation of the Holy Office, approved by Gregory XVI, concerning the questions of the Chapter of the Collegiate Church of Locarno. - "Questions of the Chapter of Locarno.

"Most Blessed Father. The Chapter of this Collegiate Church of Locarno, Diocese of Como, Swiss territory, has the greater part of its prebends in money, derived chiefly from the extinction of tithes which occurred by governmental decree. This money it must employ, in order to live from the fruits of it and to fulfill the burdens annexed to the benefices.

By the circumstances of the times and places, either one does not find at all how to invest the said money in fruitful real properties, which are very scarce in proportion to the population; or, because of the high price of said real properties, it would bear only two and a half percent annually, which would excessively worsen the prebends, already meager in themselves.

Censuses are deemed prohibited by these municipal laws; and they are badly secured, since in these parts there is no office of mortgages which certifies the freedom and sufficiency of the properties on which they are wished to be established. Furthermore, the very same persons who, to carry on their interests, ask us for the money, ordinarily refuse to subject themselves to censuses and prefer to receive it as a loan, contributing four or five percent annually.

This being premised, it is asked: I. Whether the necessary honorable support of the beneficiaries, which must come from the fruit of the capital of such prebends, is in such circumstances a sufficient title equivalent to others already approved by the Church, by which such a contract would be lawful, namely, of giving the dotal money of the said prebends at interest of four or five percent, behind a mortgage of immovable goods, for the purpose of securing the perpetuity of the prebends. II. Whether this title, supposing it admissible, can be extended also in favor of churches, monasteries, and other pious places, as also of wards and other persons who find themselves in the same circumstances described above and need to make their own money fruitful in order to support themselves honorably. III. Whether the civil laws and procedures which now generally approve such contracts and have them executed, as well as the common tacit consent of the peoples, who by the usage prevailing for centuries seem to have substituted them, for greater convenience and ease, for other more complicated and difficult contracts, suffice to justify them. IV. Whether the authority of our Ordinary and of many wise and good ecclesiastics is to be attended to, who, having had before their eyes the aforesaid circumstances, opine favorably and approve similar contracts. V. What consideration, in the matter, is deserved by the reasons which Scipione Maffei brings forward in his three books on the employment of money, dedicated to Benedict XIV and approved by the Inquisitor of Padua in the year 1744. VI. Whether the Bull *De usuris*, issued by Benedict XIV of happy memory in the year 1745, probably following the work of Maffei, at n. 3 of it and at the article *de contractu autem* and following, can be interpreted favorably to such contracts. VII. Supposing such contracts illicit, what is to be resolved concerning those already made and the fruits already received? VIII. Whether such contracts can be rendered lawful at least by assuming the fortuitous danger of the fund assigned

in pledge to the burden of the prebend, with the due propositions, as in censuses. The undersigned orators humbly desire and implore from Your Holiness a clear and opportune decision of these their doubts, for the regulation of their own and of others' consciences, generally agitated in the matter. Locarno, 13 May 1831.

The agent adds the general and very great scarcity of money or of properties, these ordinarily in the possession of few. With the loan of money taken away, the possessors, for the most part unfit for commerce and the arts, their few capitals consumed, would easily be reduced to misery. Others, unprovided with their own money and with immovable properties to exchange into cash, could not advance by industry. Lacking Monti di Pieta, they would often be obliged to sell the small paternal inheritance, and often at a very vile price, in their necessities. The agitation of consciences is beyond measure great. Hence several Ordinaries, all things considered, have pronounced in favor. Otherwise there would arise a general dislocation and a total impediment of affairs and of industry.

Feria IV, 31 August 1831. The above prayers of the Chapter of the Collegiate Church of Locarno having been proposed, which had already been distributed by hand together with the votes of the Lord Consultors, the Most Eminent and Most Reverend Lords said: To I, II, III, IV: They are not to be disquieted, and let them acquiesce, provided they are prepared to stand by the commands of the Holy See. To V, VI, VII, VIII: Let them consult the encyclical *Vix pervenit* of Benedict XIV and approved authors. Feria IV, 7 September 1831. Our Most Holy Lord Gregory XVI, in the usual audience imparted to the Right Reverend Lord Assessor of the Holy Office, approved the resolutions of the Most Eminent Lords."

VII.

Of the Sacred Penitentiary to the new questions of Lord Denavit, professor. - "To the Sacred Penitentiary the undersigned orator again sets forth: From the response of the Sacred Penitentiary directed to the undersigned orator on 16 September 1830, the presbyters are to be absolved who contend that the law of the prince is a sufficient and legitimate title for receiving something beyond the principal in a loan without another title commonly admitted by Theologians, until the Holy See shall have issued a definitive decision, to which they are prepared to subject themselves; and to this response I humbly and gladly acquiesce. Nevertheless, saving the aforesaid response of the Sacred Penitentiary, after consulting approved authors, and with attention paid to the doctrine of almost all the Seminaries of France, and especially of those which are directed by priests of the Congregation of St. Sulpice, the opinion which rejects the title of civil law as insufficient seems far more probable, safer, and the only one to be held in practice until the Holy See shall have defined. Wherefore to the faithful who ask counsel from me whether they can receive an increase from a loan, and who have no title commonly admitted by Theologians except the title of civil law, I respond that they cannot exact the aforesaid increase, and I deny sacramental absolution if they exact it. Likewise I deny absolution to those who, having received usuries of this kind, that is by force of the title of law alone, do not wish to restore. It is asked: I. Whether I conduct myself more harshly and severely toward faithful of this kind. II. What manner of acting is to be held in practice toward the faithful, until the Holy See has issued a definitive sentence. Lyons, 24 September 1831. Denavit, Professor.

The Sacred Penitentiary, having weighed the doubts which are proposed by the orator, responded: To I. In the affirmative, since from the response given by the Sacred Penitentiary it is clear that faithful of this kind, who so conduct themselves in good faith, are not to be disquieted. To II. Provided for in

the first; whence let the orator endeavor in practice to conform himself to the prior response of the Sacred Penitentiary under the date 16 September 1830. Given at Rome, in the Sacred Penitentiary, on 11 November 1831. A. F. De Retz, Regent of the Sacred Penitentiary; E. Fricca, Secretary of the Sacred Penitentiary."

VIII.

Of the Sacred Penitentiary to the questions of John Anthony Avvaro, Doctor of Sacred Theology and royal professor. - "Most Eminent and Most Reverend Lord. The royal Piedmontese law universally and without any restriction permits that whoever lends money to any other may stipulate and exact an annual increase of five per 100 above the principal. Hence in the Diocese of Pinerolo and other neighboring dioceses a most grave controversy is fervent among Theologians, whether, in cases in which on the one hand no title of ceasing profit or emerging damage or extraordinary danger of losing the principal is present, but on the other the precept of charity toward neighbor does not oblige one to lend by a simple and bare loan, it is lawful for the lender to receive and retain that increase. For some maintain that that increase is wholly usurious and illicit; but others that it is free from every stain of usury and altogether lawful. And what renders the controversy very much more complicated: all glory in resting on the authority of Benedict XIV, or at least that he is in no way opposed to them.

Namely, the Theologians who defend the first opinion say that the increase of which there is question was reproved by Benedict XIV, implicitly indeed in the encyclical of 1 November 1745, *Vix pervenit*, as is clear from an attentive reading of it; but explicitly in the work *On the Diocesan Synod*, bk. X, ch. IV, nn. 2 and 3, in these words: Calvin partly agreed with the Greeks, who, on chapter XVIII of Ezekiel, taught that it is lawful to exact some moderate profit, not indeed from a poor man, but from a rich man, precisely by reason of the loan. The error incidentally insinuated by Calvin, Charles Du Moulin professedly defended in his treatise on usuries, where at n. 10 he boldly affirms that usury is not prohibited except insofar as it is against charity. Claudius Salmasius, having embraced the same depraved opinion, defended it by another reason in a twofold treatise, one entitled *On Usuries*, the other *On Trapezitic Interest*, in which places he absolves usury, unless it wounds charity, from every fault, because it is the wage of rented money. A few certain Catholic Doctors did not fear to subscribe to the impious opinion of Calvin and Du Moulin: namely those who, when there is question of a loan by which money or another thing is given for business, excuse from the stain of interest the profit which is received from the loan, provided that it is moderate and observes the measure defined by the laws of the fatherland. Moreover, although Benedict XIV in *On the Diocesan Synod* speaks only as a private doctor, nevertheless he himself without doubt knew best of all what he had wished to reprove in his encyclical; and therefore whatever he afterwards wrote concerning usury in the *Synod*, and especially in the cited chapter IV, where at n. 10 he summarily reports the doctrine defined in the encyclical, must be held as an explanation of the same encyclical, from which it would be a sin to recede.

But the Theologians who defend the second opinion say that that increase is not received from the loan by reason of the loan itself, or because of the loan alone, or by the force of the loan itself, or precisely by reason of the loan, that is, with ceasing profit, emerging damage, or another extrinsic title removed, which Benedict XIV most deservedly reproved as usurious and illicit by every right, both in the encyclical § 3, nn. 1 and 2, and in the cited place of *On the Synod*, n. 11; but rather by

reason, cause, force, and extrinsic title of the civil law transferring dominion of the increase from the borrower to the lender, in the way in which dominion of things is transferred from one to another by legitimate prescription; or by reason of the public good, which, circumstances having changed, in the present state of affairs, without that increase could scarcely, or not even scarcely, be obtained; or by reason of a voluntary tacit and mutual consent to the increase permitted by law on the part of the whole of Society generally, in which there is a right of disposing of its own things as it pleases, and especially on the part of those who now abound in money and now need it, and now give money as a loan and now receive it; or by reason of custom almost everywhere received in the Catholic world, even among men of timorous conscience, of exacting a moderate increase defined by the laws of the fatherland; or because of other causes of this kind, which Benedict XIV nowhere weighs or mentions. But to the argument which the patrons of the first opinion draw from the encyclical and from the work *On the Diocesan Synod*, they respond in four ways.

They respond 1. That Benedict XIV in the encyclical *Vix pervenit* established this one thing: namely, that then no increase, even moderate, can be received from a loan beyond the principal, when someone either is bound to assist another by a simple and bare loan without any increase, which has place by the precept of charity, and by that alone, in many cases, and this because then no legitimate title can concur with the loan for exacting something above the principal; or when he gives a loan in those cases in which he can celebrate no other just contract except the one loan, which also happens in many circumstances, for example when he credits wine, oil, etc., to another, as is clear from § 3, n. 5, where after he defined that it is falsely and rashly affirmed that there are always found and everywhere at hand, either together with a loan other legitimate titles, or even with loan excluded, other just contracts, by the support of whose titles or contracts, whenever money, grain, or another thing of that kind is credited to any other person, it is always lawful to receive a moderate increase beyond the whole and safe principal; and that he who would affirm this is opposed without doubt not only to divine documents and to the judgment of the Catholic Church concerning usury, but even to common human sense and natural reason; he gives the reason for this definition and concludes with these notable words: For no one at least can be ignorant of this, that in many cases a man is bound to assist another by a simple and bare loan, especially Christ the Lord himself teaching: *From him who wishes to borrow from you, turn not away*; and that simply in many circumstances, besides the one loan, there can be place for no other true and just contract. And therefore according to Benedict XIV, whenever money is given as a loan, and the precept of charity does not oblige one to lend it by a simple and bare loan, there can always be found together with the loan, indeed everywhere be at hand, some legitimate title, for example civil law, the public good, etc., by whose support it is lawful to receive a moderate increase beyond the principal, according to that worn rule: In necessary things the expression of one is the exclusion of the other; or at least Benedict XIV is in no way opposed to this opinion.

They respond 2. That Benedict XIV is in no way opposed to this opinion either in those things which he wrote concerning usury in the cited chapter IV of *On the Synod*, nn. 2 and 3, because there he teaches only that after the Greek schismatics there contradicted the perpetual doctrine of the Catholic Church concerning usury: both Calvin, who erroneously taught that some moderate profit from a loan, precisely by reason of the loan, in which the essence of usury is situated, can lawfully be exacted from the rich; and Charles Du Moulin, who boldly affirmed that this usury admitted by Calvin, and evil by its own nature, is not prohibited except insofar as it is against charity; and

Claudius Salmasius, who depravedly absolved the same usury, unless it wounded charity, from every fault, under the false pretext that it is the wage of rented money; and finally those few Catholic Doctors who, not fearing to subscribe to the impious opinion of Calvin and Du Moulin, together with them boldly affirmed and erroneously taught that usury is not prohibited except insofar as it is against charity, and that the profit which is exacted and received from merchants from a loan precisely by reason of the loan is excused from the stain of interest, provided that it is moderate and observes the measure defined by the laws of the fatherland. All these things certainly do not differ even by the breadth of a nail from the doctrine which is contained in the Encyclical. But one thing is that an increase, even moderate and defined by the laws of the fatherland, which is received from a loan precisely by reason of the loan, is usurious and illicit; another thing is that that moderate increase defined by the laws of the fatherland, which is received from a loan not precisely by reason of the loan, but by reason of civil law, or because of other extrinsic causes a little above commemorated, is usurious and illicit. The first Benedict XIV affirms; concerning the other he does not even make a word.

They respond 3. That on the hypothesis that Benedict XIV in the *Synod* would in reality be opposed to this opinion, in no way would he be blameworthy who, relying on solid reasons, modestly receded from his private opinion or explanation, since he himself at the end of the preface to the *Diocesan Synod* openly professes that in all matters to which no weight from the public authority of the Church has acceded, of which kind without doubt is the explanation about which there is question, he wishes to define nothing in the *Synod* or to present it as decretory, with the authority of Melchior Cano also brought forward to prove this, and with the example of Innocent IV, who, although he wrote his commentaries on the books of the decretals while he held the supreme pontificate, nevertheless "never arrogated this to himself, that whatever he had written in that work should be held as a matter defined, but easily allowed his opinions, which he had proposed as a private doctor, to be opposed by other doctors, as is clear," etc.

They respond 4. That on the hypothesis also that Benedict XIV were opposed to this opinion in the Encyclical, now no further argument can be sought from it for reproving that moderate increase permitted by law which is received in the present state of affairs; because a change of circumstances could have introduced, indeed truly has introduced, a manifest variation, not indeed as regards the principles on which the doctrine of the Catholic Church concerning usury and loan rests, and which are always the same and wholly invariable, but as regards their application.

I, having diligently considered, so far as the slight powers of my talent allow, the doctrine of Benedict, judge the following, as more moderate, so also more probable: that it can deservedly be doubted whether that doctrine, by itself alone, suffices for settling this controversy or not. But since, even with this opinion of mine posited, to which I ought to give little trust, it still remains uncertain whether that increase can be received with a safe conscience; so that, every uncertainty having been removed, the faculty may be ready for me of aptly responding to certain Confessors who most recently consulted me about the same controversy, and also to others who, by reason of the offices which I discharge, will consult me either within or outside the sacred tribunal of Penance; I suppliantly ask and beseech Your Eminence in the Lord to transmit to me the resolution of the three questions which I place here below:

I. Whether the increase about which there is question is lawful. And insofar as this question cannot be resolved directly from the doctrine of Benedict XIV and other judgments of the Apostolic See, II. Whether penitents who received that increase either with doubtful or bad faith can be sacramentally absolved, with no restitution made or promised here and now, provided that they seriously promise that they are prepared to execute whatever the Apostolic See will determine concerning this matter. And insofar as in the affirmative, as some assert that to this and other similar questions it has already several times been provisionally written back in the name of the Holy Office and of the Apostolic See, concerning which rescripts nevertheless and their tenor I do not have certainty, III. Whether likewise those who have no title of ceasing profit or emerging damage or extraordinary danger of losing the principal, nor are situated in cases in which the precept of charity toward neighbor obliges them to lend by a simple and bare loan, may lawfully give money as a loan, with an annual increase of 5 per 100 above the principal stipulated or agreed upon as the royal law permits, under the same condition of obeying the future determinations of the Apostolic See concerning this matter.

Relying on the greatest confidence that Your Eminence will kindly comply with my wishes in a matter so necessary to me, I am and will always be, Pinerolo, 22 January 1832, Your Eminence's most humble, most obedient, and most devoted Servant, Joseph Anthony Avvaro, Doctor of Sacred Theology, and royal Professor of the same faculty, Canon Theologian, and Vicar General pro tempore.

The Sacred Penitentiary judged that the resolutions given at other times to certain doubts concerning usuries should be transmitted to the beloved in Christ, Joseph Anthony Avvaro, namely: These are entirely those which we have brought forward above, n. V. Given at Rome, in the Sacred Penitentiary, on 11 February 1832. E. Cardinal De Gregorio, Major Penitentiary; D. Fratellini, Secretary of the Sacred Penitentiary."

IX.

Of the Holy Roman and Universal Inquisition to the doubt of the Bishop of Nice. "Most Blessed Father. In the booklets whose title is *Annali delle scienze religiose*, vol. 1, n. 1, p. 128, and *L'Ami de la Religion*, 2 April 1835, n. 2436, there is read the response which the Most Eminent Cardinal Major Penitentiary gave on 7 March 1833 to the Most Illustrious and Most Reverend Bishop of Viviers in the question proposed by him concerning usury. For the Prelate had set forth that some preachers of the word of God teach in public sermons that it is lawful to receive profit from a loan under the title of civil law, without making any word concerning that condition appended to the responses recently given by the Sacred Penitentiary, by which it is provided that penitents receiving profit from a loan under the title of civil law must be prepared to stand by the commands of the Holy See; and he had asked whether those priests were to be reproved.

Kindly acceding to his prayers, the Most Eminent Major Penitentiary responded that the Sacred Penitentiary by those responses had by no means wished to define the question agitated by Theologians concerning the title taken from the law of the prince, but only to propose the norm which Confessors might safely follow toward penitents who received moderate profit established by the law of the prince in good faith, and were prepared to stand by the commands of the Holy See; and therefore that the manner of acting of those preachers who absolutely teach in sacred sermons that it is lawful to receive profit from a loan under the title of civil law, with the stated conditions passed over in silence, can in no way be approved.

Certain persons, attending to those words placed in the response, *in good faith*, contend that according to the norm several times proposed by the Sacred Penitentiary to Confessors, only those can be sacramentally absolved, with no burden of restitution imposed, who had received the stated profit in good faith. Others, on the contrary, assert that even those who had received the said profit with doubtful or bad faith can be absolved, with no burden of restitution imposed, provided that they are prepared to stand by the commands of the Holy See. And, as they say, this clause *in good faith* does not regard the burden of restitution, but rather the honesty of the agent and the absolution which Confessors cannot impart to penitents constituted in bad faith unless first they repent of what was done in bad faith. And they deduce this from the very petition of the Bishop of Viviers. The Bishop had not asked, they say, whether penitents constituted in doubtful or bad faith were to be obligated to restitution, but only whether those preachers were to be reproved who, with no condition stated, preached the lawful use of the aforesaid loan. And since the Holy See has not yet defined the question, and what is done in bad faith, although of itself it does not induce the burden of restitution, nevertheless always induces the guilt of fault, hence they say that the Most Eminent one reproved the manner of acting of those who, passing over in silence the conditions of good faith and of standing by the commands of the Holy See, absolutely preached the lawful use of the said loan, without the Most Eminent one speaking of the obligation of restitution, about which the Prelate was not asking. They also deduce from the condition required by the Sacred Penitentiary in penitents, of standing by the commands of the Holy See, which disposition necessarily either supposes or excites doubt concerning the honesty of the aforesaid loan.

And since on both sides there are men of the highest piety and of authority not to be despised, hence, so that provision may be made for the quiet of souls in a matter so frequent and serious, it is most humbly asked: Whether penitents who received moderate profit from a loan under the title of law alone with doubtful or bad faith can be sacramentally absolved, with no burden of restitution imposed, provided that they sincerely grieve for the sin committed because of doubtful or bad faith, and with filial obedience are prepared to stand by the commands of the Holy See. Nice, 9 September 1837. Signed, + Dominic, Bishop of Nice.

Feria IV, on the 17th day of January 1838. In the General Congregation of the Holy Roman and Universal Inquisition held in the Convent of St. Mary sopra Minerva before the Most Eminent and Most Reverend Lords Cardinals of the Holy Roman Church, General Inquisitors against heretical depravity, the above-mentioned doubt having been proposed, the same Most Eminent and Most Reverend Lords said: In the affirmative, provided that they are prepared to stand by the commands of the Holy See. Angelus Argenti, Notary of the Holy Roman and Universal Inquisition."

Place of the seal.

X.

S. Congregation of the Holy Office under the date 26 March 1840: the doubt having been proposed whether N. N. is bound to render anything, whose Father had given a great sum of money as a loan with profit of ten per cent, corresponding to the legal rate of that time; and insofar as he would be liable to restitution, whether he can at least lawfully retain five per cent, the rescript was: As regards usuries in general, let him consult the decrees already issued. As regards the excessiveness of the fruits, let him consult the Right Reverend Bishop, who should weigh the circumstances of the fact and the practice of that time which flourished among men of timorous conscience, and provide.

XI.

Finally, when in the elapsed year 1871 it was asked from a certain place in Italy: 1. Whether today it is lawful, even for Ecclesiastics, to invest money with a moderate fruit, as the law previously permitted under the legitimate government, of five percent? 2. Whether today those Pious Places, Nuns, and Monasteries are to be disquieted which receive the fruit of their capital of six percent, since today it is given and received in the common course?

The Sacred Congregation of the Holy Office, under the date 28 Feb. 1872, responded to both: According to the responses given at other times, provided that they are prepared to stand by the commands of the Holy See, they are not to be disquieted.

Conclusion

But these things which, following the order of time, we have reported here, are the principal Responses among many others, which are referred back to these same things. From them it can be gathered:

1. Generally speaking, concerning profit from a loan, absolutely nothing can be received from it by force of the loan, or immediately and precisely by reason of it.

2. It is lawful to receive something beyond the principal, if perhaps some title extrinsic, not universally joined and innate to the nature of loan, accedes to the loan.

3. Although any other titles whatever may be lacking, of which kind are ceasing profit, emerging damage, and danger of losing the principal or of assuming unusual labors for the recovery of the principal, one title also of civil law can be held as sufficient in practice, both by the faithful and by their Confessors, to whom therefore it is not lawful to disquiet their penitents concerning this matter, as long as this question hangs under judgment and the Holy See has not explicitly defined it.

4. The toleration of this practice can by no means be extended either to rendering honorable usury, however slight, toward the poor, or immoderate usury exceeding the limits of natural equity.

5. Finally, what quantity of usury must be called immoderate and excessive, and what just and moderate, cannot be determined universally, since this must be measured in individual cases, with respect had to all and each of the circumstances of places, persons, and times." 1873.

Letters of the Vicar General of Ariano: - "In view of the notable increase of the current taxes and of the greater need of income to sustain them, there is not there is in this Diocese of Ariano no one who wishes to give money as a loan at the rate of five percent, as it is tolerated by that Holy See; by many it is given at eight, and by others according to what the Great Book yields, and this because the income which is received from the loan also is burdened by movable wealth.

Now, in order to attend to the quiet of the conscience of so many, and in order not to expose people to the danger of no longer finding anyone who would lend them money, which in the present times has become so scarce and sought after, it is desired to know whether such a practice can be tolerated;

and in the negative case, whether at least Confessors can permit their penitents to exact five percent net and to leave to the charge of those paying the tax with which the government has burdened any income whatever. Resp. Provided that they are prepared to stand by the commands of the Holy See, they are not to be disquieted." S. I. C. 18 Dec. 1872.

A doubt having been proposed concerning a law distinguishing between legal and conventional interest, the Sacred Congregation responded on 18 Aug. 1858: "As regards legal fruits, provision has been made by decrees previously. As regards conventional fruits and their titles, provision has been made by the Encyclical *Vix pervenit*. As regards the quantity of those conventional fruits, and fruit from fruits, account is to be taken in individual cases, with respect had to all and each of the circumstances of places, persons, and times, according to the rules handed down by the Sacred Canons and by approved authors. And let the decrees of 13 Jan. 1780 and 26 March 1840 be given," which have already been reported above. Cf. Scavini, bk. 4, n. 234, Milan, 1874.

N. 879. - On Monti di Pieta

"The Monti di Pieta instituted by commonwealths, and thus far approved and confirmed by the authority of the Apostolic See, in which, for their expenses and indemnity, something moderate is received beyond the principal, only for the expenses of ministers and of other things for their conservation, for their indemnity only, without profit of the same monti, neither present the appearance of evil nor furnish an incentive of sinning, nor are they to be disapproved in any way; indeed a loan of this kind is meritorious and ought to be praised and approved, etc." Leo X, Const. *Inter multiplices*, 4 May 1515.

"Whether it is to be permitted that the increase which for a long time has been received be spent on the said pious uses; or rather whether it ought to be reduced to as much as is sufficient for the expenses and conservation of the same Monte? The Sacred Congregation responded: In the negative to the first part, in the affirmative to the second, and according to the mind." But the mind of the Sacred Congregation was as follows: "That the principle should remain firm of not exacting an increase over a loan given, except that which is necessary for the expenses and conservation of the Monte; that the Bishop, after calculation has been made, determine the rate to be paid above the principal on account of this title. But as regards that which above this portion is received by a custom long since introduced, to be spent on pious uses and especially on the maintenance of the church of a very poor village, and on sustaining the hunger of the poor, so far as can be done in the dearness of grain, the Bishop could permit that the same custom be preserved, yet in such a way that a book be established, in which, under distinct titles, the rate portions are noted, those which pertain to the Monte, and those which pertain to other uses, so that it can be known what sum is given under the title of justice, and what is received as a gratuitous and pious offering. But let the Bishop take care that the people be made more certain concerning this matter by a prudent method, either with the help of the Parish Priest or in another way, as the Bishop himself prudently judges." 20 Dec. 1838. Cf. *Acta S. Sed.* Vol. 4, p. 27 ff.

N. 903-905. - On Retrovendition

"... The pact of retrovendition, or an agreement that the buyer either can or must sell back the thing bought to the seller, either for the favor of the seller alone or for the favor of the buyer alone or of

both, even with a very frequent prescribed time, can be made, and of itself is lawful, is admitted by all. For, just as the seller has the power of selling his thing absolutely, so also he has the power of selling with a certain mode and pact; and similarly the buyer is free to buy with or without such a pact, provided that the equality of each party is preserved. But in order to avoid the iniquity of disguised usury, certain conditions are commonly laid down by Theologians, namely:

1. That nothing be done in usurious fraud, and that there be an intention truly of buying and selling; otherwise there would already be an implicit or disguised loan, and the profit arising therefrom would be usury. Hence a low price offered by the buyer for a thing to be retained for a longer time; likewise, if a buyer accustomed to other usuries should be unwilling to give a loan, but to buy a thing with a pact of retrovendition, would introduce a founded doubt and ought diligently to excite attention.

2. That the burden imposed be compensated; for every burden extrinsic to the contract and estimable by price must be compensated, otherwise equality and justice would not be preserved. And therefore the price must be diminished if the buyer is bound to sell back the thing bought to the seller, for such an obligation is a burden estimable by price, since it deprives the buyer of the faculty of retaining it or alienating it otherwise; but it must be increased if the seller is obligated to redeem the thing sold as the buyer wishes, since this burden also is estimable by price and extrinsic to sale. Hence the purchase of a fruitful thing, made by this law that the seller afterwards be bound to receive back his own thing and to return the whole price accepted for it to the buyer, who retains the fruits for himself, could, at least in practice, introduce suspicion of usury brought back; for in reality it smells of a virtual loan with profit with respect to him who, unwilling to lend money to another asking for it, buys from him a vineyard or house, by this law that after two or three years it be redeemed at the same price at which it had been bought, with the fruits received from it retained. For such a person does not have a sincere intention of buying, but only intends to give the aforesaid money, so that afterwards he may receive it all back with profit, which is usurious.

3. That the thing not be redeemed at a greater price than that for which it had previously been sold, unless it has been made better by the industry or work of the buyer; for the force of the pact of retrovendition consists in this, that the buyer restore the thing, with the price given for it restored. For contracting with that pact is equivalent to contracting with a pact that after some time it is lawful to dissolve the contract.

4. That the buyer truly become master of the thing bought, undergo its risk, sustain its burdens, receive its fruits and advantages; for the nature of the contract requires this." S. C. de P. F. 5 March 1860.

N. 931-955. - On Census

Cf. Const. of St. Pius V, *Cum onus*, and Const. *Etsi Apostolica Sedes*, *Acta S. Sed.* Vol. 10, p. 38 ff.; Vol. 1, p. 537 ff., 569 ff.

Whether one who is burdened by some pious obligation, the funds having been diminished or altogether lost, is bound to supply from his own goods or not?

"... In order that it can be more easily judged, it must be investigated whether the funds were left in a taxative or demonstrative way; for in the first case the heir is entirely freed for all time, but by no means in the second.

9. But a great controversy arises as to when a legacy must be said to have been left taxatively, and when demonstratively. In this a canon has been established, that a legacy is to be held as left taxatively if the founders, and I use the words of a certain instruction transmitted by the Sacred Congregation to Bishops and reported by Benedict XIV, *De Synodo dioecesana*, bk. 13, last chapter, n. 32, 'in making a legacy or disposing in some way, first began the speech or disposition from the assignment of the fund, and then added the burden of Masses... but otherwise, if the founders began the speech or disposition from the imposition of the burden, and then assigned the fund, then the burden is said to have been conceived demonstratively, and the heirs of the founders are to be compelled by Your Excellency to the perpetual maintenance of the said burden, and to supplying the deficient sum, both for the past and for the future.' From this the reason appears why in legacies left demonstratively the heir is bound to supply from his own goods, but it is otherwise if the legacy was made taxatively; for the burden of fulfilling the legacy inheres in the person of the heir himself, which does not fail, even if the thing accepted by inheritance fails. But in legacies left taxatively a burden of this kind is fixed to the fund; therefore if the fund already handed over has failed, the burden inhering in the same fund also fails." Lucidi, Vol. 3, p. 559 ff., 3rd ed.

On the First and Second Precepts of the Church

N. 474. 475. - On Feast Days in the Universal Church Before the Suppression of Feasts

"The whole Church throughout the world knows that it belongs to the supreme solicitude of the Roman Pontiff to direct the Lord's flock to eternal salvation, and so to explain apostolic precepts that the faithful may run in the way of the commandments and be able happily to arrive at beatitude.

1. Indeed, by the report of very many of Our Venerable Brothers, Archbishops and Bishops constituted through various regions, it has come to Us that the multitude of Feasts through their several Dioceses and Provinces has grown so much, with devotion and new custom introducing them day by day, that many now seem to doubt which are to be observed by precept, and which by the free will of each person, while the fervor of piety grows lukewarm because of their excessive number. Indeed, the frequent cry of the poor has ascended to Us, complaining that this same multitude, because of the necessity of procuring daily food by their labors, is very harmful to them. And, what is most greatly to be lamented, with great grief of Our mind We have learned that the enemy has very often contrived so much against the Saints, that by the very multitude the people do not use them for edification and for praising God in the churches, but do not fear frequently to abuse them for idleness, vanities, and vices; so that those things which were first instituted for glorifying the Divine Majesty, the hostile man in the course of time has corrupted and converted into a great offense of Him and grave loss of souls. Wherefore the said Venerable Brothers, Archbishops and Bishops, have caused Us humbly to be supplicated, that in the aforesaid matters, from the fullness of apostolic power, We should enter upon some suitable plan.

2. Therefore We, wishing to provide from the duty of the Pastoral office and henceforth to establish a certain precept of the sanctification of Feasts, following in this the ancient custom of the Church, after frequent consultations first had through learned and pious men whom We specially deputed for this, as the gravity of the matter seems to demand, by Our own motion and from Our certain knowledge and mere deliberation, and also from the fullness of the aforesaid apostolic power, by this Constitution to be valid forever, also from the vote of Our Venerable Brothers, Cardinals of the Holy Roman Church set over Sacred Rites, by apostolic authority decree and declare that only the days written below are to be observed as Feasts by precept, namely those which venerable antiquity has either consecrated from the beginning, or the custom of the universal Church has approved, or the unanimous piety of all nations venerates: namely, the Sundays of the whole year, the Nativity of Our Lord Jesus Christ, the Circumcision, Epiphany, Resurrection with the two following ferias likewise, the Most Holy Trinity, the Solemnity of the Body of Christ, and the Finding of the Holy Cross; and also the Purification, Annunciation, Assumption, and Nativity of the Virgin Mother of God, the Dedication of St. Michael the Archangel, the Nativity of St. John the Baptist, Saints Peter and Paul, St. Andrew, St. James, St. John, St. Thomas, Saints Philip and James, St. Bartholomew, St. Matthew, Saints Simon and Jude, and St. Matthias, Apostles of Christ the Lord; likewise St.

Stephen Protomartyr, the Holy Innocents, St. Lawrence Martyr, St. Sylvester Pope and Confessor, St. Joseph Confessor and St. Anne, respectively Spouse and Mother of the Mother of God, the Solemnity of All Saints, and one of the principal Patrons in any Kingdom or Province whatever, and likewise another more principal Patron in any city, town, or village, where these Patrons happen to be had and venerated.

3. But as regards the observance of the remaining days, which until now, whether in the universal Church, or in any Nation or Kingdom, Province, Diocese, or place in whatever way, whether from devotion, the Christian faithful have celebrated as festive, by the said authority and by the tenor of the presents We decree and declare, also perpetually, that they are by no means bound by precept to observe them. And lest feast days be multiplied again hereafter by local Ordinaries because of too great facility of some persons or importunity of peoples, We admonish the same Ordinaries in the Lord that, for preserving ecclesiastical equality everywhere, for the rest, for perpetual future times, they should strive to abstain from the proclamation under precept of new Feasts. But in order that those things which have been expressed above may be observed with the more fervent veneration and devotion which is fitting, We recall to memory for the same Ordinaries the observance of the ancient Canons in granting licenses to work on feast days; which licenses indeed, to be granted in no other way than according to the form of the aforesaid Canons, as is premised, are to be granted only gratuitously, freely, and without any price or pact at all, directly or indirectly, under even graver penalties to be inflicted at the judgment of Us and Our successors. Nevertheless, by this Our Constitution We do not intend to change in anything the holidays concerning judicial matters; for this effect We leave them in the same state and terms in which they were before its promulgation..." Urban VIII, 15 Sept. 1641.

"The reason of the Most Holy Apostolate divinely committed to Us demands that, striving to enlarge on earth, according to the custom of many Roman Pontiffs Our predecessors, the veneration and cult of the most glorious Virgin Mary, Mother of God, whose conception announced joy to the whole world, We continually endeavor, as far as is granted to Us from on high, to merit the most powerful help, in so many and so great necessities of the Christian Commonwealth and the Catholic Church by which We are pressed, of her who, exalted above the Choirs of Angels, as a diligent intercessor for the Christian people, continually intercedes in Heaven with Him whom she bore. Therefore, moved by Our sincere devotion toward the same most august Queen of Heaven, Our Patroness, Our Advocate, by apostolic authority, by the tenor of the presents, We decree, command, and order that the Feast of the Conception of the same Blessed Immaculate Virgin Mary hereafter everywhere on earth be comprehended by all and singular Christian faithful of either sex, just as other Feasts, under the precept of observing Feasts. Notwithstanding, etc." Clement XI, 6 Dec. 1708.

On Feast Days in the United States of America

"Rome, 31 Dec. 1885. Most Illustrious and Most Reverend Lord. By Your Excellency, in the name of the Fathers of the Third Plenary Council of Baltimore, the following supplication was presented to the Supreme Pontiff, that feast days of precept to be observed in all the Dioceses of the United States of North America be reduced to certain determinate days.

Most Blessed Father, within the boundaries of the United States of North America there obtains a great diversity in observing feast days of precept. For in some places five are observed, in others nine, and in others even more, so that not only non-Catholics, but also the faithful, are now disturbed concerning this matter, wondering not a little by what reason it happens that on certain days the obligation of hearing Mass and abstaining from servile works presses in one diocese or province, but not in another. Moreover, in these regions the faithful also are pressed by very grave difficulties concerning the observance of feast days. For since, in preparing the necessities of life, they depend in great part on non-Catholics, who do not allow labors to be interrupted on feast days unless they fall on Sundays, the greatest part of the faithful can only with very grave inconveniences abstain from works and attend the Sacrifice of the Most Holy Mass on those same days. Hence the Fathers gathered in the Third Plenary Council of Baltimore, very greatly desiring that uniformity be introduced in observing Feasts, and maturely weighing the difficulties with which the faithful labor within these Federated Provinces, judged that Your Beatitude should be supplicated:

1. That, the peculiar circumstances of Catholics dwelling in these regions being considered, by Apostolic Authority he deign to declare that throughout all dioceses of Federated North America, as regards the precept of hearing Mass and abstaining from servile works, all and only the following feast days are to be observed: the Immaculate Conception of the Blessed Virgin Mary, the Nativity of Our Lord Jesus Christ, the Circumcision of Our Lord Jesus Christ, the Ascension of Our Lord Jesus Christ, the Assumption of the Blessed Virgin Mary, and the Feast of All Saints. For, according to the reasons of things and times, a more successful observance of these six feast days is hoped for. 2. As regards the other feast days, which besides the six above-mentioned are still of precept in certain places, that by Apostolic kindness the faithful of the same places indeed be freed from the obligation of hearing Mass and abstaining from works; yet without those same feast days being suppressed as regards devotion and external solemnity. 3. As regards the feast of the Most Holy Body of Christ, that he benevolently be willing to grant that the solemnity of the same Feast be transferred to the Sunday next following, according to the norm of the indult granted to the dioceses of the United States of North America concerning the feast of the Holy Apostles Peter and Paul, as is contained in the letters of the Sacred Congregation de Propaganda Fide to the Archbishop of Baltimore dated 19 December 1840.

The S. I. C. responded on 25 Nov. 1885: That the Most Holy Lord should be supplicated for the grace according to the prayers... But His Holiness... according to the opinion of the Sacred Congregation, deigned kindly to accede to the prayers of the Fathers of the Third Plenary Council of Baltimore."

On the Fifth Precept of the Church

N. 485. - On Coots on Days of Abstinence

"Whether the water bird named *fulica* (commonly *folaga*) is to be counted among fish, and whether it is lawful to eat it on those days on which meats are forbidden? The Religious of the Order of Minims of St. Francis of Paola, to whom meats are entirely forbidden, in order to remove the perplexity by which their consciences were troubled concerning this matter, presented a supplication to Pius VII that it be granted to them to be able freely to use that food. To them, through the Congregation of Regular Discipline, 22 Feb. 1804, the Most Holy Lord, the things narrated truly existing, kindly granted the grace according to the things requested, the Constitutions of the Order and all other things notwithstanding."

On Abstinence on Saturday in Belgium

"Most Blessed Father, the Most Illustrious Bishops of Belgium asked His Holiness, in the year 1855, that he deign to take away the law by which eating meats on Saturday is prohibited. His Holiness did not abrogate that law; but he deigned to grant to the Most Illustrious Bishops of Belgium the faculty of dispensing concerning it with those who would ask dispensation.

Hence the undersigned doubt is most humbly set forth: Whether, after dispensation has been obtained, it is lawful for those traveling outside Belgium to eat meats in places in which that law is in force? - Resp. In the negative." S. I. C. 10 Jan. 1855.

N. 486. - On Children as Regards the Law of Abstinence

Cf. On Laws, N. 93.

On the Sixth Precept of the Church

N. 489. - On the Time of Fasting

"Whether, where clocks are used, accommodated to mean time, one must stand by these, both for satisfying the burden of the divine office and for satisfying the natural fast; or whether one ought, or at least can, use true time? - Resp. That one can follow mean time, but is not bound." S. Poenit. 29 Nov. 1882.

When the Neapolitan Syndic had prescribed that all Neapolitan clocks, with some private ones excepted, in indicating noon should take their rule from Roman mean time, it happens that midnight differs from the true not only by reason of mean time, but also by reason of the different meridian of each city, so that the difference sometimes not slightly exceeds a quarter of an hour. Hence the Eminent Cardinal Archbishop asked the Sacred Penitentiary: "These things having been considered, can the faithful at Naples, in observing the natural fast and other obligations of the Church, follow the clocks indicating the hours according to Roman mean time, or rather ought they to follow those clocks which mark true Neapolitan time? - Resp. To the first part, in the affirmative; to the second, in the negative." S. Poenit. 18 June 1873.

N. 492. - On the Little Morning Morsel

"Whether it can be permitted... that in the morning, on days of fasting, coffee or chocolate be taken in a small quantity with a little morsel of bread? - Resp. Those who follow such a usage are not to be disquieted." S. Poenit. 21 Nov. 1843.

N. 499. - On Condiments on Days of Fasting

"Whether, when either through the Bull of the Crusade, or for another cause, an Indult is granted for the use of melted lard (commonly *strutto*) under the sole title of condiment, those who are bound to fasting can use that condiment also in the evening refection? - Resp. That those who are bound to fasting can lawfully use, also in the evening refection, the condiments permitted in the Indult; because those, by force of the Indult, take the place of oil; provided that in the Indult there is no restriction placed, that they can be employed in the one meal." S. Poenit. 16 Jan. 1834.

"Whether in a concession of condiments (commonly *di grasso*) there is understood to have been granted the use of condiment from the fat of any animal whatever? - The Sacred Penitentiary responded: That only swine condiment is to be used."

"Whether on Fridays and Saturdays, on which condiments commonly called *di grasso* are indulged, meat broth can be employed? - The Sacred Penitentiary responded: Under the terms condiment *di grasso* there is not comprehended broth of cooked meat."

N. 513. - On Children Under Family Authority as Regards Fasting

"Can children under family authority eat meats at a forbidden time, the faculty of this kind being presupposed in the parents, or in one of them; and in the affirmative case, can the children eat meats without offense of conscience, when they are found in the circumstance of preparing two dinners? -

Resp. In the negative, speaking speculatively; but practically the Confessor is bound to judge." S. Poenit. 20 April 1865.

"Whether by force of the response of the Sacred Penitentiary (16 Jan. 1834) conceived in these words: Persons who are in the power of a head of household, to whom a legitimate faculty of eating meats has been granted, are permitted to use foods indulged to the head of household, etc., when the head of household has been dispensed, the others of the same family also ought to be understood as dispensed? - Resp. The Sacred Penitentiary has never declared that dispensations granted to the head of a family extend to the whole family; but only gave directions for confessors in the practical act concerning those who are under power and must eat foods given by parents."

1. Whether the same response of the Sacred Penitentiary, 16 Jan. 1834, "has force everywhere on earth? 2. When in the same response it is said that it can be permitted, it is asked by whom this permission is to be given, and whether permission given by a simple confessor suffices? - Resp. As regards the first, in the affirmative. As regards the second, that permission made by a simple confessor suffices." S. Poenit. 27 May 1863.

N. 514. - On Eating Meats Several Times in a Day

"The faithful who, by reason of affected health, are exempted from the law of fasting or of the one meal, can lawfully on those days of Lent on which eating meats is permitted by Indult, eat meats as often as they eat during the day." S. Poenit. 16 March 1882. Cf. *Acta S. Sedis* Vol. 14, p. 568; Vol. 1, p. 427.

On the Law of Promiscuity

Seven doubts proposed to Benedict XIV and solved by him, Letter to the Archbishop of Compostela, 10 June 1745.

"1. Whether those things which in Our aforementioned Letters in the form of a Brief are prescribed concerning the one meal, and concerning foods not to be mixed, are forbidden under grave precept also? - Resp. That those granting the faculty of eating meats at a forbidden time are bound under grave obligation to give the same faculties in no other way than with these two conditions added, namely of one meal in a day and of foods not to be mixed. But those who use faculties of this kind are bound under grave obligation to fulfill those two conditions."

"2. Whether those to whom it has been granted to eat meats can, in the little evening refection, eat that quantity of meat which is permitted to those fasting? Resp. It is not lawful; but they need that food, and must use that portion, which men fasting with an upright and careful conscience use."

"3. Whether those who during the time of fasting are permitted to eat meats and must use one meal need to observe the hour prescribed for those fasting? - Resp. That it must be observed."

"4. What are the lawful foods, which it is forbidden to join with those interdicted? - Resp. That the lawful foods for those to whom it has been permitted to eat meats are the meats themselves; that the interdicted foods are fish, and therefore both cannot be used at the same time. Yet those to whom only the faculty of using eggs and milk foods is given are not prohibited from eating fish."

"5. Whether the precept concerning not mixing each kind of food also embraces the Sundays of Lent? - Resp. That it does embrace them."

"6. Whether this law also pertains to those who from the Bull of the Crusade can eat eggs and milk foods? Resp. That nothing has been established in Our aforesaid Apostolic Letters which regards the gracious Diploma of the Crusade. Therefore those who enjoy it should weigh its tenor strictly and considerately, and should conduct themselves according to its meaning. But let them beware lest by some empty excuse they judge themselves to be released from the laws prescribed there."

"7. Whether the two mentioned precepts urge outside Lent? Resp. That each precept urges outside Lent; namely, that of one meal with the remaining laws expressed in the second and third response to these petitions; and the other of not mixing lawful foods with interdicted ones, as has been defined in the fourth petition."

Other Declarations of the Holy Office and of the Sacred Penitentiary

"Whether the obligation of not mixing fish with meat on the days of Lent reaches all who, by force of an Indult, can eat meats, or only those who fast? - Resp. In the affirmative as regards the first part, in the negative as regards the second part; and let the Decree of 24 March 1841 be given, namely to the doubt: Whether the law concerning not mixing lawful and interdicted foods also regards those who are not bound to the one meal, such as young persons before they have completed the third seven-year period, and others reasonably excused from the same because of impotence or labor; the Most Eminent Fathers decreed: It is not lawful." S. I. C. 23 June 1875. Cf. Gury-Ballerini, Vol. 2, n. 1107.

"That meats can be mixed with any species whatever of vegetables is beyond doubt." S. Poenit. 8 Feb. 1828.

On Particular States

N. 1. - On the Sentence of Divorce to Be Pronounced by a Lay Judge

"Not without great sorrow of mind, or rather horror, have the Fathers of this Provincial Synod learned that certain legislators of this region have very recently proposed that a Court of divorce be established, whose office would be to pronounce divorce from the bond on account of adultery. For besides the fact that such a law, which may God avert, would be a subversion of the institution of almighty and most wise God and a usurpation of the rights of the Church of Christ, no one is ignorant or can be ignorant how many and how great evils flow from such divorce, which render it most hostile to civil society. For under the hope of future divorce marriages are contracted imprudently, quarrels are provoked, and, what the soul shudders to say, adulteries themselves; the bond of charity between families yields place to irreconcilable hatred; fortunes are placed in danger; the whole of society is scandalized. Finally, what will become of the children whose parents have obtained divorce? But We, whom God has placed as watchmen in this part of His Church, wish our diocesan faithful always to remember that no one can, with conscience safe: 1. cast a vote for such a law; 2. in such a Court of divorce, act the parts of plaintiff, or of judge, or of notary or chancellor, or concur formally or in any other way; nevertheless We do not intend to condemn those who, compelled, would bear testimony concerning the very fact of adultery." Fourth Provincial Council of Quebec, year 1868, *Collectio Lacensis*, Vol. 3, col. 748.

"The law of the Swiss Confederation issued concerning civil status and civil marriage sanctioned that all and singular matrimonial causes, ecclesiastical jurisdiction being suppressed from now and henceforth, are to be treated in the tribunals of laymen according to the norm which is established in civil causes, and that sentences are to be pronounced in them according to the prescriptions of common law and of the most recently issued law, by which marriages even of Catholics can, under certain very slight reasons, be perpetually broken and dissolved as regards the bond; so that spouses of this kind litigating, after a sentence of divorce of secular judges has been issued, can pass, if they wish, to contracting other marriages. Therefore it is asked:

Fifth doubt: Whether Catholic judges and advocates in lay tribunals of this kind can with safe conscience undertake and defend matrimonial causes, or know and judge them?

Sixth doubt: Whether the same Catholic judges and advocates, according to the recent law of Switzerland, can with safe conscience propose the bond of marriage as to be dissolved or declare it as dissolved, and also declare that spouses of this kind can pass to contracting another marriage, as the civil law in this case expressly orders and urges the judges to judge and declare?

In discussing this question it must not be forgotten that the secular tribunals, whose office it is to judge civil causes, are the same ones to which by the new law it belongs to know and judge matrimonial causes. Therefore, if it has been forbidden to Catholic judges to take part in tribunals of this kind, we shall experience, to the great harm of citizens, that these tribunals are deprived of those judges who, filled with the fear of God, judge piously and justly.

Resp. To the fifth and sixth. As regards judges, let recourse be had in particular cases. As regards advocates, let the responses already given to the Bishop of Southwark be given, namely: Feria III,

place IV, 22 May 1860, to the doubt: Whether a Catholic advocate can defend the causes of the defendant party against the plaintiff seeking dissolution of the bond? The response was: Provided that the Bishop is certain of the uprightness of the advocate, and provided that the advocate does nothing which turns aside from the principles of natural and ecclesiastical law, it can be tolerated. And to another doubt: Whether it is lawful to act the parts of advocate and plaintiff when the end of the suit is a simple separation without any sentence drawing with itself the nullity of marriage? The response was: Provided for in the preceding. And Feria IV, 19 December of the same year: Provided that the Catholic party can approach no other tribunal from which he may obtain a sentence of separation as regards bed and board, and provided that the sentence of this tribunal has no other effect than the aforesaid separation, it can be tolerated that Catholics in that forum act the parts of plaintiff and advocate; and provided that there are just causes of separation in the judgment of the Bishop. And if he has any doubt besides, let him have recourse, setting forth all circumstances and dispositions of the law." S. I. C. 3 April 1877, to the Bishop of St. Gall. *Archiv fur Katholisches Kirchenrecht*, etc., edited by Dr. Friedrich H. Vering, Mainz, 1878, p. 294 ff.

"After the divorce laws had recently been restored among the French in the year 1884, several doubts were proposed by some Bishops of France to this Holy Roman and Universal Inquisition: namely, whether it was right for lay judges in causes concerning separation of spouses, whether concerning the bond or only concerning habitation, to pronounce law; whether for advocates and procurators to handle causes of this kind before lay judges; whether for those to whom it belongs by law to appoint official defenders, as they call them; finally, whether for syndics (commonly *maires*) to pronounce divorce.

The Most Eminent Fathers, General Inquisitors together with me, the matter having been maturely weighed, on Feria V, place IV, on the day 25 June 1885, judged that this must be decreed:

Attending to the most grave circumstances of things, times, and places, it can be tolerated that those who hold magistracy and advocates handle matrimonial causes in France, without being bound to leave office, provided that they openly profess Catholic doctrine concerning marriage and concerning matrimonial causes as pertaining to ecclesiastical judges alone; and provided that they are so disposed in mind, both concerning the validity and nullity of marriage and concerning separation of bodies, concerning which causes they are compelled to judge, that they never pronounce a sentence, nor defend for one to be pronounced, nor provoke or excite to it, that is repugnant to divine or ecclesiastical law; and in doubtful or more difficult cases let each approach his own Ordinary, direct himself by his judgment, and insofar as there is need, have recourse through him to the Apostolic Penitentiary.

The Most Holy Father ratified this decree; and therefore it is made known to all Archbishops and Bishops in France for their norm by these letters, which otherwise are not to be published."

"By certain Bishops of France the following doubts were proposed to the Holy Roman and Universal Inquisition: In the Letter of the Holy Roman and Universal Inquisition of 25 June 1885 to all Ordinaries in the French Dominion concerning the law of civil divorce, it is thus decreed: Attending to the most grave circumstances of things, times, and places, it can be tolerated that those who hold magistracy and advocates handle matrimonial causes in France, without being bound to leave office. It added conditions, of which the second is this: Provided that they are so disposed in mind, both concerning the validity and nullity of marriage and concerning separation of bodies, concerning

which causes they are compelled to judge, that they never pronounce a sentence, nor defend for one to be pronounced, nor provoke or excite to it, that is repugnant to divine or ecclesiastical law. It is asked: 1. Whether the interpretation spread through France and even given to print is right, according to which there satisfies the aforesaid condition a judge who, although some marriage is valid before the Church, abstracts from that marriage with a true and constant mind, and, applying the civil law, pronounces that there is place for divorce, provided that he intends in mind to break only the civil effects and only the civil contract, and that the terms of the sentence pronounced regard only those things? In other terms, whether a sentence thus issued can be said not to be repugnant to divine or ecclesiastical law? 2. After the judge has pronounced that there is place for divorce, can the Syndic (in French, *le maire*), himself also intending only the effects and the civil contract, as is set forth above, pronounce the divorce, although the marriage is valid before the Church? 3. Once divorce has been pronounced, can the same Syndic civilly join with another the spouse attempting to pass to other nuptials, although the prior marriage is valid before the Church and the other party is living? - Resp. To the 1st, 2nd, and 3rd doubt, in the negative." S. I. C. 27 May 1886.

"A woman, separated from her husband by force of a sentence as regards bed, would wish to undertake a certain public office for sustaining life. But the government does not allow this unless she asks for divorce. She would wish to ask, but, in her intention, always with the bond saved. The Parish Priest, who is also her confessor, asks whether she can be admitted to the sacraments, and for light or counsel concerning the rest, as below. Resp. To the penitent woman, in the case, nothing else is to be advised except that she abstain under grave obligation from seeking divorce." S. Poenit. 5 Jan. 1887, to a Parish Priest of France.

"Most Reverend Monsignor. I have reported to the Most Eminent Major Penitentiary the case of the Syndic of that Diocese, who by force of his office would have to assist at the civil marriage of a certain person who is already bound in the face of the Church, and by command of the praised Eminent one I must signify to you that the named Syndic cannot in any way lend himself to an act so contrary to the sanctity of marriage. Therefore, whatever the circumstances of the case may be, he must absolutely abstain from such assistance, even if it should follow afterwards that he must resign. From the Sacred Penitentiary, 28 Nov. 1883. Luigi Martini, Substitute of the Sacred Penitentiary." To an Italian Bishop.

"14 September 1876. Prince, ... Following my request, His Eminence (the Cardinal Secretary of State) has just informed me, according to the orders of His Holiness, that the Congregation of the Holy Office has declared that the decree of 27 May does not concern Belgium, and that, consequently, nothing is modified in that country in what touches the matter of divorce. + Dominic, Archbishop of Thessalonica, Apostolic Nuncio." To the Minister of Foreign Affairs at Brussels. Cf. *Nouvelle Revue Theolog.* Vol. 18, p. 73.

N. 2. - On the Private Knowledge of a Judge in a Matrimonial Cause

"1. Whether marriages can be declared null and invalid in the external forum, when their nullity is known in the forum of conscience, but cannot be proved in the external forum? - 2. Whether the aforesaid spouses can be admitted to another marriage, as long as the impediment of their prior marriage remains occult, and the nullity of their aforesaid marriage has not been proved in the external forum? - 3. How one must act with those who have passed to other nuptials, although the impediment of their prior marriage remains occult and cannot be proved in the external forum? - 4.

Whether it is lawful for spouses of this kind, if there is no scandal and none is feared, to remain in their later marriage, although the nullity of the prior has not been proved in the external forum? Resp. To the 1st, in the negative. To the 2nd, in the negative. To the 3rd, in the external forum the second marriage is to be held as null. To the 4th, in the external forum it is not lawful; nevertheless the spouses are to be admonished that they make the impediment known, and let the Apostolic Vicar use the faculty of dispensing." S. C. de P. F. 11 Feb. 1804.

N. 42. - On the Continence of Clerics as Regards the Greeks

"... Whoever diligently considers the genuine tradition concerning celibacy and continence of the clergy will certainly find that, even from the first centuries of the Catholic Church, if not by a general and explicit law, at least by morals and custom, it was established that not only Bishops and Presbyters, but also clerics constituted in sacred orders, should inviolate preserve virginity or perpetual continence. For the same dignity of the sacred ministry, to which almost divine offices are attributed, seemed to demand this: that those who were to immolate and even to produce the immaculate victim, which itself is holiness and purity, should shine either with the splendor of virginity or with perpetual continence. Moreover, the very ample tradition of the Holy Fathers shows that the Apostles were either virgins or perpetually continent after marriage; whence they themselves also chose no other successors for themselves than those who had cultivated virginity or professed inviolate continence. Here there is no need to linger over what the Roman Church, Mother and Mistress of the others, taught by the example and institutions of the Apostles, did, since it never abandoned that obligation of preserving chastity, propagated it salutarily through the whole western Church, and finally sanctioned it by an inviolable law. But also among the Orientals, celibacy or continence of clerics, besides the fact that it was always in the greatest honor, was religiously observed from the most ancient time, especially in churches where discipline flourished by the diligence of Bishops. Indeed Epiphanius, a man distinguished in holiness and doctrine, and one who knew very well the discipline of the Eastern Church, in the exposition of the Catholic faith (n. 21), affirms in express words that 'the Priesthood chiefly consists from the order of virgins, or if not... from those who are continent from their wives, or who live in widowhood after one marriage.' For in the beginning, as Jerome speaks (book against Jovinian), 'because the Church was being formed as rude from the Gentiles,' some were assumed to the priesthood who had already been joined in marriage, but either continently in widowhood, or they led life as though they did not have wives. Whence the same Epiphanius (heresy 59) expressly acknowledges how 'the holy preaching of God does not receive into Deacon, Presbyter, Bishop, and Hypodeacon a man of one wife still begetting children, but him who has contained himself from one wife or has lived in widowhood, especially where the ecclesiastical canons are sincere.' Nor does the contrary custom or nonobservance of some particular church stand in the way at all, when discourse is being instituted concerning the discipline of the Eastern Church; for the same Epiphanius aptly continues: 'But you will say to me: altogether in certain places Presbyters, Deacons, and Hypodeacons still beget children. But this is not according to the canon, but according to the mind of men.' Wherefore it cannot be doubted that in the time of Epiphanius clerics, from Hypodeacon to Bishop, cultivated celibacy or continence. This can also be most aptly confirmed by the testimony of Jerome, who, because of long residence in the East, had known most perfectly the customs and discipline of that Church. Moreover, the holy Doctor opposes to Vigilantius, most hostile to clerical continence, besides other arguments, the fact of the universal

Church: 'What will the Churches of the East do, what those of Egypt and of the Apostolic See, which receive clerics either as virgins or continent; or if they have had wives, cease to be husbands? These finally were the tradition of the universal Church, these were the customs, where the prior discipline flourished.'

Certain of the Greeks think and too confidently assert that Bishops in the East observed continence of their own accord, constrained by no law, which they say was first sanctioned in the Trullan Synod. But besides the clearest testimonies of the Fathers, even Justinian himself, who disposed laws long before the Trullan Canons, and who professes that he is the executor of prior Canons, repeatedly inculcates that Bishops be chosen either from the order of monks, or indeed from the clergy, but those who either do not have a wife or at least do not live with her (Book 1, Code, On Bishops and Clerics, law 4; Novel 123, chapters 14, 29). Moreover, the same discipline flourishes among the eastern Sects which had defected from unity even before the times of Justinian; for all agree in this, that Bishops be chosen celibate (consult the Jerusalem itinerary of John Catovicus, who testifies to this in express words concerning the Nestorian Chaldeans and concerning the Maronites).

It happened quite otherwise as regards Presbyters and other clerics. For what in the time of Epiphanius was the nonobservance or lax custom of some particular Church, in the course of time began so to take root and be propagated that finally it invaded almost the whole eastern Church; and, custom growing strong, what had been permitted only to Cantors and Readers was also attributed to Presbyters and to other clerics constituted in sacred orders: namely, that they might live with wives whom they had taken before sacred ordination. Indeed, the heat of a laxer discipline in some Eastern Province advanced so far that some even after the reception of sacred Orders presumed to attempt marriage; which nevertheless by each law, namely Ecclesiastical and Caesarean, and indeed before the Trullan Canons, was severely disapproved and prohibited under most grave penalties, as even the laws themselves of Justinian clearly show. For the aforesaid Emperor complains gravely concerning certain clerics who, despising the sacred Canons, had presumed to attempt nuptials after ordination (Code, book 1, title 3, On Bishops and Clerics, section *Sacris Canonibus*). Indeed the sacred Canons severely forbade, under penalty of privation of the sacred ministry, that any of the Presbyters, Deacons, and Subdeacons could be married after an ordination of this kind. Whence, the same Justinian continues, 'just as such things are prohibited by the sacred Canons, so also according to our laws the thing itself is prohibited'; and, heaping civil penalties upon canonical ones, he decrees that sons received from such a wicked conjunction are illegitimate, as if they had been born from an incestuous marriage: 'so that they be understood neither as natural nor as illegitimate or spurious, but as altogether and from every side prohibited, and unworthy of the succession of their begetters.' Thus far Justinian. And although in ecclesiastical laws, as Benedict XIV most rightly says, there has been left to the lay power only the glory of obeying, not the authority of commanding, nevertheless in the matter of which there is question, the Emperor speaks relatively to the sacred Canons. (Instruction *Eo quamvis tempore*, 1 May 1745.)

Nor does it stand in the way that the Provincial Council of Ancyra, canon 10, permitted Deacons, if at ordination they had declared that they could not contain, to contract marriage even after Orders had been received. For granted that that Canon had the force of a concession for the Province of Ancyra, it certainly could not change the discipline of the Eastern Church, and in reality it did not change it, as Epiphanius, Jerome, and other Fathers testify together in clear words, and the Emperor himself most

openly maintains. (Authentics, collection 9, title 4, Novel 123, chapter 14: He who ordains not being able, at the time of ordination, to permit a Deacon or Subdeacon to take a wife after ordination, etc.) Wherefore even the Trullan Synod itself, canon 6, generally decrees under penalty of deposition that it is wholly lawful to no Subdeacon or Deacon or Presbyter to contract nuptials after ordination (Canon 6, Council in Trullo: Since in the Apostolic Canons, canon 27, it is said that, of those who are promoted to the clergy without having taken a wife, only Readers and Cantors can take a wife; and we, observing this, decree that henceforth it is lawful to no Hypodeacon, or Deacon, or Presbyter at all to contract after his ordination. But if he shall have dared this, let him be deposed, etc.); whence also the Canonists of the Greeks freely acknowledge that the Canon of the Council of Ancyra was wholly abrogated by the Quinisext Council (Balsamon, Zonaras, Aristenus, and others. Const. Arcudius, book 7, chapter 37, and Benedict XIV, Instruction *Eo quamvis tempore*).

Since these things are so, anyone easily sees how alien that custom is from the genuine discipline of the Eastern Church, namely, that hypodeacons contracting marriage after an ordination of this kind should be promoted to higher orders, since this is wholly abhorrent even to the Trullan Synod itself.

Wherefore His Holiness, to whom it is supremely dear that the customs of that Province, every corruption having been removed, be arranged according to the norm of a purer eastern discipline, cannot but follow with deserved praises Your Excellency's repeatedly confirmed proposal, namely, henceforth to admit no one to sacred Orders, unless he is either altogether celibate, or one who before the hypodeaconate, according to eastern custom, has taken a legitimate wife. Here, therefore, let Your Excellency and the other Prelates of that Province, remaining in the proposal, stand firmly; here cling..." Instr. S. C. de P. F. 24 March 1858, for a certain Province of the Greek rite.

N. 45. - On the Clothing of Missionaries

"Since in some Missions the custom of using the talar garment, especially when Priests proceed in public, has not up to this time been diligently observed by all; indeed, in some places even graver abuses in this matter have begun to be introduced, this Sacred Congregation commands that all ecclesiastical men, mindful that it is altogether fitting for Clerics to show gravity and moderation even in habit, should wear talar garments, whether of white or black color, according to the custom of the region and the Indults of the Sacred Congregation, at least in public, and that every evasion or pretext in obtaining this be removed. But if, compelling necessity or the cause of a journey through rough places, they are forced to put off the aforesaid habit, let them at least use that garment which in no way at all is unbecoming to priestly modesty." S. C. de P. F. 8 Sept. 1869, to the Apostolic Vicars of India.

N. 50. - On the Obligation of the Divine Office as Regards Beneficed Clerics

"From the decree of the Lateran Council under Leo X, augmented by St. Pius V in the year 1751, beneficiaries are bound to restore the fruits of the benefice according to the proportion of omission of the Office, six months having elapsed from the day of possession of the Benefice. For in the aforesaid Council, session 9, section *Statuimus*, it is said thus: We also establish that anyone having a benefice, if after six months, the benefice having been obtained, he has not said the divine Office, with a legitimate impediment ceasing, does not make the fruits his own according to the proportion of the

omission of recitation of the Office and of time. Then St. Pius V in his Constitution 186, which begins *Ex proximo Lateranensi*, issued in the year 1571, sanctioned thus: We establish that he who has omitted all the canonical hours on one or more days loses all fruits of the benefice which correspond to that day or those days; but he who has omitted Matins only, half; he who has omitted the other hours, the other half; even if someone assigned to choir, not reciting, should be present with the others at all canonical hours, and should pretend that he has made fruits and distributions, perhaps otherwise assigned by presence alone according to statute, custom, or otherwise, accrue to himself. Let him also understand that, besides the loss of fruits and distributions, he has committed grave sin. Likewise, he who in the first six months has not said the Office, unless a legitimate impediment excused him, should understand that he has committed grave sin, etc. Moreover, restitution of this kind is certainly owed before the sentence of a judge, as is clear from the condemned proposition 20 of Alexander VII, which said: restitution imposed by Pius V upon Beneficed clerics not reciting is not owed in conscience before the declaratory sentence of a judge, because it is a penalty." St. Alphonsus, bk. 3, nn. 663, 666, 672; bk. 4, n. 151.

N. 54. - On the Divine Office as Regards Religious Professed with Simple Vows, and Nuns

"Whether those professed of simple vows, which must be premised to the profession of solemn vows according to the Encyclical Letter of 19 March 1857, are bound to the divine Office? - Resp. That they are not bound to private recitation of the divine Office; nevertheless they must be present at choir, as those solemnly professed." S. C. over the State of Regulars, 6 Aug. 1858; S. C. EE. and RR. 24 March 1882. Cf. *Acta S. Sed.* Vol. 15, p. 250 ff.; Vol. 16, p. 292.

"Whether nuns in general are strictly obligated under grave obligation, by force of their profession, to recitation of the divine office proper to their Institute. - Resp. In the affirmative as regards nuns professed with solemn vows according to a rule approved by the Apostolic See in which a burden of this kind is imposed. If, however, such a burden is not imposed in the rules, let the Orator consult approved authors regarding the obligation which can arise from custom. But where the vows are simple, they are not bound." S. C. EE. and RR. 19 April 1844.

N. 57. - On Some Reformed Historical Lessons

"From the Sacred Congregation of Rites there have come to light some historical Lessons of the Roman Breviary and of the Proper of Saints of the Supreme Pontiffs, reformed entirely or in part. Lest any opening to equivocation be open in this matter, it is judged opportune to declare that modifications of this kind were approved and published by the same Sacred Congregation only for this purpose, that they must be inserted in new editions of the Breviary and of the aforesaid Proper, to be duly completed; by no means, however, so that those who recite the Canonical Hours according to editions already existing are obligated to assume them." S. R. C. 14 Dec. 1883.

N. 61. - On the Office of the Dead, Litanies, and the Angelic Salutation

A doubt having been proposed concerning private recitation of the Office of the Dead on 2 Nov. and of the Litanies on the day of St. Mark and the three days of Rogations, as regards Premonstratensian religious living outside the Monastery, concerning which the Statutes of the Order are silent,

"whether they are otherwise bound under any sin to private recitation of this kind, the Sacred Congregation of Rites judged that it should rescript: In the affirmative, that is, they are bound, as all who have the burden of reciting the Canonical Hours are bound." 4 Aug. 1877.

"His Holiness willed and commanded that to the other praises of the Blessed Mary in the Litany of Loreto, this also be added henceforth in the universal Church in the last place, namely: Queen of the Most Holy Rosary, pray for us." Decree for the City and the World, S. R. C. 10 Dec. 1883.

"Whether it is lawful, under the title of special devotion, to add some versicle to the Litany of the Saints or the Litany of Loreto, or to sing or recite in churches new Litanies, concerning whose approval the Ordinary is in no way certain? - Resp. In the negative; and let the decrees of the Sacred Congregation be entirely observed, and let Ordinaries take care to collect and forbid any formulas whatever, both printed and manuscript, of Litanies concerning whose approval there is no certainty. And since the discourse is concerning Litanies, since it has come to the knowledge of the Sacred Congregation that in some churches, especially on the occasion of the Prayer of Forty Hours, little books are used in which either the names of particular Saints are seen to have been added, or one or another versicle is lacking in the prayers; therefore the Sacred Congregation, adhering to the Instruction of Clement XI, section 24, commands that no other little books be used except those printed by the press of the Reverend Apostolic Camera, or entirely conformable to the same." S. R. C. 31 March 1821, General Decree.

"The Decrees which forbid every addition in Litanies are to be observed." S. R. C. 14 Aug. 1858.

According to the General Decree of the same Sacred Congregation (of Rites), 31 March 1821, it is not lawful, under the title of special devotion, to add some versicle to the Litany of the Saints; nevertheless, if not some versicle, is it lawful to add the name of some Saint, and even of several Saints, especially if they are held as Patrons of the Diocese? Resp. In the negative in all things, according to other Decrees of the S. R. C., 27 Sept. 1873.

"All Litanies except the most ancient and common ones, which are contained in Breviaries, Missals, Pontificals, and Rituals, and except the Litanies of the Blessed Virgin which are customarily sung in the sacred House of Loreto, are not to be published without the revision and approval of the Ordinary, nor are they to be recited publicly in churches, public oratories, and Processions without the license and approval of the S. R. Congregation." S. C. of the Index, 23 April 1860. Add to the praised Litanies, from the S. R. C., 12 Aug. 1862, the Litanies of the Most Holy Name of Jesus.

"That custom of inserting between the first and second part of the Angelic Salutation these words: Blessed Jesus, Savior of the world, I ask God that He give us to know Jesus, to believe in Jesus, to hope in Jesus, to love Jesus, to imitate Jesus, is altogether to be abrogated by you and to be prohibited by mandate of this Sacred Congregation. Indeed, nothing is contained in that prayer which is not holy and pious; but to divide the Angelic Salutation, which obtains such authority in the Church, and to mix between its first and second part another formula of praying, which has not been received by the Church, the Sacred Congregation judges is not to be tolerated." S. C. de P. F. 19 April 1784, to the Apostolic Vicar of Sutchuen. Cf. Gardellini, n. 1157.

N. 62. - On the Time of Recitation of the Divine Office

Cf. On the Sixth Precept of the Church, N. 489.

N. 65. - On Matins and Lauds to Be Recited the Day Before

"At what hour is it lawful to begin the private recitation of Matins with Lauds on the evening of the preceding day? Resp. That private recitation of Matins with Lauds of the following day can begin when the sun holds the middle course between noon and sunset." S. R. C. 16 March 1876.

"Whether the aforesaid response is to be understood in such a way that he would not satisfy his obligation who recited Matins with Lauds on the evening of the preceding day before the sun held the middle course between noon and sunset? Resp. Let approved authors be consulted." S. R. C. 13 July 1883.

N. 72. - On the Order of Offices

A regular Bishop must recite the Office of his Diocese, not of his Order. S. R. C. 11 June 1605. Cf. Gardellini, n. 265.

"Beneficed clerics are always bound to the office of their own Church; but simple priests can conform themselves to the office of the place where they are staying. For wanderers it is more advisable that they use the calendar of their own diocese, because otherwise great confusion of offices would arise." S. R. C. 12 Nov. 1831.

"Whether Clergy ascribed to some parish church, yet not obligated to choir, nor enjoying a Benefice, and Clergy living only under the same Parish and not attached to another Church, are bound to recite the particular Offices of that Parish...? Resp. They can, but are not bound; and therefore they fulfill the burden of the Canonical Hours by conforming themselves in the recitation of the Office to the Diocesan Calendar." S. R. C. 20 Sept. 1806.

"Whether secular Priests, who are considered to be ascribed to some Church because they celebrate Mass there, hear Confessions, or exercise any other sacred Ministry, can recite the Office of the Patron or Titular of the same Church, who is not Patron of the City or place, so that there may be uniformity among those Priests and the Pastor and Vice-pastors of the Church, who celebrate the Feast of the Titular of the same double rite of the first class with Octave, even if there is no obligation to choir? Resp. According to other decrees, in the negative; for they ought not to be considered, but truly to be ascribed to the strict service of the Church, as is the Parish Priest and Vice-parish Priest." S. R. C. 7 Dec. 1844.

Masters and students living in a Seminary are bound to the Office of the Church attached to the Seminary, although they celebrate Mass elsewhere. S. R. C. 7 Sept. 1850; Gardellini, n. 5145.

"On a journey the order of the divine Office of the Monastery from which he departed is to be followed... (During the time of Lent, preachers of the divine word staying outside the monastery) must conform themselves to the Calendar of the Province, extended without any diversity for all in any year." S. R. C. 31 Aug. 1839, Order of Friars Minor Capuchin; Gardellini, n. 4874, to 1 and 2.

"Whether religious of either sex not having their own Calendar must use the diocesan Calendar? Resp. In the affirmative, with Offices added which have been peculiarly granted to Regulars staying in that diocese." S. R. C. 22 July 1848.

Chaplains and Confessors of Nuns cannot recite their Office. S. R. C. 21 March 1795; 17 Aug. 1833; Gardellini, nn. 4464, 4715.

On the New Votive Offices

There has been given "a General Indult, both to Chapters and to any Communities of ecclesiastics whatever, and to individuals of each Clergy, of discharging votive Offices through the year in place of Ferial Offices, except on Ash Wednesday, during the whole time of Passiontide and of Holy Advent from 17 to 24 Dec.; as regards choral recitation indeed, by the consent of the Chapter or Community to be approved by the Ordinary once for all; but as regards private recitation, at the choice of individuals of the Clergy." S. R. C. 5 July 1883. *Acta S. Sed.* Vol. 16, p. 47 ff.

"Whether the words of the Indult, but as regards private recitation, at the choice of individuals of the Clergy, are to be understood only of those who are bound to Choir by no canonical title? Resp. In the affirmative." S. R. C. 10, 24 Nov. 1883. Cf. *Acta S. Sed.* Vol. 16, pp. 206, 256.

N. 75. - On an Office Omitted by Forgetfulness

"Whether, if in choir or privately, through forgetfulness or inadvertence, the Office, double or semidouble, of some Saint has been omitted on the same day on which it ought to have been made according to the Rubrics, it ought to be made on some other day, either of the same month or of the next following, not impeded by an Office of nine lessons? Resp. In the negative." S. R. C. 17 June 1675.

N. 87. - On the Addition of Some Prayer in the Recitation of the Office

Cf. N. 64, at the end.

N. 89. - On the Prayer to Be Added After Matins

Whether, Matins having been finished, the Prayer of the Office of the day is to be said? Resp. That the Prayer of the Office is to be added. S. R. C. 18 May 1883, in a Marianopolitan case.

N. 98. - On the Office of Advocate Exercised by Clerics

"1. Whether it is lawful for ecclesiastics of Castrum Maris to defend their own causes, those of churches, of the poor, and of miserable persons in lay tribunals without the license of the Bishop? 2. Whether they can act or appear by themselves or through procurators in the said tribunals for their active civil causes against laymen without the license of the Bishop in the case? Resp. To the 1st, in the affirmative. To the 2nd, provided for in the first." S. C. EE. and RR. 8 May 1716.

On Political Matters Not to Be Treated as Regards Missionaries

"... Always be so far distant from political matters and affairs of State that you should not undertake the administration of civil matters, not even if asked and wearied by earnest prayers; as this Sacred Congregation has always seriously and strictly prohibited and further prohibits... For the word of God must be disseminated not by these arts, but by charity, contempt of human affairs, modesty, frugality of life, patience and prayer, and the other virtues of apostolic men... But if Princes should sometimes seek your counsels, you will give, only after having been asked many times and after alleging this our prohibition, those things which are faithful and just, and eternity with wisdom; but soon leave the court and palace and depart into your Dioceses, to devote yourselves to sacred functions... But to the peoples preach obedience toward Princes, even harsh ones, for whose prosperity and safety both

privately and openly pray to God from the soul, and do not carp at their actions, even when they are persecuting, nor blame their severity, nor reprehend anything in them; but in patience and in silence await the time of consolation from the Lord. Do not in any way sow any factions in their regions, whether of Spaniards, or of French, or of Turks, or of Persians, or of similar persons; indeed, as much as is in you, remove all contentions of this kind by the roots... In the preaching of the word of God and in the administration of the Sacraments, do not create any suspicion of tumult and rebellion from the frequency of sermons and gatherings..., and altogether prohibit that on that occasion anything be done concerning matters that pertain to the public commonwealth. Let neither you nor yours continually adhere to the side of anyone, or be so bound to anyone, especially from among the more powerful, that you seem to serve that one alone, not the whole province. Wherefore, do not allow yourselves to be bound by excessive but treacherous favors, which not only harm the common good, but also hinder the liberty of speaking and of reprehending the vices of the benefactor himself." Instruction of the S. C. de P. F. to the first Apostolic Vicars, 1659; 23 Nov. 1845; S. C. S. O. 1674; Clement XI, Const. *In excelsa,* 13 Sept. 1669; Alexander VIII, Const. *Sacrosancti Apostolatus Officiis*.

N. 105. - Whether It Is Lawful for Clerics to Acquire Shares?

"Whether it is lawful for Clerics promoted to sacred Orders or possessing benefices to acquire shares of the limited partnership society of Citta di Castello," which exercised the commerce of money. Resp. "It is not lawful." S. C. EE. and RR. 30 Jan. 1846. Cf. Bizzarri, *Collectio*, ed. 1885, p. 530.

"Whether it is lawful for ecclesiastical persons to buy titles upon railways and to receive the profit arising from them. Resp. The Most Holy Lord grants faculties to be communicated to Bishops through the Sacred Congregation of Bishops, of permitting ecclesiastics to accept railway shares from their own money only." S. O. 1 April 1857.

A doubt having been proposed concerning shares "in various commercial, industrial, or exchange Societies, etc.," accepted by two priests by inheritance and to be retained, the Most Holy Lord "kindly remitted the prayers to the Bishop with all necessary and opportune faculties, so that, the things narrated truly existing, for five years only concerning those prayers he should deal gratuitously, establish, and decree whatever he should judge, according to his own judgment and conscience, to be more expedient in the Lord." S. C. C. 6 July 1855. Cf. *Nouvelle Revue Theologique* Vol. 17, p. 589 ff.; Gury-Dumas, n. 105.

N. 109. - On Episcopal Visitation as Regards Regulars

"Whether the law by which, according to the Holy Council of Trent, the Ordinary is bound to visit the Communities and Monasteries of his Diocese also extends to Communities and Monasteries which are ruled by a Superior or Superior General?" Resp. "As regards exempt Regulars, in the negative, except cases expressed by law. But with respect to Brothers and Sisters of pious Congregations of simple vows, not exempt, in the affirmative, the Statutes and Constitutions approved by the Apostolic See being saved." S. C. EE. and RR. 27 Feb. 1865. Cf. Wolfgang Mühlbauer, *Decreta Authentica*, word Visitation.

N. 112. - On the Sermon to Be Had by Parish Priests

"Parish Priests are bound on Sundays and feasts of precept to have a sermon for the people, according to the prescription of the Council of Trent; nevertheless it will belong to the prudence of the Bishop to dispense from this ordinance on some more solemn days." S. C. C. 1 April 1876. Cf. *Acta S. Sed.* Vol. 9, p. 468.

N. 117. - Whether Canons Can Serve the Church and Choir Through Substitutes?

This is contrary to the Council of Trent, session 24, chapter 12, on Reform, and contrary to the Declaration of the S. C. C., 25 July 1570. Nevertheless, as is clear from the decrees themselves of the S. C. C., the faculty of substituting themselves mutually has not been taken away, provided that: 1. the substituting person is present in the city where the Church exists, or in the suburbs or territory; 2. the substitute is one from among the Capitulars; 3. each is not bound at the same time to the same service; and 4. substitutions of this kind are not too frequent. Cf. Lucidi, Vol. 1, p. 282 ff., 3rd ed.; Wolfgang Mühlbauer, *Decreta Authentica*, word Substitute.

N. 118. - On Choir Distributions

"1. Whether and how canons hearing confessions during the time of the divine offices ought to be considered present in choir for the effect of gaining distributions in the case? 2. Whether and how the same canons celebrating Mass during the time of the divine offices ought to be held as present in choir for the same effect in the case? 3. Whether and how canons assisting the Archbishop in Pontificals and other functions, or celebrating a private Mass, absent from choir, gain distributions in the case? 4. Whether and how the same canons assisting the Archbishop in treating the affairs of the diocese, or accompanying him in the diocese outside the residence, gain distributions in the case? 5. Whether and how canons absent from choir to examine the accounts of the capitular fund gain distributions in the case? 6. Whether and how canons absent from choir, devoting themselves to the ministry of preaching, gain distributions in the case? 7. Whether and how canons gain distributions while they are absent from choir for the examination of ordinands or confessors in the case? 8. Whether and how canons exercising the office of rector, administrator, professors, and examiners in the seminary, absent from choir, gain distributions in the case? 9. Whether and how canons absent from choir, as Pro-vicar general, Chancellor, and Actuary, and exercising other offices in the archiepiscopal curia, gain distributions in the case? 10. Whether and how canons absent from choir, devoting themselves to the administration of capitular things or of the archiepiscopal mensa, gain distributions in the case? 11. Whether and how the canon Chancellor of the Chapter, occupied in the archive for capitular business, gains distributions in the case? And insofar as negatively, 12. whether the Most Holy Lord is to be consulted for absolution and condonation of distributions received in the case? Resp. To the 1st, in the negative in all things, except the Penitentiary. To the 2nd, in the negative, unless with the license of the prefect of choir and for the convenience of the people. To the 3rd, in the affirmative to the first part, as in the Lycien. case, 27 August 1641; to the second part, in the negative. To the 4th, in the negative in all things. To the 5th, in the affirmative for the time to be predefined by the Bishop. To the 6th, 7th, 8th, and 9th, in the negative in all things. To the 10th, as regards the canon administrator of capitular things, in the affirmative for the days and hours in which he actually applies himself to the administration; in the rest, in the negative. To the 11th, in the

negative, unless in a case of urgency. To the 12th, in the affirmative, with one Mass celebrated with chant, the whole Chapter standing by." S. C. C. 20 Dec. 1862; 24 Jan. 1885. Cf. Lucidi, Vol. 3, word 235, 3rd ed.; *Acta S. Sed.* Vol. 1, p. 285 ff.

"4. Whether and how those conversing in choir during the time of the divine offices lose daily distributions in the case? 5. Whether conversations on account of which distributions are lost can be constituted from several small conversations in the case? Resp. To the 4th, in the affirmative. To the 5th, in the affirmative, if several are made in the same hour." S. C. C. 27 March 1847. Cf. Lucidi, Vol. 1, p. 555.

"Moreover His Holiness admonishes and exhorts the same Ordinaries, that, with the fruit which indeed is very abundant from the aforesaid spiritual exercises being opportunely proposed and explained, they diligently excite all of the clergy subject to them, but especially rectors of souls, confessors, canons, and other beneficed clerics bound to the service of choir, to perform the same exercises at least once in the year in the houses of the Religious of the Society of Jesus, or of the priests of the Congregation of the Mission, if they are present; if not, in another pious or regular house to be designated and approved by the same Ordinaries for this.

But so that individuals may come more eagerly to the same spiritual retreat, His Holiness grants in the Lord to all the aforesaid rectors of souls, confessors, canons, beneficed clerics, and other priests and clerics, who for ten days in each year have performed the same exercises in the aforesaid houses, and have remained there by day and night, and meanwhile, truly penitent and having confessed, have received the Most Holy Sacrament of the Eucharist, as often as they have done this, a plenary indulgence and remission of all their sins.

Moreover, he kindly absolves Parish Priests, while they are devoting themselves to exercises of this kind, only once in the year, during that time, from residence. He commands that the same be observed as regards canons, beneficed clerics, and others bound by personal residence and devoted to the service of choir, whom nevertheless he decrees to gain entire fruits, and any daily distributions whatever of their canonries and benefices respectively, just as if they were personally present at choir and the divine offices, provided nevertheless that they perform the same exercises, with license having first been obtained from the Ordinary, by whom it will by no means be granted during the time of Advent and Lent and on more solemn festivities, nor ever to all canons and others serving choir at the same time, but with that method used, that the service of choir is in no way interrupted; and as regards parish priests, with suitable administrators first substituted, to be approved by the Ordinary himself, who may laudably administer the care of souls. Moreover His Holiness commands that these Letters be published in that diocese and be inscribed in the registers of the chancery for the perpetual observance of the things contained in them, and that for this very end their publication be renewed henceforth every three years." Encyclical Letter of the S. C. EE. and RR., 1 Feb. 1700, to the Bishops of Italy and adjacent Islands. Cf. Lucidi, Vol. 3, p. 381 ff., 3rd ed.; *Acta S. Sed.* Vol. 12, p. 609 ff.; Gardellini, n. 4189.

"Whether a Parish Priest and other Priests assisting at the Funerals of the dead and the daily Offices for the same, and receiving a stipend for that function, are bound to discharge the Office of the Dead by themselves, so that those only assisting, and not singing or psalmodizing, do not make the fruits their own; or whether it is sufficient that they assist, and the schola discharge the Office, while they meanwhile pour forth other prayers at their own pleasure, for example, reciting the Breviary for their

daily obligation. Resp. In the affirmative as regards the first part, in the negative as regards the second." S. R. C. 9 May 1857, Périgueux. Cf. *Acta S. Sed.* Vol. 1, p. 285 ff.

N. 120. - On the Conventual Mass

Cf. On the Eucharist, N. 361.

N. 121. - On the Assistance Owed to the Bishop by Canons

S. R. C., 16 July 1605, declared: "that Canons and Choristers are bound to wait for the Bishop wishing to come to the Church, and not to begin the offices except after his arrival, provided that the hour of the office has certainly been intimated, and that the Bishop does not delay beyond the signal given for beginning the office and cause the ministers of choir and the Canons to wait longer."

The same S. C. R., 12 June 1627, commanded "that Decrees made at other times be observed, namely that at the appointed hour with the Bishop, and intimated to him, so that he can come if he wishes; and the signal having been given, if the Bishop has come after the Hours have begun for the divine offices, not all Canons are bound to proceed to meet him, but only four or five from the Chapter, so that the greater part of the Chapter or Canons remains in choir to continue the Hours."

It is lawful for the Bishop to compel the Canons of the Cathedral to serve him as often as he exercises the pontifical office in the Cathedral or in the city and suburbs; yet in such a way that if it is outside the cathedral Church, this Church is not deprived of due worship and service. But when he approaches Churches in which there are other dignities and Canons, the Bishop should know that the Canons of the Cathedral altogether precede the Canons and dignities of the Collegiate Church. Thus the S. R. C.; the decree was confirmed by Clement VIII, 13 June 1592.

And this also proceeds when the Bishop celebrates, or for any cause is present at Mass or solemn Vespers in exempt Churches (therefore much more if in some Congregation or Confraternity, etc.), and in Churches immediately subject to the Apostolic See, yet existing within the limits of his Diocese. S. R. C. in Alexandrina S. Petri, 7 Feb. 1604.

Likewise, they are bound capitularly to assist the Bishop solemnly performing Ordinations in chant among the divine offices. But if they are done privately, only three should serve. S. R. C. 7 Dec. 1658.

Likewise, they are bound to assist the Bishop preaching pontifically with cope, miter, and staff. S. R. C. 3 Dec. 1701. And those refusing are to be punished by other penalties, beyond loss of distributions. Gardellini, n. 1447.

The Canons of the Cathedral cannot be compelled to assist the Bishop if he has approached other Churches to celebrate privately. Indeed, they are not bound to assist him celebrating Mass privately in his own Cathedral, unless there is a custom, which must be observed. S. R. C. 5 July 1603 and 25 April 1608. But then, according to the same Sacred Congregation, the Bishop is said to approach the Church privately when he approaches without the pontifical cope; and thus he assists.

When the Bishop approaches the Cathedral pontifically, the sprinkler is to be offered by the first dignity of the Chapter with a kiss of the sprinkler and of the hand. But if he approaches another Church, with the Cathedral Chapter assisting, the sprinkler is to be given by the dignity or superior

of that Church. S. R. C. 23 March 1592, with Clement VIII confirming. Cf. Scavini, bk. 1, n. 598, Milan, 1874; Wolfgang Mühlbauer, *Decreta Authentica*, words Canons, Bishop.

N. 122. - On the Election of a Capitular Vicar

There is no election of a Capitular Vicar while the Bishop is living and has been shamefully cast out from his See. S. C. EE. and RR. 3 May 1862. Cf. Bizzarri, *Collectio*, p. 608, ed. 1885.

In the month of March, year 1863, the S. C. C. responded to the question concerning the nomination of two Vicars, the See being Vacant: "that it can be tolerated." On 21 April 1592 the S. C. C. declared: "With the See vacant, only one Vicar is to be elected. Moreover, by that decree, namely of the Council of Trent, the custom of electing two or more, especially immemorial, was not removed."

N. 130. - On the Election of the More Worthy to Benefices

"Whether a Bishop has the right of choosing for the prebend of Theologian and Penitentiary the one whom he himself among those approved in the formal competition judged more worthy; or rather whether he is bound to choose him whom the examiners in the same competition declared more suitable? - Resp. In the affirmative to the first part; in the negative to the second." S. C. C. 21 Dec. 1829. Cf. *Acta S. Sed.* Vol. 2, pp. 81, 122; Ferraris, Vol. *Praebenda Theol.*, Cassinese Addition.

N. 138-141. - On Testimonial Letters of Ordinaries to Be Required Before the Admission of Novices

"In whatever Order or Congregation... whether solemn vows or simple vows are omitted in them... no one is to be admitted to the habit without testimonial letters both of the Ordinary of origin and also of the Ordinary of the place in which the Postulant, after having completed the fifteenth year of his age, has remained beyond a year." Decree of the S. C. over the state of Regulars, *Romani Pontifices*, 23 Jan. 1848, to be observed everywhere.

"Whether the reception of the habit is null without testimonial letters? Resp. That the reception of the habit is illicit, but not invalid; that testimonial letters omitted in reception to the habit are to be obtained as soon as possible; otherwise Novices will by no means be able to be admitted to profession. Whether profession is invalid if it is made with testimonial letters omitted? Resp. That it is not invalid, but illicit." Same Sacred Congregation, 1 May 1851.

The Decree *Romani Pontifices*, 25 Jan. 1848, on testimonial letters of Ordinaries to be required "regards only religious men, not nuns." S. C. over the State of Regulars, 25 Feb. 1863.

On the Form to Be Observed in Admission to the Habit and to Profession

The laws to be observed in testing those who ask to be admitted to the Religious habit, and in admitting Novices to Profession, are contained in the Decree of Regular Discipline of 25 Jan. 1848 for Italy and the adjacent Islands, Savoy included. Bizzarri, *Collectanea*, p. 832 ff., ed. 1885.

"Whether profession made without the form of the Decree of Regular Discipline first having been observed is null or only illicit? Resp. That it is only illicit, but not null." Same Sacred Congregation, 16 Jan. 1852.

On the Qualities Required in Those to Be Admitted

The qualities required in those to be admitted are those which are prescribed in the Constitution of Sixtus V *Cum de omnibus*, with the moderation of Gregory XIV, and in the Decree of Clement VIII *Cum ad regularem disciplinam*, and also in the rules and Constitutions of the respective Order. Same Sacred Congregation, 1 May 1851. In the aforesaid Decree of Clement VIII you have Institutions concerning the reception and education of Novices in Monasteries and Convents designated or to be designated. Bizzarri, *Collectanea*, p. 845 ff., 867 ff.

"Lay brothers are not to be received before the twentieth year of their age, and unless they know at least the chief heads of Christian Doctrine." Instruction concerning the reception and education of Novices by order of Clement VIII, ed. 19 March 1693; S. C. over the State of Regulars, 1 May 1851 to the 7th; Encyclical Letter *Neminem latet*, 19 March 1857.

On the Prohibition of Receiving Anything from Novices, Except Food and Clothing

"The Sacred Congregation judged... that it is not lawful... to exact from Novices... under whatever pretext... except food and clothing for that time in which he shall have been in probation." S. C. EE. and RR. 11 Dec. 1789; Council of Trent, session 25, On Regulars, chapter 16.

On the Place and Duration of the Novitiate

"The mind of the Sacred Congregation is that henceforth the year of probation or Novitiate, and solemn Profession, be made in Monasteries destined for the Novitiate according to the form of the Constitution of Clement VIII *Regularis disciplinae restitutioni*... so that, according to the prescription of the Council of Trent, session 25, chapter 16, On Regulars, the time of Novitiate having been finished, Superiors admit to profession the novices whom they have found suitable, or cast them out from the Monastery." S. C. EE. and RR. 12 July 1793. But on 19 Sept. 1686, the Sacred Congregation had declared Clothing and Profession in a Convent not designated for the Novitiate null, adding that "the year of probation is to be computed from the day of entrance to the legitimate place of Novitiate." Cf. Bizzarri, *Collectanea*, p. 279 ff.

On Prolongation of the Novitiate and Delay of Profession

"1. Whether, when Novices, clerical or lay, in good faith have received the habit before the time, so that when the year and day of the novitiate have been finished they have not reached the age prescribed by the Constitution for profession, profession can be deferred for them without dispensation and danger of Nullity until they have reached the prescribed age? 2. Whether, without dispensation and danger of Nullity, profession can sometimes be deferred, both for clerics and laymen who, when the year and day of the Novitiate have been finished, have reached the age required for profession, if, in the prudent judgment of the Father Vicar General or of the Fathers Conventual of the Conventual Chapter, there are grave causes for deferring profession? Resp. To each, in the affirmative, and more, etc." S. C. EE. and RR. 12 Jan. 1731, of the Order of Discalced Augustinians.

On Spiritual Exercises to Be Performed by Women Who Wish to Receive the Monastic Habit or Emit Profession

"His Holiness wills and commands that all to be promoted to Orders, both minor and major, perform spiritual exercises for ten continuous days before Ordination, in exactly the same way which is prescribed for those to be promoted at Rome by the Constitution *Apostolica sollicitudo* of Alexander VII. Likewise, all those who wish to embrace the religious state in any Monastery, even one subject to Regulars, are to perform the same Exercises for ten days before they receive the habit and are admitted to the Novitiate; and the same exercises are to be repeated for ten days before they are admitted to Profession. Moreover His Holiness desires... that all professed Nuns once in the year, for some time which seems opportune, perform the same exercises." Encyclical of the S. C. EE. and RR., 9 Oct. 1682.

On Simple Vows Before the Solemn Profession of Men

"... As regards religious families of whatever Order, Congregation, and Institute in which solemn vows are emitted, we establish and decree that the profession of solemn vows will be entirely null, void, and of no force, whether knowingly or ignorantly, in whatever way, pretext, and color, made by any novices whatever, even lay and conversi, who, although they have completed probation and novitiate as by law, do not first emit the profession of simple vows and remain in it for a full three years; although either by the Superiors, or by the novices, or by each, there is held respectively the intention of receiving to solemn vows and emitting them, and all the rites prescribed for the profession of solemn vows are employed." Brief of Pius IX *Ad universalis Ecclesiae*, 7 Feb. 1862. Solemn profession can for just causes be further deferred by the Superior General or Provincial, not however beyond the age of completed 25 years. Encyclical Letter of the S. C. over the State of Regulars *Neminem latet*, 19 March 1857, to which for the dominion of the Austrian empire this Instruction was added: "... But particular circumstances of things require that in religious houses constituted in the announced dominion the profession of solemn vows be deferred according to the custom and practice introduced there for some years now. Wherefore this is the mind and will of His Holiness, that Regular Superiors should use the faculty attributed to them in the said decree, namely of deferring the profession of solemn vows, according to the above-mentioned custom and practice." Cf. Francis Sentis, *Clementis Papae VIII Decretales*, Freiburg im Breisgau, 1870, p. 81.

"Those who perhaps have put on the habit of Religion when already older than 25 years, or near this age, can, when the year of Novitiate has already been completed, be admitted to solemn vows and profession, or must the three-year period of further probation also be awaited with such persons? Resp. In the negative to the first part; in the affirmative to the second." S. C. over the State of Regulars, 20 Jan. 1860.

"Whether in the case in which a secular priest, who has long since passed the year 25, has sought and obtained the habit, solemn profession, namely of solemn vows, can be deferred for him, after the profession of simple vows has been emitted, beyond the customary three-year period, if namely within the three-year period of simple vows he has not given sufficient arguments concerning his vocation? Resp. In the negative, namely, that it cannot be deferred." S. C. 16 Aug. 1866. "They declared nevertheless that recourse must be had to the Sacred Congregation in particular cases in which some peculiar cause concurs." Bizzarri, *Collectanea*, p. 867, ed. 1885.

On the Time and Form by Which Those Professed of Simple Vows Can Abdicate from Themselves the Dominion of Their Things

"When can those Professed of simple vows emit the renunciation of which the Sacred Council of Trent, session 25, On Regulars, chapter 16, treats, and by which they abdicate from themselves the dominion of their things? Resp. That the renunciation which the Council of Trent regards in the cited chapter 16, session 25, On Regulars, has place for the professed of simple vows within the two months immediately before the profession of solemn vows." Decree of Pius IX, 1 Aug. 1862.

"Whether for the validity of renunciations of underage Novices, and of female Novices, which are made on the occasion of Profession, it suffices to observe the form of the Council of Trent, or whether the solemnities prescribed by the current Judicial Code are necessary," as regards contracts of women and minors? Resp. "In the affirmative to the first part. In the negative to the second." S. C. EE. and RR. 17 March 1843.

On the Place Designated for the Professed and on Explicit Profession

"Those professed of simple vows must remain in the houses of the professed and of studies, and observe perfect common life. For the valid emitting of solemn vows after simple vows, express profession is required, and therefore tacit profession is entirely abrogated." Same Sacred Congregation, 12 June 1858. "The Most Holy Lord... established and constituted that, notwithstanding the Apostolic Letters of Clement VIII and any other contrary things whatever, those professed of simple vows can lawfully and freely emit the profession of solemn vows in their time in the Convent or House in which they are found, the other things to be observed by law nevertheless being observed, without being bound to profess in the house where the Novitiate was completed." Same Sacred Congregation, 9 Dec. 1859. Cf. Decrees of Clement VIII *Regularis disciplinae*, 12 March 1596; *Sanctissimus in Christo Pater*, 20 June 1599; *Nullus omnino*, 25 June 1555; Const. of Urban VIII *Sacra Congregatio*, 21 Sept. 1624.

N. 141. - On Return to the Order as Regards the Secularized and Expelled

"Religious profession is not weakened by the Rescripts of which there is question, namely of Secularization; and therefore Indultaries are not bound to repeat Profession and Novitiate when they seek to return to the Cloisters; nevertheless legitimate custom introduced and the prescriptions of individual regular Orders are saved. But suitable documents of the previous life and morals can be required by religious Superiors, while they were living in the world, and they can be obligated to perform spiritual exercises." S. C. EE. and RR. 30 Jan. 1824.

"Whether young men who before exclaustration, because of the extinguished College, had emitted simple vows are to be reputed free from them, so that if Monasteries are opened again, they must begin and pursue the Novitiate according to the Decree over the State of Regulars *Neminem latet*, 19 March 1857? Resp. In the negative." 4 July 1862.

N. 145. - Whether and How a Regular Bishop Is Bound to the Rule

Resp. "In the affirmative according to the form of the Constitution of Benedict XIII beginning *Custodes*: namely, a Regular Bishop is bound to observe the rules of his Religion which determine the

matter of the vow of poverty. Likewise, he is bound to observe other rules and observances not repugnant to the dignity and episcopal office with the same obligation, grave or light, by which he was bound before he obtained the episcopal dignity; yet in such a way that in peculiar cases he can prudently make judgment whether those rules agree with episcopal dignity and office." S. C. EE. and RR. 6 May 1864. Cf. *Acta S. Sed.* Vol. 1, p. 449 ff.

Whether and How Dispersed Religious Are Bound to Regular Observance

"Care must be taken that Regulars expelled from their own houses, insofar as they cannot be received into another monastery, come together into some particular house to be designated by their Superiors, and there not omit to observe, in the best way that can be done, the rule which they have professed, with prohibition made to each of departing without due license." S. Poenit. 18 April 1867. Cf. *Acta S. Sed.* Vol. 3, p. 151 ff.; Scavini, bk. 1, n. 669 ff., Milan, 1874.

N. 146. - On the Divine Office as Regards Religious Professed of Simple Vows, and as Regards Nuns

Cf. N. 54.

N. 153. - On the Force of the Solemn Vow of Poverty

"So that the decrees of the Council of Trent concerning the vow of poverty to be guarded may be observed more faithfully, it is commanded that no one from among the Friars, even if he is a Superior, can possess as his own, or even in the name of the convent, immovable or movable goods, or money, revenues, alms, acquired either from sermons, or from lectures, or for Masses, whether to be celebrated in his own Church or anywhere whatever, or by another just labor and cause of theirs, and under whatever name acquired, even if they are subsidies of relatives, or pious largesses, legacies, or donations; but let all these things at once be handed over to the Superior and incorporated into the convent, and be mingled with the other goods, revenues, moneys, and proceeds of it, so that from this common food and clothing can be supplied to all. But of those things which had been conceded for necessity, let no one possess anything as his own, nor use it as his own. No dispensation of any Superiors whatever, no license as regards immovable or movable goods, can excuse the brothers from being liable to the fault and penalty imposed by the same decrees of the Council and to be incurred by the very fact, even if Superiors assert that they can grant dispensations or licenses of this kind, to whom We will that faith by no means be given in this matter." Const. of Clement VIII for the reform of Regulars, 20 March 1601, nn. 3, 5, 7.

Property of Regulars Solemnly Professed, from Pontifical Dispensation for Belgium

"The Eminent and Reverend Lord Cardinal Victor Augustus Isidore, Archbishop of Mechlin, together with his suffragans, requested from Our Most Holy Lord that, in order to remove any doubts whatever, he deign to explain and declare whether the rescript of 1 Dec. 1820, by which the Sacred Penitentiary, by Apostolic authority, granted to regulars of Belgium of either sex, even solemnly professed, that they could acquire, retain, and administer goods, and dispose concerning them, the solemn vow of poverty notwithstanding, still remains in its entire force." The Decree of the year 1820

is this: "The Sacred Penitentiary, understanding that the government altogether wishes that that old decree of the day 18 Feb. 1809, namely *decret relatif aux congregations des maisons hospitalieres de femmes*, article 9, 'Each hospital sister will preserve the entire property of her goods and revenues, and the right of administering and disposing of them according to the Napoleonic Code,' be observed by the regulars of the kingdom of Belgium, by which the property, possession, and administration of goods which have come to them is vindicated to individual religious or nuns, grants by express Apostolic authority to regulars of either sex already solemnly professed, that they can acquire, retain, and administer those goods, and dispose concerning them for pious and honorable uses, the vow of poverty notwithstanding, provided that they do this with due dependence on legitimate Superiors."

Our Most Holy Lord Leo XIII, Pope by divine providence... commanded that response should be made: In the affirmative; and by the tenor of the presents he deigned to declare, insofar as there is need, that all and singular regulars of Belgium of either sex, even those who have pronounced solemn vows, have validly and lawfully exercised and do exercise all the aforesaid acts; and therefore that they could and can, with safe conscience, even with an oath, assert that they wished, according to the norm of civil laws, to acquire true dominion of the goods possessed by them, together with the right of disposing concerning them. Concerning these things His Holiness commanded that this decree be issued and reported in the acts of the Congregation mentioned above (Extraordinary Ecclesiastical Affairs). Any contrary things whatever by no means standing in the way." 31 July 1878.

Faculties Granted to Regulars Suppressed in Italy as Regards Poverty

"16. He likewise grants to solemnly professed regulars that they can legitimately obtain and retain in administration Chaplaincies or one ecclesiastical Benefice only, even residential or with care of souls, with the consent and at the nod of the Ordinary of the place, and with their own superiors agreeing; which nevertheless they are bound to give up at once when they have been recalled by the same Superiors to the cloisters.

"17. He grants to local Ordinaries as regards nuns, and to Superiors general as regards men regulars, the faculty of indulging, either by themselves or through suitable persons to be subdelegated by them, to their respective subjects suppressed in Italy, that, with peculiar circumstances considered and while these endure, notwithstanding the solemn vow of poverty, they may be able to receive, enter into, and retain goods pertaining to them by legitimate right, and even inheritances, nevertheless with the right acquired by a third party saved, and concerning these not only to enter into contracts, but also to dispose for pious and honorable uses, and especially in favor of their Order or Institute, and also in signification of a grateful mind, through acts either among the living or by reason of death, with the counsel and approval acceding of the Ordinary himself or Superior or another deputed by him, or at least in case of necessity of the confessor. Yet in such a way that they are bound, as long as they have lived in a community which can possess temporal goods, to hand over the administration and revenues of their things to the same community, and to leave to the same Religion whatever has come to them from the goods of their own Religion, with precautions employed. But if the community is from among those to whom the possession of temporal goods is not permitted, in this case let them commit the administration to some third person, so that without the license of the Ordinary or of the regular Superiors, they cannot apply any of the fruits to themselves or dispose in any way.

"18. He indulges to all and singular suppressed regulars of either sex, that they can cautiously place moneys acquired by legitimate title, with the license of their superiors, and, insofar as there is question of nuns, with the license of the Ordinary of the place, in an honorable and lawful investment, either through interposed persons; yet by this law, that regulars living in community are bound to hand over the titles and revenues of the same moneys to the same community, or to some third person, as above, and cannot dispose concerning them in any way without the license of the same superiors or of the Ordinary himself." S. Poenit. 18 April 1867.

"Whether the faculty which is contained under n. 17 of the Instruction of the Sacred Penitentiary, 18 April 1867, can also be extended to Italian religious subjects before they emit the solemn vow of poverty; that is, whether while the profession of solemn vows is made, they can be permitted by Superiors General to be able to retain, etc., the property of legitimate goods and inheritances which they already possessed? Resp. In the negative, but they are bound altogether to abdicate themselves from every right and property of the same goods according to the Constitutions of their own Order. But the Sacred Penitentiary declares its mind, in granting the faculty expressed in n. 17 of the Instruction given 18 April 1867, in no way to have been that through Superiors General of regular Orders there could be indulged to subjects suppressed in Italy the property or dominion of goods coming to them by whatever reason, which the same regulars, by reason of solemn profession, acquire not for themselves but for the monastery or Order." S. Poenit. 21 May 1880.

On the Force of the Simple Vow of Poverty

"Those professed of simple vows in Orders in which solemn vows are emitted will be able to retain the radical dominion, as they say, of their goods; but the administration of them, and the spending and use of revenues, is altogether interdicted to them. Therefore before the profession of simple vows they must cede for the time during which they remain in the same profession of simple vows, the administration, usufruct, and use, to whomever they please, and even to their own Order, if they have so judged according to their own choice." S. C. over the State of Regulars, 12 June 1858.

"Concerning the vow of poverty the following disposition was established by the Apostolic See as regards some more recent institutes of this kind: 'The professed will be able to retain the radical dominion, as they say, of their goods; but the administration of them, and the spending and use of revenues, is altogether interdicted to them as long as they remain in the institute. Therefore before profession they must cede, even privately, the administration and use to whomever they please, and even to their own institute, if they have so judged according to their own choice. But this cession will no longer have force in the case of departure from the institute; indeed, there can be added the condition that it is revocable whenever, even if they have remained in the institute; but the professed during vows will be able by no means to use this right of revoking in conscience, unless the good pleasure of the Apostolic See accedes. This must also be said concerning goods which after profession have come to them by hereditary title. Nevertheless, they will be able to dispose concerning dominion, either by testament or, with the license however of the General Moderatrix, through acts among the living; nor is it forbidden to them to perform those acts of property, with the license of the same General Moderatrix, which are prescribed by laws.'" Bizzarri, *Collectanea*, pp. 793, 806, ed. 1885.

On the Giving of Gifts Forbidden to Regulars of Either Sex

"... Wherefore, striving to guard lest from gifts... grave inconveniences arise even under the appearance of good... We wholly interdict to regular persons of either sex every and any giving and sending of gifts... except lighter little gifts of food or drink, or those pertaining to devotion or Religion... to be handed over... unless in reality for divine worship, and for the true necessities of Christ's poor, with the order of charity observed in this, and with account had of necessity, by counsel and consent of Superiors for relieving them, or otherwise in lawful things... Yet declaring by these things that laudable hospitality, commended by apostolic doctrine and sacred canons, especially toward the poor and pilgrims, is in no way diminished or prohibited... By like reason also We strictly inhibit that anyone... receive anything against this prohibition expressed above... But if he shall receive anything, let him not make that which he has received his own... But by the fact itself... he is altogether bound to its restitution in each forum; so that, the restitution itself not having been really made, he cannot even be absolved in the forum of conscience... This restitution, however, We will to be made to that Monastery, House, or other place from whose goods the gift was made, or if it was not given from its goods, to the one in which the same religious making the gift emitted profession..." Clement VIII, Const. *Religiosae Congregationes*, 13 Kal. July 1594. "... He declares that gifts can be bestowed by Religious of either sex from causes of gratitude, conciliation, benevolence, and preservation of the same toward the Religion itself or the Convent, and from other causes which of their nature contain an act of virtue and merit; yet modestly and discreetly, and provided that this is not done except with the license of local Superiors, and also with the consent of the greater part of the Convent, if such consent is required in that Religion..." Urban VIII, Const. *Nuper a Congregatione*, 16 Oct. 1640. Cf. Constitutions and Decrees to be read by Regulars at the public table or Chapter.

On Common Life in Religious Orders

"In all houses of Novitiate common life will be established... In other houses a common chest will be established... in which all Religious will deposit money..." S. C. EE. and RR. 22 April 1851. Bizzarri, pp. 852, 853.

On a Regular Bishop as Regards Poverty

"A professed Regular, incapable of goods, assumed to the Episcopate... recovers the right of succeeding to inheritances, after the Episcopate has been attained, brought to him for the utility of his Church as regards property, and for his own advantage as regards usufruct." S. C. C. 7 Dec. 1639. Cf. *Acta S. Sed.* Vol. 1, p. 227.

N. 167. - On a Master of Music as Regards Nuns

"The Holiness of Our Lord... not wishing that in Monasteries of Nuns men teach Music, Song, or Sound, either to Nuns or to secular women staying in the Enclosure, either at the grates, or at the door, and much more with entrance into the Monastery, commanded, etc." S. C. EE. and RR. 4 Aug. 1800; 18 Aug. 1843.

On Adolescents Not to Be Received or Retained for Dwelling in Monasteries

"... The same Sacred Congregation... by special mandate of Our Most Holy Lord Clement X, by this present Decree, in virtue of holy obedience, commands all and singular Superiors... that henceforth they receive or admit no one to dwell within the cloisters as Tertiaries, or Oblates, or Donati, or Committed, or Servants, nor as guests or postulants, or singers, or called by any other name whatever, and clothed or to be clothed in any habit whatever, or under whatever pretext, cause, or sought color, unless he has completed the twentieth year of his age; and that all thus received or admitted, with only those excepted who, having completed the age of 15 years, are making the year of probation as Clerics or Choristers in the habit of Novices, they altogether remove and cast out from Monasteries or Regular Houses..." S. C. EE. and RR. 16 May 1675. Bizzarri, *Collectanea*, p. 274.

N. 168. - On the Manner of Electing Regular Superiors

"Whether custom or prescription can bring it about that elections which have been made against the form of the Decree of Trent, session 25, chapter 6, On Regulars, are ratified and valid? Resp. In the negative." S. C. EE. and RR. 11 March 1836.

On Obedience as Regards Dispersed Regulars

The jurisdiction of Regular Superiors "over their own suppressed subjects, even those living outside the cloisters, has by no means ceased. For although each Regular living outside the cloisters, as regards polity and ecclesiastical discipline, is not exempt from the jurisdiction of the Ordinary of the place in which he lives, nevertheless as regards regular discipline and obligations which flow from religious profession and are compatible with his new state, he is bound to be subject to his own Superiors and to obey them." S. Poenit. 18 April 1867. "With the rights acquired by the Province over each of its own alumni kept whole and intact... the S. C. over Regular Discipline decreed that all Religious universally... as long as because of present circumstances it happens that they live outside the boundaries of the Regular Province, whether at home or elsewhere, are to be subjected to the inspection and jurisdiction of the territorial Provincial..." S. C. over Regular Discipline, 5 Aug. 1872. Cf. *Acta S. Sed.* Vol. 3, p. 151 ff.; Vol. 7, p. 407 ff.

N. 173. - On the Exemption of Regulars

"... As regards the exemption of regulars, the prescriptions of canonical law are certain and known. Namely, although in the ecclesiastical hierarchy, which is constituted by divine ordination, presbyters and ministers are inferior to Bishops and are ruled by their authority [1], nevertheless, so that in religious orders all things might better be apt and connected among themselves, and individual associates might enjoy a peaceful and even course of life, and finally that provision might be made for the increase and perfection of religious conversation [2], not undeservedly did the Roman Pontiffs, whose office it is to describe dioceses and to assign to each his subjects to be ruled by sacred power, establish that the Regular Clergy is exempt from the jurisdiction of Bishops. The cause of this matter was not that it pleased them that religious societies should enjoy a better condition than the secular clergy, but that their houses were held by fiction of law as certain territories torn away from the dioceses themselves. From this it came about that religious families, which by common law ought immediately to be subject both to Bishops on account of hierarchical principate and to the Supreme

Pontiff on account of pontifical primacy [3], continued to be in His power, and by privilege went out from the power of Bishops. But since in reality they pass life within the boundaries of dioceses, the force of this privilege is so tempered that diocesan discipline is kept whole and intact, and thus that the regular clergy in many things must be subject to episcopal power, whether ordinary or delegated... Moreover, by common law [4] it has been established that houses which do not contain at least six religious associates must altogether be in the power of Bishops... When a doubt had long ago been proposed to Clement VIII, whether religious men sent to the Indies for the cultivation of souls were to be considered as though living outside the enclosures of the monastery, and therefore were ordered by the Tridentine law to be subject to Bishops, that Pontiff, through the Constitution *Religiosorum quorumcumque*, 6 Ides of November 1601, had decreed that they were 'to be reputed as religious living inside the cloisters; wherefore in those things concerning the care of souls they are subject to the Ordinary of the place; but in the rest they remain subject not to the Ordinary of the place, but to their own superiors.' Nor did Benedict XIV think and judge otherwise in his constitutions *Quamvis*, 5 Kalends of March 1746; *Cum nuper*, 6 Ides of November 1751; and *Cum alias*, 5 Ides of June 1753. From all these things it is clear that even hospices and houses, however infrequent by fewness of inhabitants, are comprehended by the right of this privilege of which there is question, and this not only in places where Apostolic Vicars preside, but also where Bishops preside; for in the Constitutions which we have recalled, Bishops were being treated." Leo XIII, Const. *Romanos Pontifices*, 8 Ides of May 1881.

[1] Council of Trent, session 23, On the sacrament of Order, canon 7.

[2] St. Gregory the Great, Epistle III, book IX. Benedict XIV, decretal Epistle *Apostolicae servitutis*, the day before the Ides of March 1742.

[3] Vatican Council, Constitution *Pastor aeternus*, chapter 3.

[4] Innocent X, Constitution *Instaurandae*, 15 Oct. 1652; Constitution *Ut in parvis*, 10 Feb. 1654.

On the Dependence of Regular Missionaries on the Regular Superior and on the Ordinary of the Place, with Respect to the Missions of the Society of Jesus

S. C. de P. F., 18 Jan. 1886, Leo XIII approving on the 19th of the same month.

"Concerning the dependence of Missionaries of the Society of Jesus on the Regular Superior and on the Apostolic Vicar: Insofar as they are religious, they are subject to Regular Superiors by force of the vow according to the Constitutions of the Society; but in cases expressly named by law, and generally in those things which regard the care of souls and the administration of sacraments, they are subject to the Apostolic Vicar by canonical obedience, as Clement VIII already sanctioned, that religious sent to India in things concerning the care of souls are subject to the Ordinary of the place, but in the rest remain subject not to the Ordinary of the place, but to their own Superiors. Clement VIII, Bull, 6 Ides of Nov. 1601, *Religiosorum quorumcumque*.

Concerning the right of assigning the same Missionaries to various offices: Both for the ministry of Missionaries concerning the care of souls, and for caring for pious Institutes which are in the power of the Apostolic Vicar, such as Seminaries, Catechumenates, Hospitals, popular Schools, and things similar to these, the designation of persons whom the regular Superior presents and the conferral of jurisdiction pertain to the Apostolic Vicar. Therefore also the removal and transfer of these persons

pertain to the Apostolic Vicar and to the regular Superior according to the norms established by Benedict XIV in the Bull *Firmandis*, that is: But if the case should happen in which either the Bishop or the regular Superior judges that some one of the aforesaid Parish Priests is to be removed from the exercise of care, and deprived of the same, since it is by no means lawful for Parish Priests of this kind to accede to the care of souls without the prior approval of the Bishop, although deputed by their own superiors, and the same are removable at will; therefore it was doubted whether the Bishop could proceed to removals of this kind without the consent of the regular Superior, and whether he ought to bring forward the causes of removal to the same and verify them; and also whether the regular Superior, coming by his own right to a similar removal and privation, was bound to seek the consent of the Bishop and to make known and approved to him his reasons for acting. Concerning this matter the aforesaid Congregation of the Council decreed that Parish Priests of this kind can be removed from the care of souls both by the Bishop and by the regular Superior, with equal right, the consent of the other not being required; nor is one bound to open to the other the causes of his judgment, much less to prove and verify them. This We approve and confirm in all things.

Concerning Colleges in the Missions of the Society of Jesus: As regards Colleges, and the Schools and Boarding-houses of Colleges, in which religious men, according to the prescriptions of their Order, are accustomed to give work to instructing youth, right reason demands and the Holy See wills that the privileges granted to Regulars remain firm and entire. Therefore both the governance of those Institutes and the designation of persons in them pertain to regular Superiors according to the Constitutions of the Society.

Concerning the administration of temporal goods in the same Missions: As regards the administration of revenues arising from the works of religious, it is established: 1. The administration of revenues of Colleges and Boarding-houses, and likewise of recompenses which come to individuals, with apostolic dispensation, from stipends of Masses and rights of stole, or from personal industry, pertain to regular Superiors. 2. It is permitted to the Apostolic Vicar to establish a Cathedraticum, to be paid to himself, to be approved beforehand by the Sacred Congregation. But from the pensions of military Chaplaincies, what remains beyond their honorable support is to be handed over entirely by regular Superiors to the Apostolic Vicar. 3. The proceeds of which it has been spoken are to be expended not outside the Mission, but in the works of the Mission; for this end the regular Superior is bound every three years to render account concerning them to the Sacred Congregation.

Moreover the Most Eminent Fathers judged that the Most Holy Lord should be supplicated that he deign to extend to India the Apostolic Constitution *Romanos Pontifices*, given by him in the year 1881 for England and Scotland and afterwards extended to other regions. And the Supreme Pontiff, approving this also, granted the requested extension.

These decisions, which also regard the regular Superior and religious Missionaries, are nothing other than an application or explanation of common law, or of decisions already given at other times for places of Missions."

On Privileges and Faculties as Regards Dispersed Religious

"3. He decrees that the aforesaid houses, designated by Superiors into which dispersed Religious have come together, provided that at least three Regulars have come together into them to live there, will

be subject to the jurisdiction of the Provincial Minister, and that they are to be governed by a particular Superior to be constituted there. 4. He indulges that in the same houses, provided that at least four Regular priests live in them, a private Oratory can be erected, with the things to be observed by law observed... in such a way that in it Mass can be celebrated by Regular priests, the Most Holy Eucharist reserved, and Holy Communion received only by Religious and Oblates, and satisfaction made to the precept of hearing Mass. 5. He likewise indulges that in Oratories thus erected the Regulars themselves can enjoy all and any Indulgences granted and assigned to the houses or Churches from which they had been driven out." S. Poenit. 18 April 1867. Cf. *Acta S. Sed.* Vol. 5, p. 151 ff.

"Whether and to whom belongs, in the case, the right of funerals as regards Religious dispersed by force of the present circumstances? Resp. In the affirmative in favor of Regulars, as often as Religious live together under a legitimate Superior at least in the number of three, and others living outside depend on the same; otherwise in favor of Parish Priests." S. C. EE. and RR. 11 March 1881.

Cf. Scavini, bk. 1, n. 669 ff., 12th ed., Milan, 1874; *Acta S. Sed.* Vol. 1, p. 238 ff., 168; Vol. 3, p. 140 ff., 151; Vol. 5, p. 569 ff.; Vol. 7, p. 147 ff.

N. 174. - On the Confession of Regulars

Cf. On Penance, N. 557.

N. 177. - On the Simple and Solemn Vows of More Recent Nuns

"For the Holy See, especially from the time of the Council of Trent, neither permits nor indulges that solemn vows be emitted in Societies or Communities of women, unless they live and remain perpetually under inviolate enclosure." S. C. EE. and RR. 24 Sept. 1816. Cf. Const. of St. Pius V *Circa pastoralis*. But the Bishop can obtain from the Holy See papal enclosure even for Nuns with simple vows, with the consent of all vocal nuns acceding by secret votes. S. C. EE. and RR. 6 Dec. 1839. Cf. Bizzarri, *Collectanea*, pp. 412, 723-737, 742, 743; *Acta S. Sed.* Vol. 1, p. 708 ff.; Lucidi, chapter 5, section 2, n. 42.

N. 180. - On the Faculty of Bishops of Dispensing Nuns from Vows

1. If the discourse is concerning Nuns belonging to an Order in which solemn vows were previously emitted, here pertain the doubts proposed by the Bishop of Le Mans: "1. Whether the spiritual privileges granted to Regulars, for example indulgences, nevertheless remain? 2. Whether the vow of entering Religion is still reserved to the Apostolic See? 3. Whether the Ordinary, on a sufficient reason being given, can dispense concerning vows emitted by nuns, the vow of perpetual chastity remaining? 4. Whether the same thing must be said concerning vows of men as concerning vows of nuns, as it seems? Resp. To the 1st: That the Sisters of monasteries of France can gain all indulgences which have been granted to the Religion or Institute of other nuns emitting solemn vows according to the respective Institute or rule, and this from an indult confirmed by Our Most Holy Lord Gregory XVI. To the 2nd: In the affirmative; but the vow of a woman whose intention had regard to monasteries as they now exist in France is not reserved: because namely those same monasteries by the Apostolic See, with the peculiar circumstances considered, not as Orders truly and properly religious, but as

families of most pious women. To the 3rd. From the declaration of His Holiness, the Bishops of France, things thus standing, can dispense. To the 4th. The decrees issued at other times through the S. Penitentiary regard only nuns." S. Poenit. 11 Dec. 1835.

2. But if the matter is concerning the more recent Congregations of Nuns approved by the Holy See, to this question pertain both the Rescript of the S. C. EE. and RR. of 20 Sept. 1840, and the Observations often made by the same S. C. on their Constitutions, by which it is asserted that in Congregations of this kind the vows emitted are dispensed by the Roman Pontiff alone.

3. "Whether a Bishop can dispense from vows emitted in non-enclosed Congregations, and not approved by the Holy See, which are subject to the governance of some Superior General; whether 1. they have houses situated in several dioceses; or 2. they have no houses outside the diocese in which they arose? Resp. To the 1st and 2nd, as regards the non-reserved vows of poverty and obedience, that the Bishop can in either case dispense, provided that a right acquired by a third party from an onerous contract is not injured while he is reasonably unwilling; as regards the reserved vow of chastity, negatively from the Bishop's ordinary power, unless it is established that the vow was not perpetual and absolute." S. C. S. O. 2 Aug. 1876.

N. 181. - On the Enclosure of Nuns Without Solemn Vows

"1. Whether, if there are not solemn vows, nuns nevertheless are bound to observe the enclosure which they vow by a simple vow, under the censures enacted by Trent, where the Bishop has restored the enclosure. 2. Whether he also incurs the penalty of excommunication who without license enters the precincts of the monastery, where the enclosure has been restored by the Bishop? Resp. To the 1st, negatively as regards the penalties prescribed by the sacred canons and apostolic constitutions. To the 2nd, affirmatively with relation to censures perhaps imposed by the Bishop." S. C. EE. and RR. 1 Aug. 1839.

N. 182. 183. - On the Divine Office as Regards Nuns

Cf. N. 54.

On the Sacraments in General

N. 204. - On the Intention of Heretical Ministers in Baptism

"In certain places some (heretics) baptize with due matter and form, applied simultaneously, but expressly warn those to be baptized not to believe that Baptism has any effect on the soul; for they say that it is a merely external sign of the aggregation of those of their Sect. And so they often turn Catholics into mockery concerning their faith about the effects of Baptism, which indeed they call superstitious. It is asked: 1. Whether Baptism administered by those heretics is doubtful because of defect of intention of doing what Christ willed, if it has been expressly declared by the minister, before he baptizes, that Baptism has no effect on the soul? 2. Whether Baptism so conferred is doubtful, if the aforesaid declaration was not expressly made immediately before Baptism was conferred, but it was often pronounced by the minister, and that doctrine is openly preached in that Sect? Resp. To the 1st, negatively; because, notwithstanding the error as regards the effects of Baptism, the intention of doing what the Church does is not excluded. To the 2nd, provision has been made in the first." S. I. C. 18 Dec. 1872. Cf. Benedict XIV, *De Syn. Dioec.*, bk. 7, ch. 6, n. 9; Innocent IV, chap. 2, On Baptism, n. 9; Bellarmine, On the Sacraments in General, bk. 1, ch. 27, n. 13.

N. 218. 252. 769. - Sacraments to Be Denied to Those Who Are Bound by Censure

"How should Parish Priests conduct themselves in the celebration of the marriages of those who have notoriously fallen into Ecclesiastical censures? Resp. Care is to be taken according to one's strength that those bound by Ecclesiastical censures be reconciled with the Church in due manner; but if they refuse to be reconciled, and, unless the marriage is celebrated, grave evils seem thence to threaten, let the Parish Priest consult the Ordinary, who, having considered the account of things and circumstances, and having weighed all the things which are handed down by approved authors and especially by St. Alphonsus, bk. 6, tr. 1, ch. 2, n. 34, should declare those things which he shall judge in the Lord to be more expedient, the celebration of Mass always nevertheless excluded." S. Poenit. 10 Dec. 1860.

"Likewise, how should Bishops conduct themselves, if any of the above-mentioned persons bound by censure should present themselves, that he may act as Sponsor either in the sacrament of Confirmation or of Baptism? Resp. As in the preceding." S. Poenit. 10 Dec. 1860.

"Whether the Most Holy Eucharist can be ministered to those notoriously bound by censure before they have first, as is fitting, been reconciled with the Church? Resp. Negatively." S. Poenit. 10 Dec. 1860. Cf. *Acta S. Sed.* Vol. 1, p. 563.

On Baptism

N. 237. - On Baptism with Corrupt Water

"1. Whether one is validly baptized with water which, although it wholly keeps its liquidity, nevertheless gives forth a great and very unpleasant stench? 2. Whether, with the validity of Baptism with such water posited, and another good water enriched with sacred Chrism not being had, it is better to use that putrid water than pure and natural water not enriched with Chrism? Resp. That Baptisms conferred with corrupt water were valid, although illicit outside the case of necessity; and in the case of necessity natural water is to be preferred, but provision is to be made by renewal of the water of the Baptismal Font, according to the Roman ritual." S. O. 17 Apr. 1839.

N. 239. - On the Baptism of an Infant in the Mother's Womb

"A fetus, baptized in the womb upon the crown of the head, after birth is to be rebaptized again under condition." S. C. C. 12 July 1794.

N. 247. - On the Dispositions Necessary for Receiving Baptism

"Whether it is necessary that the mystery of the Eucharist be explained to an adult to be baptized? Resp. Adults, outside the danger of death, speaking per se, are bound, unless such a motive urges to the contrary that delay until after Baptism is judged expedient by a prudent Missionary. As regards one dying, likewise they are bound, unless either time does not suffice, or such disturbance of mind is foreseen in him that it could distract him from the reception of Baptism." S. C. de P. F. 10 May 1703.

"1. It is not lawful to baptize an adult Barbarian, rude and stupid, not explicitly believing in the Lord Jesus Christ; but the Missionary is bound to instruct him concerning all those things which are necessary by necessity of means, according to the capacity of the one to be baptized. 2. It is not lawful to baptize a sick Barbarian, if the Missionary is morally certain that he has not sufficiently, according to the measure of his own capacity, understood the mysteries of the Christian Religion explained to him, or does not sufficiently believe them, and from the sole motive of not contradicting promises that he will observe the commandments of the same Religion. But if the Missionary prudently believes that the sick Barbarian, when he says, I believe and I will do, then really sufficiently believes, and seriously promises that he will observe as above, he must be baptized. But if the Missionary doubts concerning the aforesaid things, and time does not suffice to instruct him better, and the danger of death is imminent, he also must be baptized under condition." S. C. de P. F. 14 May 1703.

N. 248. - On the Baptism of the Children of Infidels, Heretics, Apostates

"Father Didacus of Varallo, who presided for many years over the Tripolitan missions, reported to this S. C. de P. F. that not without grave detriment to souls very many doubts had arisen among the ministers of the divine word of those regions concerning Baptism: whether and in what manner, according to the diverse circumstances both of persons and of danger, it is lawful for them, or even

incumbent on them by duty, to come to the aid, by the saving laver, of the necessity of infidels who cannot consult for themselves.

After a diligent examination had been applied to these doubts, comprised under ten heads, but in addition entangled with many questions, as it were incidental, the S. C. easily recognized that they did not need so much any new sanction or definition as a certain simple explanation of the common doctrine, which, proceeding from the ancient custom of the Church concerning Baptism to be furnished to the children of infidels, has often in like manner been declared and confirmed by decrees of Sacred Congregations and Apostolic Constitutions, the sum of which Benedict XIV has most recently embraced in two Decretals, and, by opportune divisions according to the variety of cases and circumstances, has illustrated as by distinct lights. And from these indeed three documents especially are at hand more closely pertaining to the subject matter, from which, in every doubt of this kind, sacred ministers will have to seek the norm of taking counsel and acting. They are: 1. Outside imminent danger of death, it is not lawful, when parents are unwilling or unaware, to baptize the infant children of those infidels who either live by their own laws, or are subject to the rule or dominion of Christians only civilly. 2. Nor are infant children of this kind to be baptized, even when offered freely and spontaneously by the parents, if after Baptism they are to be left in the power of their infidel parents. 3. Baptism is thus to be imparted to the same infants brought into proximate danger of life, provided that this is done without scandal; all which things will plainly be established from the decrees to be brought forward below. But lest in the application of this general doctrine to peculiar cases any place for ambiguity be left, the Sacred Congregation judged that satisfaction must be made to the individual articles of the questions proposed by as many responses.

I. The first head of the questions comprises these three doubts. 1. Whether children of infidels who are insane from birth, concerning whom there is no hope that thereafter they will possess some interval of reason, can lawfully be baptized. 2. Whether sacred ministers are bound to inquire about insane persons of this kind, and to baptize the same. 3. Whether by themselves or through others.

Resp. As regards the first, the common opinion of the Doctors, with St. Thomas as leader, 3 p., q. 68, art. 12, is that those insane from birth, in whom neither a present use of reason appears nor a future use is hoped, are counted among infants, and as regards the reception of Baptism are in the same case through their whole life as children who are situated in proximate danger of death: for just as those children, who have not yet attained the use of reason, cannot consult for themselves, so neither can those insane persons at any time of life provide for themselves, because, as being perpetually insane, they never attain the use of reason. Therefore, insofar as that impotence of reason is judged truly by a probable and prudent judgment, they can lawfully be baptized. For as regards insane persons of this kind there is no place for that reason which generally stands in the way lest the children of infidels be lawfully baptized when their parents are unwilling, namely that for the sake of preventing perversion they would have to be withdrawn from the care and power of their parents not without offense to the parents: this reason, I say, does not apply as regards the perpetually insane, whom their perpetual insanity withdraws from the danger of perversion, and therefore they can safely be left in the care and power of their parents. Nevertheless sacred ministers will have to conduct themselves cautiously and prudently in either inquiring about or baptizing them, lest the hatred of infidels and cruelty against the faithful be stirred up against the Christian religion.

As regards the second, since it should above all be proposed to sacred ministers that they gain for Christ and the Church as many souls as they can, there is no room for doubt that, for inquiring about and baptizing insane persons of this kind, they are bound to provide all that moral diligence which the nature of their own office requires in matters of gravest moment: that caution always being employed which the laws of Christian prudence prescribe for avoiding scandal.

Third. To this those assigned to missions are bound either by themselves, insofar as they are not legitimately impeded, or through others, whose vicarious work they will employ most laudably especially when they have perceived that the salvation of the insane will be consulted more conveniently and safely through others than through themselves.

II. In the second doubt it is asked how ministers of the missions should conduct themselves toward the insane children of infidels whose insanity is not so stupid that they do not give forth some indications of reason, especially in those things which pertain to the manner of animal life, in which namely a certain weak force and faculty of reason betrays itself, such as appears in children of four or five years, and who therefore are not sufficiently able to grasp the principal mysteries of the faith. It is asked in addition whether ministers sin who, holding insane persons of this kind as if foreknown, cast away all care and solicitude for them.

Resp. Where a difficulty arises in judging, as it were, the degree of insanity, the matter is finally to be recalled to this, that it be explored whether those concerning whom the question is asked possess such a use of reason that they can recognize the distinction of moral good and evil, and therefore in choosing evil can render themselves guilty of fault. Hence a threefold case emerges: for either it is morally established that they possess such a faculty, or it is morally established that they do not possess it, or finally, after sufficient examination, it remains doubtful and uncertain whether they possess it.

1. And so, if by prudent judgment they are considered capable of sin, the rule which St. Thomas prescribes, 3 p., q. 68, art. 12, must be used, in these words: Certain persons exist who, although they are not of an altogether sound mind, nevertheless use reason to such an extent that they can think concerning their salvation, and understand the power of the sacrament: concerning such persons the same judgment is to be made as concerning those who are of sound mind, who are baptized when willing, but not when unwilling. These persons therefore are to be led to Baptism in the manner of adults. In this matter the rules which the Church has prescribed, and which, as being clearly explained in the Roman Catechism, it does not pertain to this place to repeat, must altogether be observed.

2. If by prudent judgment they are not considered capable of fault, like children who have not yet attained sufficient use of reason, a distinction must be used: for either that impotence of reason is judged, also by prudent judgment, to be going to be perpetual, and they are to be baptized, as was said above to the first doubt; or some hope underlies that thereafter the faculty of reason may more manifest itself in them, and then again a distinction must be made: for either they are situated in proximate danger of death, and they are to be baptized, provided that this is done without scandal; or no danger of this kind is present, and more certain indications of reason are to be awaited, so that they may be led to the faith and to Baptism in the manner of adults.

3. But if only doubtful signs are at hand, there will be place for the prudent rule which approved Doctors supply, namely: if necessity does not press, a more suitable and greater knowledge can and must be awaited; but if necessity presses, then in a doubtful case one must incline in favor of religion and of the Christian faith, and of the spiritual salvation of the one to be baptized.

Moreover those who neglect men of this kind as if already damned and desperate strive to cover shameful negligence with a more shameful excuse. To God alone is known the number of the elect to be placed in supreme felicity, and it is of wholly insane rashness to arrogate that judgment to oneself: For who has known the mind of the Lord? Or who has been his counselor? Rom. 11. Let religious men rather think this, that God does not will anyone to perish, but all to come to the knowledge of truth, and that they themselves have been called into part of that office which was entrusted by Christ to his disciples, that they go and bring forth fruit, that they perform an embassy for Christ, and that in procuring the salvation of men they serve and collaborate with Christ.

Nowhere therefore is it permitted to neglect those insane persons, but with eyes and minds always intent it must be looked to that, if indeed they are situated in proximate danger of death, the minister baptize them with prudent caution employed; but if not, that he await opportune moments, so that, when they have given forth sufficient indications of reason, he may duly prepare the same in the manner of adults for receiving Baptism.

III. Whether the ministers themselves, before they bring themselves to furnish or deny Baptism to the insane of this second kind, are bound, where it can be done without grave inconvenience, to refer the whole matter to Bishops, Vicars, or Prefects of missions, and to seek from them counsel and a norm of acting?

Resp. Everyone is bound, in performing his office, to guard against the danger of error so far as he can, and to apply to this all the diligence which the gravity of the matter demands. Moreover nothing is so consonant with ecclesiastical discipline and with the hierarchical order instituted by Christ in the Church as that inferiors be directed by superiors in undertaking sacred offices. Therefore where a case occurs in which a Priest assigned to missions hangs uncertain in mind whether, with the circumstances considered, it is lawful or not to minister Baptism, he is not to be considered as guarding sufficiently against the danger of error if, where it can conveniently be done, he neglects to approach his elders and spurns the assistance prepared for him in their judgment, counsel, and authority.

IV. Where Bishops, Vicars, or Prefects are not present, whether one who gives work to missions ought by his own counsel to bring himself to baptize the aforesaid insane persons, after a diligent examination has first been applied and the aid of the Holy Spirit has been implored?

Resp. Religious ministers are indeed bound in that case both to apply diligent examination and earnestly to implore divine aid. But let them remember that their zeal ought chiefly to turn on this: not that they fashion new rules for themselves, but that they not err in applying the rules of the Church. But what those rules are, as pertains to the proposed doubts, can be understood partly from what has already been said, and will become known partly from what must be said.

V. Whether a minister would act lawfully who, after diligent examination, with instruction omitted, secretly baptized those ambiguous insane persons, with this or a similar condition employed: If you

are incapable of the hearing of faith, or enveloped in the darkness of irremediable and invincible ignorance; or even more simply: If you are incapable of instruction and of the doctrine necessary for adults before the reception of Baptism, I baptize you, etc.?

Resp. Nothing more apt can be adduced for closing off this doubt than that distinguished sentence of St. Thomas, 2.2, q. 10, art. 12: The custom of the Church has the greatest authority, which is always to be emulated in all things. By the authority of this custom especially the Holy Doctor was induced to deny that it is lawful to baptize the children of infidels when their parents are unwilling, as is had in Const. *Postremo mense*, n. 6; wherefore it is by no means marvelous that that doctrine of St. Thomas has both been commonly received by others, and has been strengthened and confirmed by the sentences and judgments of other ecclesiastical tribunals as well as also of the supreme Inquisition, as Benedict XIV testifies in the cited Constitution *Postremo mense*, n. 5, and Constitution *Probe*, n. 10. Moreover the authority of the same custom applies likewise to excluding that formula of condition which is proposed to be added in ministering Baptism. For almost three causes we find by the custom of the Church that a condition has prevailed in conferring Baptism: when there is prudent doubt concerning Baptism previously conferred, whether it is valid or not; when necessity compels the use of doubtful matter; when it is doubted whether the subject is capable of Baptism, as in monstrous births, or, as in a difficult birth, when it is doubted whether the Sacrament can be effected by washing that part which alone can be washed. In one word: from the custom of the Church a condition is then employed in Baptism when there is place for doubting whether something has been absent or is absent which is required for the validity of the Sacrament. But whenever it is established that no such thing is absent, it has never been heard that it is lawful for the minister, while he executes the rite of Baptism, to add conditions from his own judgment by which the making of the Sacrament is impeded. Therefore what St. Thomas concluded in that first case must also be concluded here: that it is dangerous, contrary to the custom hitherto observed in the Church, to introduce this assertion anew. Wherefore it will be necessary for sacred ministers altogether to abstain from usurping the proposed formula, and to follow that norm which was prescribed for the second doubt.

VI. Whether that is lawful for ministers of the missions which is said to have been proposed by Honoratus Tournely, who, after setting forth the opinion of certain Theologians judging that all infant children of infidels can be baptized when their parents are unaware, adds, as it is reported, that in that case he would have recourse to the Holy See or to nearer prelates for the sake of seeking an oracle; if this assistance were lacking, that he would implore the aid of the Holy Spirit, and would take the counsel of acting from his guidance, and finally that in such a matter each one should be left in his own opinion?

Resp. The opinions of Doctors are to be measured according to the decrees of the Church, not the decrees themselves bent according to the pleasure of those opining.

Therefore, whatever Tournely or other private persons have thought, here a stronger authority is present, placed in the constitutions of the Supreme Pontiffs and in the decrees of the sacred Congregations, which now altogether abrogate all faith in that opinion which seems in some manner to be stirred up by that question, which generally establishes that it is lawful to baptize infant children of infidels when their parents are unwilling or unaware. Indeed Benedict XIV, Const. *Postremo mense*, n. 7, proposes as fixed and ratified that it is unlawful that infants of the Hebrews be baptized when the judgment of the parents resists, unless however danger of death urges, as he

afterwards explains. And lest anyone by calumny should wish that it is one thing to act when parents are unwilling, another when they are unaware, that empty and plainly fictitious distinction is exploded by Constitution *Probe*, n. 10, where he approves the doctrine of St. Thomas by which he teaches that infants of infidels can by no means be baptized without the consent of the parents. The Pontiff says that doctrine is both commonly received and confirmed by the judgments of ecclesiastical tribunals.

Moreover, for a plainer explanation of this doctrine, it will be worthwhile to append here especially three decrees of the S. Congregation, which indeed were indicated above, but which it was necessary to refer back to this place, so that the series of responses would correspond to the series of doubts. The first, in the year 1705, on 18 Feb., by which, as in Const. *Postremo mense*, n. 8, responding to the question of the Prelate of happy memory Charles Naigrot, "Whether infant children of infidels can be baptized when their parents are unwilling?" the following response was issued: "The Eminent Fathers, the vote of the Lord Consultors having been heard, said that it is not lawful, except in the article of death." The second, by which, to the request of the Bishop of Quebec concerning infants whom parents freely and spontaneously offer to Baptism, response was made on 4 May 1793: "It is not lawful, if they are children of infidels and to be left in their power, the danger of imminent death nevertheless set aside." To this is consonant another issued on 15 March 1770: "It is not lawful outside danger of death to confer Baptism on those offered by both infidel parents, as often as the same infants after receiving Baptism are to be left under the power and education of the same infidel parents." The third, on 28 January 1657, to the doubt concerning infant children of infidels, constituted in proximate danger of life, response was made: "Baptism can be conferred on infants constituted in the article of death morally certain, if however this is done without scandal." From these decrees those three general precepts are drawn out which had to be touched upon at the beginning, so that reason and way might be prepared for unraveling the doubts themselves, namely: 1. It is not lawful, except in the article or morally certain danger of imminent death, to baptize infant children of infidels when their parents are unwilling or unaware. 2. Nor is it lawful outside the same danger (since in the decrees article and danger are taken promiscuously) to baptize infants even freely offered by infidel parents, if after Baptism they are to be left in the power of their infidel parents. Nor, for breaking or evading the force of this prescription, ought the distinction which is customarily objected between material and formal perversion to have force. That great Pontiff Benedict did not ignore this distinction; nevertheless, it not having been attended to, he pronounces generally in Const. *Postremo mense*, n. 26, that grave danger of perversion in this matter is a thing of the greatest moment. And the same is established from the decrees brought forward, that it is altogether to be guarded against. 3. In the very article of death also, infant children of infidels are indeed to be baptized, yet in such a way that scandal is avoided, and consequently no greater hatred of infidels against the Christian religion and cruelty against Christians is stirred up. Therefore in every event let sacred ministers indeed implore divine aid, lest forgetfulness of those decrees ever seize them, or they think it lawful for themselves to prefer their private judgment to the same.

VII and VIII. Whether it is lawful to use that opinion explained above at least when, a plague raging, out of a hundred children, as for the most part happens, ninety perish; or when diseases of the people of the worst character consume by far the greatest part of children before they attain the use of reason?

Resp. The sentence of St. Thomas must be repeated here concerning the greatest part of authority which is inherent in the custom of the Church, which is always to be emulated in all things, and against which it is dangerous to introduce new things. In the first centuries of the Church, while Christians were living mixed with infidels, devastations and pestilences were not lacking; nor on that account was it ever placed in custom that the Most Holy Pastors of the Church should baptize the children of infidels with whom they were living, when the parents were unwilling or unaware. Even now in the kindly City Hebrews live among Christians and are permitted to live by their own customs; nor nevertheless have the Supreme Pontiffs ever conceded that, whether openly or secretly, infants, children of Hebrews, be baptized when their parents are unwilling or unaware, for the reason that when a popular plague rages many more of those infants die. From this it is easily understood that a twofold account of danger, as pertains to the present institution, must be distinguished, namely: that common and wandering danger which threatens even healthy men in those places which are afflicted by a popular disease; the other proper and certain danger in which are those whom the infection of the disease infects, or who in whatever way are brought into present danger of life. Moreover the constitutions of the Pontiffs and the decrees of the Congregations, while they forbid the children of infidels to be baptized when parents are unwilling except in danger of death, speak of this present danger, which determinately touches the man to be baptized, and which sometimes is expressed by the name of the article of death as by a synonymous word; but they do not speak of that common and wandering danger, into which neither the word nor the notion of the article of death in any way fits.

Next it must be observed that, although most infants are consumed by force of the disease, nevertheless some always survive, either those whom the disease spares, or those who overcome the disease. But if all infants are baptized indiscriminately, it is consequent that these remain under the care of infidels, to be imbued with their depraved superstitions. And this very thing is what both the constitutions of the Pontiffs and the decrees of the sacred Congregations forbid to be done.

Nevertheless in that devastation which deadly diseases sometimes bring, especially to barbarous regions, there will plainly be something in which religious men may spend laudable work, and bring back an immense fruit of their labors. They will profit much by baptizing those who, constituted morally certainly in the article of death according to the cited decrees, are always to be baptized cautiously and prudently. In this matter they must studiously provide that no one perish by their carelessness and negligence. Next, in those most calamitous times it will sometimes be able to happen that, the parents having died and the inhabitants having been scattered, very many children lie cast away and deserted, destitute of all human aid. In seeking out those miserable infants religious men assigned to missions will give a present and excellent signification of their charity, not that they cast them away again after baptizing them hastily, but that they gather them, and aid and care for them with paternal and pastoral help, so that, whether by their own work, so far as their faculties allow, or by the work of outsiders to whom they will be able duly to commend them, those children, separated from the company of infidels, may be instructed for the duties of Christian life, and at the same time for some honest kind of labor or craft.

IX. Whether with greater right infants, children of heretics or schismatics, who are accustomed to be baptized with their doubtful matter or form, can be baptized again under condition, while namely they are not yet suited to grasp the speculative errors of their parents?

Resp. An involved question and one to be unraveled individually through its parts. For it is asked: 1. concerning Baptism to be ministered to infant children of heretics or schismatics; 2. concerning the cause of repeating Baptism under condition; 3. concerning the use or faculty of reason in the child to be baptized.

As regards 1. It is indeed certain that in the possession of the Church there is a right of baptizing infant children of heretics or schismatics, and of preventing them from being imbued with the errors of their parents; nor can any doubt be raised concerning this right of the Church. Therefore the hinge of the difficulty turns on this: what is to be done when the Church cannot execute that right of hers, nor remove the danger which threatens those infants while they remain under the care and power of heretical or schismatical parents. Here not undeservedly sacred ministers will be able to use the opinion of outstanding Theologians, who judge: "The same thing seems to have to be said in that case concerning a heretic and concerning any other infidel, if the same moral danger exists." From this they conclude that, for a Catholic minister lawfully to furnish Baptism, "it is necessary that he conceive a probable hope that a child of this kind, once baptized, can in his own time be instructed in the true faith. But if in no way he can have a moral hope of this kind, he ought certainly rather to abstain from Baptism, supposing that the little one is not in extreme necessity, in which anyone else can be baptized."

As regards 2. Wherever to the other wickednesses of heretics this also is added, that they apply doubtful matter or form to Baptism, this is indeed enough of a cause why Baptism ought to be repeated under condition. But in this matter not any rumors whatever are plainly to be trusted; but the rite by which the child was baptized is to be diligently and solicitously investigated so far as can be done, and then, if the validity of the prior Baptism remains doubtful, he must be baptized again under condition, if indeed a case occurs in which from the preceding doctrine Baptism is to be ministered.

As regards 3. Some ambiguity lies hidden in that final clause, while the children of heretics or schismatics are not yet suited to grasp the speculative errors of their parents. Here a more advanced age is rather obscurely signified, in which an adolescent, although he has already attained the use of reason, has not yet progressed so far that he can discern the subtle errors of the parents. Concerning such a child or adolescent the question seems to be asked whether a Catholic minister can lawfully baptize him, either absolutely or under condition, with no word having been had concerning those speculative errors, under this pretext, that he is not yet able sufficiently to grasp them. In one word, it is asked whether a child, already possessing the use of reason, educated in heresy or schism and adhering to it, can lawfully be baptized before he is warned concerning the errors of that Sect with which he has already been imbued, and is led to detest and abjure that Sect. The response is to be sought from those things which are prescribed in the Ritual and Roman Catechism concerning the preparation for Baptism to be ministered to adults, and are everywhere explained by Catholic Doctors. An adult to be baptized asks faith from the Church; therefore he must be taught the principal heads of the Christian faith, and must profess that faith which the Holy Catholic Roman Church holds and professes, and promise due obedience to that Church and to its Supreme Head, the Roman Pontiff. Therefore although the child concerning whom the question is asked is not yet able to inspect and penetrate the speculative errors of his parents by his own, as it were, understanding, nevertheless it is not lawful for him to be ignorant that that Sect professes depraved errors

condemned by the Church, and he must altogether abjure and detest both that Sect and its errors, and profess himself a Roman Catholic. Religious men who devote work to missions ought to judge this office given to themselves: that they lead to the sheepfold of Christ the sheep who have perished. But who would judge those to pertain to the sheepfold of Christ who adhere to Sects which pursue the sheepfold of Christ and bear a hostile mind like wolves against the Church? The Church is enlarged by the aggregation of those who acknowledge, hear, and honor her as Mother and Mistress; nor does she acknowledge as her own those who impiously refuse to acknowledge and venerate the power given to her by Christ according to the faith and prescription of the Church herself.

X. Whether those assigned to missions are bound under grave obligation to apply work and zeal, that they may become suitable and equal to executing the offices concerning which thus far it has been said, lest they allow so many souls to perish, which are damned by their carelessness and impatience of labor.

Resp. There is no place for ambiguity here. It is certain among all that each one is bound to put whatever moral diligence he can into this, that he may be rendered apt and suitable for undertaking his own offices. This obligation is the graver, the more grave in moment the offices themselves are which each one performs. From this it is clear with how grave a fault that minister would bind himself by whose carelessness and negligence, may God avert it, it happened that even the least of the little ones perished, for whom Christ poured out his Blood. Wherefore sacred ministers ought especially to confer their zeal on this: that they procure those helps of doctrine which are necessary for themselves to perform their offices duly. They will have to seek these from approved authors, and especially from those who have treated of matters pertaining to missions, whom, as being sufficiently known, there is no need to enumerate by name in this place. Above all, however, let them never cease to look to the decrees and rescripts of the Apostolic See, approved by inviolable authority, which Christ willed to be for his faithful, as of every saving truth, so of every truly pious thing, the most certain guide and mistress." Hyacinthus Gerdil, Bishop of Dibona, Instr. S. C. de P. F. 17 Apr. 1777.

"The S. C. skillfully observed that the doubt concerning the administration of Baptism to little ones recently born from heretical progenitors rests on a false principle, namely, that it is not lawful to baptize them at home only outside danger of death, but that it is indeed lawful in church, if they are brought to it for the reception of Baptism. But since from this false persuasion there threatens a danger of gravely sinning, not only against Ecclesiastical law but also against Divine law, by which the subject to whom it is not lawful to administer Baptism is prescribed; therefore it ordered the present Instruction to be drawn up, to be transmitted to the aforesaid Reverend Father Lord Vicar Apostolic, insofar as, with the same communicated to the Missionaries living there, each one may learn the true cause on account of which it has several times been defined by the Apostolic See that it is not lawful to administer the sacrament of Baptism to children born of heretical parents outside danger of death, and in the future they may beware of soliciting heretical parents to bring their children to the church to be initiated by Baptism.

The Church indeed forbids, in the single Clementine, On Baptism, that, except in the article of necessity, on account of which access to the church cannot be had without danger because of this, infants be baptized at home, unless they are children of great Princes; but by this law, by which the place for administering Baptism is indicated, nothing is established concerning children born of heretical parents, whom it is established from another source cannot be baptized by Catholics either

at home or in church, if they are well; namely, since by divine and natural precept it is forbidden to give holy things to dogs and to cast pearls before swine, and among the mysteries of the Catholic Religion the Sacraments are especially holy and useful, through which the merits of the Passion of Our Lord Jesus Christ are communicated, and every true justice in us either begins, or once begun is increased, or once lost is repaired, it is not lawful to give those things to dogs, that is, to the profane, who, as soon as through age they will be able, are going to despise them and corrupt them by their own fault. But no one does not see that children begotten from heretical parents, who are to be permitted to the care and education of their progenitors, as soon as they arrive at the age of discretion, in which they can be masters of their own acts, will be imbued with paternal errors, and are going to sacrilegiously abjure the Catholic faith which through sponsors in Baptism they ought to profess, to the greater condemnation of themselves and the graver contempt of the Catholic Church in which they have been regenerated. For this reason, therefore, it is not lawful to baptize them in infantile age outside danger of death, and Catholic Ministers sin against the office of a faithful dispenser who admit the same to receiving Baptism.

Therefore let Missionaries in no way be moved to procure Baptism for the aforesaid children, although it is going to be that they will perpetually lack this Sacrament, because of the error of parents by which they think it not at all necessary for obtaining eternal salvation. Indeed Baptism cannot profit those who, after receiving the use of reason, are soon going to be apostates from the Catholic faith, nor does the holiness of the Sacrament suffer that it be conferred on the same with manifest danger of profanation. But when danger of death is pressing, or the aforesaid little ones have been infected by any defect of health by which they are prudently believed to be about to die before they attain the years of discretion, not only is it lawful, but Missionaries ought solicitously to take care that they be regenerated in due time by the sacrament of Baptism, not only in church but even at home, if the parents with hardened will are unwilling that they be brought to the church; for then the proximate danger of perversion ceases, and by necessary remedy provision is made for the eternal salvation of the infant, without fault, indeed even with merit of the Minister. Nevertheless, whenever it happens that Baptism is administered in the houses of Heretics to their infants in danger as above, let them omit the solemnities which do not pertain to the substance of the Sacrament; for it has been provided by ecclesiastical rule that they not be used in the presence of Heretics, in their houses." Instr. S. O. 27 Jan. 1767.

Whether children can be baptized who are to be left in the power of infidel parents, but there underlies a founded hope that they can be instructed in the Catholic Religion? Resp. "It is to be committed to the prudent judgment and conscience of the Missionaries (the Apostolic Prefect having been heard, if it can be done), who in the circumstances set forth can baptize children offered by non-baptized parents, provided that in individual cases no grave danger of perversion is foreseen to be present, and provided that it is not established that the parents offer the children to be baptized because of superstition." S. O. 1867.

"It is lawful for a parish priest to baptize a child, with one of the parents who is Catholic consenting, even if he certainly knows that the other will afterwards take care that the infant is baptized by a heretical minister; but the Catholic spouse is bound to warn the heretical spouse that the child has already been legitimately baptized." S. C. de P. F. 29 Nov. 1672.

"1. Whether a girl of ten years living in a monastery can safely be admitted to the profession of the Catholic faith, when her father, a heretic, is unwilling? 2. Whether girls living in a monastery can safely be admitted to the profession of the Catholic faith, whose heretical parents are consenting, indeed promise that they are going to give the same in marriage to Catholic men, although as regards themselves they declare that they are heretics and wish to remain such? 3. Whether girls can safely be admitted to the profession of the Catholic faith as in the preceding, although the parents themselves are not Catholic but indifferent, that is, unbelieving? ..... 5. Whether girls at present well disposed are to be admitted without delay to the profession of the Catholic faith and reception of the Sacraments; or whether their admission will have to be deferred until marriage with a Catholic man, because of fear of perversion? 6. If it is to be deferred, whether they are to be admitted in a monastery, that they may be taught the Catholic faith, or must it be awaited until the time of marriage with a Catholic man? Resp. To the 1st. Let the Vicar Apostolic first take care with all his strength to obtain the consent of the girl's father: if consent is not obtained, let him seriously weigh the inconveniences which are foreseen to proceed from the admission of such a girl into the Church, both as regards proximate danger of perversion of the same girl, and as regards grave damage to the Catholic school and mission; and insofar as no inconveniences or negligible ones are foreseen, let him admit the same without delay; but insofar as grave inconveniences are foreseen to be going to occur, let him defer the admission of the same to the formal and public profession of the Catholic faith, unless danger of death is imminent; and meanwhile let him take care to exhort her to persevere in the good resolution, and to pray God that he deign to remove all obstacles; and at the same time let him take care that she continue to remain in the monastery; and in this way let her complete and perfect her Catholic education. To the 2nd and 3rd. Affirmatively; let them take care that the parents stand by their promises. To the 5th and 6th. Provision has been made through the responses to the 1st, 2nd, and 3rd; and if further difficulties arise, let the Reverend Father Lord Vicar Apostolic have recourse in individual cases." S. I. C. 21 July 1880. Cf. Zitelli, *Appar. Iur. Eccles.*, Rome, 1886, p. 502.

N. 249. - On the Baptism of Exposed Infants

"... Now indeed, that the testimony of one suffices for proving Baptism is an old axiom of Jurists, as is seen in the Gloss, chapter *Nuper*, at the word *Nisi iuratus*, On witnesses and attestations: Sometimes nevertheless one person is well believed, when there is no prejudice to anyone; for example, whether someone has been baptized, or whether a church was consecrated, and where someone wishes to prove through his Confessor that he has done penance. And in can. *Placuit*, at the word *Testentur*, On consecration, dist. 4: Therefore one is believed by the testimony of one person in Baptism and in the Consecration of a church. This nevertheless must be understood, provided that faith can prudently be applied to the witness, whether male or female, or likewise if the one who testifies is the one who baptized; for this person, asserting that he himself ministered Baptism to a little Hebrew infant, would by his own testimony confirm not merely a thing done by himself, but also one most worthy of penalty. Into the Hospital of the Holy Spirit, a refuge for those cast away, infants are not rarely brought bearing before themselves a paper suspended from the neck, on which it is read written that Baptism has already been conferred on the same. When we were still discharging the office of Undersecretary of the S. Congregation of the Council, the Parish Priest of the Holy Spirit asked what he ought to do in cases of this kind. The proposed question was in the Congregation on 18 December 1723, as Thesaurus declares, *Resol.*, tom. 2, p. 412; but on 15 January 1724 it was thus rescripted: if

the one who had written the little paper were not unknown, and faith could safely be furnished to him, then the infant is to be held as baptized, and not even to be initiated by Baptism under condition, as is openly clear in tom. 3 of the aforesaid Thesaurus, p. 2." Benedict XIV, Const. *Postremo mense*, 28 Feb. 1747.

"If the testimony (concerning Baptism conferred) is from an uncertain man, in a matter so grave one cannot defer to unknown testimony: wherefore then the infant is to be rebaptized under condition, even if he bears a note concerning Baptism received suspended from his neck, as is used for exposed infants in certain places." S. C. C. 5 Jan. 1724.

On Those Baptized by Catechists in Places of Missions

"... Generally and without selection, even with the addition or condition, anyone whatever is not to be rebaptized.... They are permitted to administer Baptism conditionally only to those concerning whom, after diligent inquiry has been premised, there remains a grave and reasonable doubt of law or fact whether they have at another time duly received the Sacrament. In this matter it will profit them to have before their eyes the things handed down by Benedict XIV in his Institutions 84 in the diocesan Synod, especially book VII, chapter VI. But although it appears perhaps hardly ever that one should abstain from a diligent previous inquiry of this kind without danger of injury to the Sacrament; nevertheless, all things maturely weighed and balanced which are noted in the above-mentioned letter by the worker Boyer and confirmed by the testimony of Your Amplitude, concerning certain places of that Vicariate, with attention to the quality of the Catechists and faithful, so that the inquiry or examination for discerning or arguing the valid or invalid conferral of Baptism either cannot be instituted at all, or would certainly be done uselessly and without any illustration of the doubt, the same S. C., in these circumstances and according to the things set forth, and while the circumstances continue without other things, so that the salvation of souls may be placed in safety, declared that Baptism can be administered with the condition added." Instr. S. C. de P. Fide, 8 Sept. 1869.

On the Baptism of Heretics

"Whether Baptism should be conferred under condition on heretics who are converted to the Catholic faith, from whatever place they may come and to whatever sect they may pertain. Resp. Negatively; but in the conversion of heretics, from whatever place or from whatever sect they may have come, inquiry must be made concerning the validity of Baptism received in heresy. Therefore, after examination has been instituted in individual cases, if it has been discovered either that no Baptism was conferred, or that it was conferred nullly, they will have to be baptized absolutely; but if, according to the reason of times or places, after investigation has been performed, nothing is detected either for validity or for invalidity, or a probable doubt concerning the validity of baptism still remains, then they are to be baptized under condition secretly; finally, if it has been established that it was valid, they will only have to be received to abjuration and profession of faith." S. I. C. 21 Feb. 1883; 20 Nov. 1878; S. C. de P. F. 23 June 1830. "Therefore a threefold method of proceeding is distinguished in reconciling heretics: 1. if Baptism is conferred absolutely, no abjuration or absolution follows, because the sacrament of regeneration washes away all things; 2. if Baptism is to be repeated under condition, one must proceed in this order: a) Abjuration or profession of faith, b) conditional Baptism, c) sacramental Confession with conditional absolution. 3. Finally, when Baptism

has been judged valid, only abjuration or profession of faith is received, which absolution from censures follows." Instr. S. C. I. 20 July 1859.

"As regards abjuration, one must stand by the rule of Albitius, namely that if the matter concerns adolescents who have attained the 14th year, only the profession of the Catholic faith is to be required from them before they are admitted to the sacraments; but if the matter concerns those who have exceeded the 14th year of age, formal abjuration of the sect to which they pertained is to be required." Instr. S. I. C. 20 Nov. 1878.

"In judging whether Baptism is to be repeated under conditional form, neither too much difficulty nor too much facility is to be used." Instr. S. C. de P. F. 23 June 1830. Cf. *Collectan. Const.* etc. for the use of the Paris Workers, 1880, n. 249.

On the Doubtfully Baptized

"Generally speaking, those are to be held as Christians concerning whom it is doubted whether they have been validly baptized. Baptism is to be judged valid in order to the validity of Marriage." S. O. 9 Sept. 1868. Cf. On Matrimony, N. 831.

N. 252. - On Heretical Sponsors, or Those Bound by Censure

Cf. On the Theological Virtues, N. 192; On the Sacraments in General, N. 218.

On Sponsors, the Parents Themselves

"Doubts were subjected to the examination of the Supreme S. C., transmitted in the preceding year by Your Amplitude to the Most Eminent Prefect of the S. C. de Propaganda Fide, relating to the administration of the Sacrament of Baptism, the first of which asked whether in a case of necessity, namely when extraneous sponsors are altogether lacking, it is lawful for parents materially to hold their own offspring in solemn Baptism; or rather, in that case, private Baptism is to be substituted for solemn.

Moreover the reason of the question demands that the distinction of solemn from private Baptism be noted beforehand; for from this it can easily be inferred whether the defect of sponsor alone demands that private be substituted for solemn. Therefore private Baptism, as you know well, is said to be that in which no ceremony prescribed by the Ritual is employed other than the washing of the one to be baptized, with the words of the form having been pronounced, namely those things which by divine law are necessary for baptism. But it is considered solemn when those rites and ceremonies are employed which the Roman Ritual records to have been received and approved by apostolic and most ancient tradition, and to pertain to its solemnity. Now indeed, relating to the use of the rites themselves, the Ritual itself warns that it is not lawful to omit them except for a cause of necessity, which indeed the same Supreme S. C. confirmed by its oracle. For when it had been asked in the year 1663: Whether in places where there is no parochial church nor baptismal font, Baptism can be conferred with all the solemnities and ceremonies customary in the Church; by decree of Wednesday, 28 February of the aforesaid year, it was prescribed: that they can, indeed are bound to use those ceremonies which they can use. Wherefore it is immediately clear that private Baptism is not to be substituted for solemn on the ground that some ceremony cannot be done; for, with this omitted, the others are to be fulfilled. These things having been posited, although it can hardly be conceived how,

in deserted places in which no one else occurs besides the parents of those to be baptized, ceremonies can be employed in Baptism; nevertheless, granted that some of them can be observed, the defect of sponsor will not bring it about that the other rites ought or can be omitted, and thus that Baptism become private; but Missionaries are bound to use those which they can. Indeed the Sacred Order judges that in this case the presence of an extraneous sponsor can in some manner be supplied through the parents of those to be baptized. Since nothing prevents them from taking the place of sponsors, by materially holding their infants and by answering for them to the one baptizing, yet without the prerogative of true and properly taken sponsorship, namely without the necessity of undertaking the burdens which a duty of this kind brings with itself, of contracting the impediment of spiritual kinship prohibiting the use of marriage. Thus it will happen that in the solemnity of Baptism all the rites are preserved in some way, and the formal presence of sponsors is supplied by the material presence of the parents. For the rest, through this you will understand that no one is by any means exempted from the burden of taking care, so far as possible, that in solemn Baptism at least one sponsor properly so called be employed. For the presence of sponsors in Baptism, from most ancient tradition, has always been held as a principal ceremony in the Church of Christ, so that the signification of spiritual generation might be preserved through sponsors, and the religious education of the child might be placed in safety by their promise.

Your Amplitude asked in addition whether in some cases parents can lawfully designate as sponsor some absent person, although his assent is had after Baptism has been conferred. Certainly it is undoubted that the duty of sponsor can be undertaken through an interposed person, or through a procurator; nevertheless in this case the laws require that the absent person accept the duty of sponsor at a suitable time, and issue a mandate in favor of him who ought to represent him in such a ceremony. The reason is that a sponsor ought to have a formal will of accepting and exercising according to his strength the burdens inherent in sponsorship. Wherefore you will understand well that sponsors cannot be designated by the reason proposed by you.

Finally the Sacred Order is together with you in disapproving the carelessness of parents who commit the duty of sponsor not to selected suitable persons but to anyone whatever who happens to meet them when Baptism must be conferred, although they have for certain that he is not going to see his spiritual child any more. Wherefore it commends to you especially that also in this matter the prescription of the Roman Ritual be faithfully observed, which will be obtained if parents, having been warned of the gravity of the office, are induced to choose suitable sponsors when they conveniently can.

These things, which from the mind and mandate of the S. Congregation I had to signify to you, you will also communicate to the Missionaries subject to you, so that, as the matter requires, they may conform themselves to the same." Instr. S. C. de P. F. 15 Sept. 1869.

N. 253. - On Baptism in Private Houses

Concerning Baptism to be conferred in private houses, in Resp. S. R. C. 27 Apr. 1877 it is said: "Your Highness ought to take care, yet prudently and cautiously, to remove the abuses which have crept into this matter, and should bring it about that infants are brought to be baptized according to the prescription of the Church and common practice."

"1. Whether, in these places where there is no church or common oratory, it is lawful for a Priest solemnly, that is, with all the ceremonies and prayers prescribed in the Roman Ritual employed, to baptize the children of Christians in their private houses? 2. Whether it is lawful to baptize solemnly in private houses where indeed there is a church, but so distant that parents are unwilling to have their infants brought to it, lest something evil happen to them from the inclemency of the air, which the Annamites fear beyond measure? Resp. To the 1st. Not only is it lawful, but it is required. To the 2nd. Lest in this matter there be departure from the most holy institutes of the Church, the Missionary ought to employ every care that parents withdraw from this irrational contradiction of theirs; but if by his persuasions and warnings he accomplishes nothing, then he will be able to persuade himself that the matter has been brought to a case of necessity; for it will be impossible to baptize these infants when the parents, in whose power they are, resist; therefore it will be lawful to confer Baptism on those infants outside the church, and in private houses, or where it will have been permitted by the parents, with the sacred rites and ceremonies omitted, with the intention nevertheless of supplying them in church as soon as this will have been permitted to be done. But if it is foreseen that the parents of the infants will not permit, even in the course of time, their infants to be brought to the church for the ceremonies to be supplied, then it will be more satisfactory that the rites and ceremonies prescribed by the Roman Ritual be employed in those private houses themselves in the act of conferring Baptism; for it will be better that the laudable custom, which concerns only the greater decency and reverence toward this Sacrament, of celebrating Baptism in church be omitted, than that the baptized little ones be deprived of the not small spiritual goods which are derived into them from the sacred ceremonies instituted by the Church, when these have been employed over them." S. C. de P. F. 21 Jan. 1789.

"In places of Missions, where Catholics not rarely dwell far from churches or public oratories, for example, ten or twenty geographic miles distant from them, and the transportation of infants at a tender age through so great a distance of places is subject to great dangers and inconveniences, whether there it is lawful, when the Missionary has been called, to baptize these infants solemnly in private houses, or outside danger of death to minister Baptism without ceremonies? Resp. Affirmatively, or that Baptism in the case can be ministered in private houses, with the customary rite of the Church preserved." S. R. C. 4 Feb. 1871.

On the Omission of Ceremonies by Reason of Horror and Scandal

"Must Baptism be ministered with the Sacramentals when convenience is present, or can they be omitted in order to avoid the horror of the Japanese at the anointing, insufflation, and use of saliva? Resp. That such salutary rites of the Church are altogether to be observed, and that the delicate persons who are horrified are to be judged unworthy who should be admitted within the Church. But Priests who, so that they may reject them, rely on these reasons, ought to observe that by these same reasons heretics defend their own errors against the Catholic Church." S. C. de P. F. 7 Sept. 1626.

"Whether in China Evangelical ministers, at least for now, in the sacrament of Baptism can abstain from placing on women the Holy Oil of Catechumens, spittle in the ears, and salt in the mouth? And the reason for doubting is that the Chinese are led by great zeal toward wives, daughters, and other women, and will take scandal from actions of this kind. Resp. That Sacramentals in the Baptism of women are to be employed, nor is the motive expressed in the doubt sufficient that Missionaries,

insofar as it is in them, abstain from these things. Therefore care is to be taken that such salutary rites and ceremonies be introduced and observed, and that Missionaries administer them with such circumspection, and instruct men with such documents, that they be freed from every suspicion concerning propriety." S. C. de P. F. 12 Sept. 1645, Missionaries Dominicans in China.

"Whether all the Sacramentals in the Baptism of adult women are to be employed? The reason for doubting is the incredible modesty of women among the Chinese, their zeal, and their laudable flight from every association with men, not only from meeting but also from sight: in this matter, unless great caution is employed by Missionaries, immense scandal is given to the Chinese, and the whole Christianity could be exposed to most evident danger. Resp. From grave proportionate necessity, certain Sacramentals in the Baptism of women can be omitted." S. C. S. O. 23 March 1656, Missionaries S. I. in China.

"Whether the precept and mandate remain and continue in their own force..... concerning the observance of the responses and resolutions made on 12 Sept. 1645 in S. C. de P. F. Resp. That the decree of the S. C. de P. F. given under the day 12 Sept. 1645, according to the things then set forth in the doubts, is in its own force, and was not circumscribed through the Decree of the S. C. S. O. given under the day 23 March 1656, but must altogether be observed according to the questions, circumstances, and all things expressed in the said doubts, as it lies, in the same way that the Decree of the S. C. S. O. given as above on 23 March 1656 declared that it must be observed according to the questions, circumstances, and all things expressed in them." S. C. S. O. 13 Nov. 1669, Missionaries Dominicans in China.

"1. Whether, on account of one singular case, it is lawful absolutely and universally to abstain from administering to adult women the Oil of Catechumens? For it seems to be repugnant to the Decree of the Sacred Congregation. 2. The Missionaries judge and unanimously think that, to avoid the calumnies of the Heathen, it is very expedient that the Sacramentals of Baptism be conferred on adult women not with the finger, but with a little brush. Nevertheless the good pleasure of Our Most Holy Lord is desired. Resp. The Qualifiers of the Holy Office: To the 1st, it is not lawful to abstain. To the 2nd, it was answered at another time that the common use of the Church is to be observed." 1674, Father Navarette.

We strictly prohibit that, in baptizing both children and adults of whatever sex and condition, Sacramentals be omitted; but let all be employed openly, and especially saliva, salt, and insufflation, which the Catholic Church has received from apostolic tradition and, because of the hidden mysteries in these sacred ceremonies of the Divine goodness toward us, has guarded holily and inviolably; the Decree of the Holy Universal Roman Inquisition of the year 1656, made for China on account of diverse reasons and circumstances, by no means standing in the way. Benedict XIV, Const. *Omnium sollicitudinum*, 12 Sept. 1744.

N. 253. 254. - On the Omission of the Ceremonies of Baptism by Reason of Necessity, and on Supplying Them

"Let them see, however, lest perhaps those causes of fearing be empty or light which are brought forward here and there for omitting in the administration of Baptism the ceremonies prescribed by the Roman Ritual; and, when it happens that these ceremonies are passed over for true and grave causes, they will take care that they be supplied at the first opportunity. For rites of such great weight

and such antiquity, and especially necessary for conciliating reverence toward the Sacrament, are not neglected without grave sin." Benedict XIV, Const. *Inter omnigenas*, 2 Feb. 1744.

"Whether outside the case of urgent necessity, or outside imminent danger, a Priest can lawfully simply wash infants or adults, all the ceremonies of Baptism having been omitted? Resp. That he cannot. Nevertheless, not only imminent danger of death can be a legitimate cause of omitting the solemnities of Baptism, but also any reasonable and grave cause which impedes the administration of the same solemnities, as, for example, if time is altogether lacking, if danger from Pagans is pressing, if the Priest does not have and cannot conveniently have the oil of Catechumens, holy Chrism, blessed salt, and other things necessary for performing the same solemnities. But in these cases the Missionary must be warned that if he cannot employ all, but only some, ceremonies of Baptism, he should employ those, and then, when time and opportune occasion have been present, he is bound to supply the same ceremonies, either all or those which he omitted, in a church or oratory." S. C. de P. F. 21 Jan. 1789.

"That the Parish Priest conducted himself badly, by baptizing with violet stole, and anointing a child in danger outside the church with the oil even of Catechumens. For in the case of necessity, according to the prescription of the Ritual, all things are to be omitted which precede Baptism and which are afterwards to be supplied in the Church, to which the child is to be presented when he recovers." S. R. C. 23 Sept. 1820. Cf. Gardell. n. 4572.

"1. In Baptism to be conferred at home because of imminent danger of death, the ceremonies which precede Baptism having been omitted according to the rubric of the Roman Ritual, those which follow Baptism can be employed." 2. In the case of sickness and impossibility of employing all ceremonies, that he can and is bound to use those ceremonies which they can use." S. O. 10 Apr. 1861.

If the one bringing the child to be baptized is utterly unwilling that he be baptized unless the name of some impious person is imposed, it is not on that account lawful to defer baptism, but the child is to be baptized, with the name of some Saint added in a low voice. C. S. O. June 1883.

"1. What ceremonies and prayers must be observed, which are to be supplied for an adult Catholic, validly baptized after birth, but with the ceremonies omitted which, according to the Ritual, ought to precede or follow Baptism; whether those which are assigned in the Ritual for the Baptism of adults, or for the Baptism of infants? 2. Which of these ceremonies must be observed when an adult, converted from heresy to the Catholic faith, is to be baptized under condition because of a founded doubt concerning the validity of Baptism conferred by a heretical Minister? Resp. To the 1st. Let the ceremonies and prayers be observed which are assigned in the Ritual for the Baptism of infants. To the 2nd. Insofar as the ceremonies are to be supplied and are believed to be supplied, as in the doubt, those are to be supplied which are prescribed for the Baptism of adults." S. R. C. 27 Aug. 1836. Cf. Gardell. n. 4780.

"Whether it is lawful to baptize under condition publicly and with their ceremonies little ones lacking reason, who, doubtfully and without ceremonies already baptized in Protestantism, ought to be baptized under condition? Resp. That Baptism under condition is to be administered secretly to the little ones of whom in the case, and with the ceremonies prescribed in the Roman Ritual." S. C. S. O. 2 Apr. 1879.

N. 254. - On the Baptismal Font

"Where a baptismal font is not permitted, let water of Baptism duly blessed be preserved in some more decent and removable vessel." S. C. de P. F. 23 Feb. 1660.

"The Bishop of Saint-Hippolyte explained to the S. R. C. that in some Parochial churches of his Diocese, of which the population is not numerous, a custom had prevailed already for a long time that the Baptismal water be blessed only on Holy Saturday of Easter, and be reserved for the whole year; but that the Blessing of Baptismal water on the Vigil of Pentecost be omitted. At the admonition made by the Dean, these Parish Priests not only invoked a most ancient custom, but also appealed to the Rubric of the Roman Ritual, which has: But the water of solemn Baptism should be blessed in that year on Holy Saturday of Easter or on Saturday of Pentecost; whence they inferred that it suffices that, either on the Saturday of Great Week or on the Vigil of Pentecost, the Blessing of Baptismal water be done, and that it is not necessary for the same to be done, by mandate of the Rubric, on each Saturday. Wherefore the above-mentioned Orator most humbly asked from the same S. Congregation: Whether this custom can be tolerated, of blessing Baptismal water in these Parishes only once per year, namely on Holy Saturday of Easter? Resp. According to decrees at other times, and especially in one of Lucca, 12 Apr. 1755, and in one of Orvieto, 7 Dec. 1844, it judged that it should be rescripted: that Baptismal water in Parishes is to be blessed on the Saturdays of Easter and Pentecost, notwithstanding any contrary custom, which must altogether be eliminated." S. R. C. 13 Apr. 1874.

"Missionaries are altogether bound in conferring Baptism to do all things according to the prescription of the Roman Ritual, even in that part which regards the Sacramentals and the use of the water preserved for this purpose in the Baptismal font. But where it is of grave inconvenience or danger to preserve water blessed by the prescribed rite, in that case it will be lawful for Missionaries, or for any other who according to the opportunity of times will be apt for conferring this Sacrament, to use common water, especially if it has been blessed, in place of the water of the Baptismal Font, which can be had only with grave inconvenience or danger." S. C. de P. F. 10 Feb. 1806.

N. 255. - Whether It Is Lawful to Minister Baptism in the Vernacular Tongue

S. C. de P. F., on 30 Apr. 1808, responded: "That Baptism in the Latin Church is to be administered in the Latin idiom according to the Roman Ritual; for the rest, nothing stands in the way that all those things which pertain to the Sacrament of Baptism itself be explained in the vernacular tongue." S. C. R. 12 Sept. 1857 decided that in the conferral of baptism the interrogations can neither be made in the vernacular nor repeated in the vernacular after they have been made in Latin. S. C. S. O. June 1879 rescripted to the Vicar Apostolic of Western Cochinchina that "the practice can be preserved" of making the interrogations first in Latin and immediately translating them into the vernacular tongue, so that the neophytes would understand them, and the sponsors and godmothers would answer them in the same tongue. Likewise the Our Father and the Creed were recited in Latin by the Priest ministering Baptism, while they were recited by the neophytes or sponsors or godmothers in the vernacular tongue. For there was the greatest difficulty of teaching neophytes or faithful who could be sponsors or godmothers the Latin responses, because of the greatest discrepancy of the Latin language and the languages of the Far East. The same S. C. of the Universal Inquisition, 23 Aug.

1880, to the question, "Whether it is lawful in the conferral of Baptism to make the interrogations in the common tongue, or at least to turn the said interrogations first made in Latin afterward into the common tongue, so that they may be understood by the adult to be Baptized, or by the sponsors and godmothers if the matter concerns the baptism of infants?" responded: As regards the first part, not expedient; as regards the second, affirmatively.

N. 256. - On Caesarean Operation, the Mother Being Dead

"... Rather, that is abhorrent to reason, and removed from all piety, for the sake of preserving a certain empty integrity and shame for a deceased mother, to assign a living child to eternal death. Certainly it is not modesty, not virtue, from which so great an evil flows. But this extraction of the fetus from the womb of the pregnant and deceased mother, although, as we say, it is to be made known and persuaded, His Holiness nevertheless expressly warns and prohibits that Missionaries insert themselves in particular cases in demanding the section, much less in performing it. Therefore it will have been enough for Missionaries to have given knowledge of it, and to have taken care that lay men who attend to surgical things learn the manner of performing it, and then, when the case has occurred, to have left the practice of the same to their burden and office." S. C. S. O. 15 Feb. 1760.

On Confirmation

N. 261. - On the First Imposition of Hands in Confirmation

If the first imposition of hands was omitted, Confirmation is not therefore to be repeated, nor even under condition. S. C. de P. F. 6 Aug. 1840.

N. 267 ff. - On a Simple Priest Administering the Sacrament of Confirmation by Delegation of the Apostolic See

Cf. Instr. and Decrees S. C. de P. F. at *Acta S. Sed.* Vol. 7, p. 306 ff.

On the Sponsor

"Whether, in the administration of the sacrament of Confirmation, a Bishop can, as the Predecessor in the Diocese of Policastro had been accustomed to do, sustain the parts of Minister and Sponsor at one and the same time, namely with the right hand to sign the forehead of the one to be Confirmed with sacred Chrism as Minister, and with the left to hold the Confirmand himself as Sponsor? Resp. Let the confirming Bishop in the case perform the office of Sponsor through a Procurator." S. R. C. 14 June 1875.

Whether the same person can be sponsor who lifts the infant from the sacred font and receives the same in the sacrament of confirmation. Resp. Negatively, unless however necessity compels. Chap. 100, dist. 4, On consecration. Cf. *Acta S. Sed.* Vol. 16, p. 537 ff. The matter is nevertheless light, if anyone acts otherwise. St. Alph., bk. 6, n. 187.

"But because it can happen that in places of Missions no one is present who has previously been confirmed, it is permitted in this case that some be confirmed without sponsor, who afterwards will be able to be sponsors of the others." Instr. S. C. de P. F. 4 May 1774.

"1. Since in the Rubrics concerning the sacrament of Confirmation it is said: Adults or other older persons place their foot upon the right foot of their Sponsor, it is asked whether it suffices if the Sponsor places his right hand upon the right shoulder of the one to be confirmed? 2. Whether the one to be confirmed, at the time of Confirmation, when the Bishop says: N., I sign you with the sign of the Cross, etc., besides his baptismal name, can take care that another name of a Saint be imposed on himself? To the 1st, that it suffices. To the 2nd, that he can." S. R. C. 20 Sept. 1749.

On the Ceremonies of Confirmation

Confirmation can be administered without miter and cope "with grave and urgent cause," S. C. de P. F. 22 March 1669. "A cause being present, that one can confirm privately without miter and pastoral staff, with a stole employed." S. O. 12 Feb. 1851.

N. 271. 693. - On the Dispositions Prerequisite for Confirmation and Extreme Unction

"Whether Confirmation and Extreme Unction are to be given to those neophytes who, baptized in the article of death, are altogether rude and, worn out by the force of disease, cannot be instructed? Resp.

Neither the Sacrament of Confirmation nor of Extreme Unction is to be conferred on those dying neophytes whom the Missionary believed capable of baptism, unless they have at least some intention of receiving Confirmation for strength to be added to their soul, and of receiving Sacred Unction for the benefit of the soul ordained for the time of death." S. C. I. 10 Apr. 1861.

"The simultaneous conferral of Baptism and Confirmation in children is not to be admitted, unless perhaps in danger of death, according to practice." S. C. de P. F. 21 March 1851.

On the Eucharist

N. 276. - On Bread Made from Crushed Grains and Infused with Water

"In this region... a custom has arisen... of making bread from crushed grains, and infused in water for some hours, not however unto corruption. They press these grains with the hands, and, when the white matter has come forth, they make breads with hot iron, in the manner customary in Europe.... Whether the aforesaid making of bread for Mass is lawful? Resp. Affirmatively; nevertheless let the Vicar Apostolic take care, if it can be done, that the wheat from which the Eucharistic bread is made be not only crushed, but reduced into flour by a suitable instrument, which is then to be exactly cleansed by sieve, and that bread be made from the same in the manner used in Europe." S. O. 23 June 1852.

On Wine Made from Raisins

"Whether it is lawful to celebrate with wine made from raisins? Resp. That it is lawful, provided that the liquid is discerned by color and taste to be true wine." S. C. de P. F. 23 July 1706.

N. 290. - Whether Regulars Can Minister Paschal Communion and Viaticum to Their Own Guests, Servants, Pupils, and Boarders

Cf. On the Sacrament of Penance, N. 563, 564.

N. 295. - On the Distribution of the Sacred Eucharist Outside Mass

"Whether the Stole for ministering the Most Holy Eucharist outside Mass must always be of the color corresponding to the Office of that day, as the Roman Ritual prescribes, or rather ought to be white, as very fitting for the Sacred Eucharist, as many Doctors judge? Resp. According to the rubric of the Roman Ritual, it ought to be of the color corresponding to the Office of that day." S. R. C. 12 March 1836.

"In the administration of the sacred Eucharist outside Mass, a stole of the color corresponding to the Office of that day is prescribed by the Rubric of the Roman Ritual. It is asked whether the stole of the color of the Office or of the Mass is to be employed 1. on Thursday of Great Week; 2. on vigils and ferias of the four times, or the Monday of Rogations (or on ferias of Lent, where Octaves have been conceded), which occur within a non-privileged Octave, if, according to the Rubrics of the Roman Breviary and Missal, the Office is celebrated of the Octave and the Mass of the Vigil or Feria? Resp. To each, let the Rubric of the Roman Ritual be observed, and where the custom of administering the Sacred Eucharist with a white stole to the Faithful fulfilling the Paschal precept is in force, it is to be tolerated." S. R. C. 11 Aug. 1877.

On the Administration of the Most Holy Eucharist in Paschal Time Before or After a Requiem Mass

The Prayer and Versicles of the season must be said, with Alleluia omitted. S. R. C. 26 Nov. 1878.

N. 295. 306. - On the Distribution of the Sacred Eucharist in a Sordid Place, and Without the Due Ceremonies by Reason of Necessity

"For the sick near death, of whatever condition they may be, although they dwell in a sordid and vile place or hut, let the Viaticum of the Most Holy Eucharist be brought, since with God there is no acceptance of persons, and for our salvation he did not shrink from the stable or the ignominy of the Cross." Clement IX, Const. *In Excelsa*, 13 Sept. 1669.

"... As soon as the S. C. understood that in certain Dioceses of that region a custom, or rather abuse, had prevailed that Priests would carry the Most Holy Sacrament with them from morning until evening, for this cause only, that they might perhaps happen upon some sick person, it judged that it should be written to the Metropolitans, so that it would declare that custom to be altogether abhorrent from the practice of the Church... Issue such decrees, by which the carrying of the Most Holy Sacrament may be restricted to urgent causes only, and to the actual exercise of the Priestly ministry...." Instr. S. C. de P. F. 25 Feb. 1853.

"But where the force and iniquity of the Turks prevails, let the Priest always have the stole covered with his own garments, let him conceal the pyx in a little bag or burse, which, suspended by cords from the neck, he should place in his breast, and let him never proceed alone, but let him be accompanied by at least one faithful person in default of a Cleric." Benedict XIV, Const. *Inter omnigenas*, 2 Feb. 1744.

"That Sacred Viaticum can be carried to the sick without a stole in a case of necessity." S. C. de P. F. 20 Dec. 1739. Father Windsiller, Missionary in China.

"... 1. Whether it can be lawful for the Missionaries of these regions secretly, and without light and stole, to administer the Most Holy Sacrament to the sick, when otherwise it cannot be administered? ... 2. Whether the Vicar Apostolic can permit Missionaries that they carry and administer the Most Holy Sacrament of the Eucharist to Christians ... detained in prisons? ... It could easily be administered to them without danger of contempt of the Most Holy Eucharist, if it were lawful to administer it without surplice and stole. Resp. To the 1st affirmatively, for the matter concerns a faculty already conceded by the Supreme Pontiffs. To the 2nd affirmatively and as regards those detained for a time, insofar as they ask, yet according to the judgment and prudence of the Vicar Apostolic." S. C. de P. F. 9 Dec. 1822; 5 July 1854.

"Whether it can be permitted, in this time of persecution, that Confessors of the faith condemned to death because of the faith, and to whom the Most Holy Sacrament of the Eucharist is brought in prison, can secretly receive it with their own hands and secretly communicate themselves, lest the priest communicating them in the ordinary manner be recognized and seized? Resp. Affirmatively, provided that so great a Sacrament is exposed to no danger of irreverence or other danger." S. C. de P. F. 10 Aug. 1841.

N. 297. - Whether Communion Can Be Ministered in the Mass of Holy Saturday

Resp. "Negatively, unless there is a custom." S. R. C. 22 Sept. 1837. But after Mass it is lawful, S. R. C. 7 Sept. 1850, or, if custom again bears this, after the *Gloria* has been sung. S. R. C. 13 Jan. 1882. Cf. Gardell. n. 4499; D'Annibale, N. 273, 274.

N. 301. - On the Double Genuflection in Ministering Holy Communion

"Is it to be genuflected by a priest returning to the altar after the communion of the faithful, before he covers the sacred pyx, and again to be genuflected before, the pyx having been placed back in the tabernacle, he closes the little door of the tabernacle itself?" S. R. C. 23 Dec. 1862. Cf. *Acta S. Sed.* Vol. 1, p. 547.

N. 304. - On the Sacred Eucharist to Be Carried to the Sick During Mass Itself

"The General of the Order of St. John of God humbly asked from the S. R. C. that it deign to declare the following doubts concerning the manner of carrying Sacred Communion within Mass to the sick, in force in the hospitals of his Order, namely: 1. Whether, after the *Confiteor*, *Misereatur*, *Ecce Agnus*, *Domine non sum dignus* have been recited at the altar, it can be permitted that the Priest with the Pyx, without humeral veil, carry Sacred Communion to the sick, accompanied by at least two persons carrying candles, and with an umbrella also employed, if it can be done, especially if the sick are distant from the altar? 2. Whether Sacred Communion can be carried in the above-mentioned manner not only in the whole hospital, whether from the posterior part of the altar, but also in some rooms, from which, although the altar is not seen, nevertheless the voice of the Priest celebrating is heard? 3. Whether it can be permitted that, in place of the Priest carrying the Most Holy Eucharist to the sick, another, even a layman, recite the prayers? Resp. To the 1st and 2nd, nothing stands in the way, provided however that in the carrying of the Most Holy Sacrament an umbrella is altogether employed. To the 3rd, nothing stands in the way that those standing by recite some prayers while the Sacred Eucharist is distributed." S. R. C. 7 Feb. 1874.

"Whether it is lawful for one celebrating in a private or religious house to carry before purification Holy Communion, for the sake of devotion and not by way of Viaticum, to a sick person dwelling in the same house, although one must ascend to the upper part of the house and pass through another corridor? Resp. It is not lawful, according to the decree of 19 Dec. 1829; but if necessity urges, let Mass be finished." S. R. C. 17 Dec. 1844.

N. 306. - On the Distribution of the Most Holy Viaticum Without the Due Ceremonies by Reason of Necessity

Cf. N. 295.

N. 309. On the Exposition and Benediction of the Most Holy Sacrament, and on Preserving It

"Whether, for exposing the Sacred Host in an Ostensorium, it is lawful to use a lunula which consists of two little glass disks, surrounded and to be closed by a thin border or circle of gilded silver, so that the Sacred Host adheres underneath to the silver circle itself, but before and behind immediately touches the glass disks themselves, and through them is held upright? Resp. As it is set forth in the case, that it is not becoming to enclose the sacred species between glass plates whose surfaces immediately touch them." S. R. C. 4 Feb. 1871.

"Whenever from a private cause the Most Holy Eucharist will seem to be exposed, let it never be extracted from the tabernacle, but, with the pyx veiled, let it be placed in the open little door of the

same tabernacle, with the assistance of some priest vested with stole and surplice, and with at least six wax lights. We command that the same be observed in churches of seculars." S. C. EE. and RR. 6 Dec. 1602, at Benedict XIV, Inst. 30, n. 21.

"1. Since from certain responses of the Most Holy Roman Congregations some think that the Sacred Pyx, with the little door of the Tabernacle opened, can be exposed to the piety of the faithful, but by no means extracted from it; but others judge that it can be brought out only so that with it the people may be blessed, as is customarily done on certain days in several Churches of Regulars; it is asked whether a custom of this kind can be admitted? 2. And insofar as negatively; can it be permitted, by force of custom, to those Congregations or Religious families which have been accustomed to do so also elsewhere? 3. Can it be conceded, to the prudent judgment of the Ordinary, also to other Congregations asking for it? Resp. To the 1st, affirmatively. To the 2nd, provision has been made in the first. To the 3rd, affirmatively." S. R. C. 16 Jan. 1886.

"Whether the Instruction for the Prayer of Forty Hours, first issued at Rome by order of Clement XI of happy memory, can and must be observed also outside the City? Resp. That the aforesaid Instruction does not oblige outside the City; nevertheless those are to be praised who strive to conform themselves to it, unless something else has been established by the Ordinaries of places." S. R. C. 12 July 1749.

"The Vicar Apostolic of Western Tongking... permitted that in diverse districts the Most Holy Sacrament be preserved, namely in particular rooms decently adorned, for the sick, with a lamp lit. For unless it were done so, a very great multitude of the sick would die without Viaticum. Hence he most humbly asks that Your Holiness will deign to approve this practice, in the aforesaid and similar case, for the tranquility of the conscience of the Orator. Our Most Holy Lord Pius IX kindly remitted the prayers to the judgment and prudence of the Vicar Apostolic, with necessary and opportune faculties, while the circumstances endure, and with the things to be observed being observed." 22 Sept. 1850.

"But as regards the Benedictions desired by those faithful, and customarily given by ancient custom in some churches, either with a portable statue of the Blessed Virgin Mary in solemnities of the same Virgin Mother of God, or in novenaries and other pious exercises instituted in her honor, as in the so-called Marian Month, etc., or likewise with a statue of the Infant Jesus, from the time of the Nativity of the Lord up to Epiphany, we judge that nothing plainly stands in the way that a custom of this kind can be tolerated by Your Amplitude." S. C. de P. F. 1 Apr. 1854.

The key of the Tabernacle is to be retained by Parish Priests, Rectors, Sacrists, or anyone else to whom the custody of the Tabernacle belongs, with himself, or in a safe place and closed by a key. And this is to be observed also by Regulars. S. C. EE. and RR. 9 Feb. 1751. Cf. Wolfgang Mühlbauer, *Decreta Authentica*, v. Tabernaculum.

N. 311. 400. - On Petroleum, Gas, Electric Light in Church, and upon Altars

"Petroleum, or another Oil from vegetables, can by no means be employed for illuminating the Church; but only in a case of necessity from the prudence of Ordinaries." S. C. R. 20 March 1869. "Besides candles from wax, it cannot be tolerated that illumination from gas also be had (upon

Altars); the aforesaid use (gas upon Altars) must be prohibited." S. C. R. 13 Apr. 1883. The same is to be said with stronger reason concerning electric light.

N. 320. - On the Dispositions Necessary for Receiving the Most Holy Viaticum

"To a sick person near death, who has been judged worthy of absolution of sins, the Most Holy Viaticum also is to be conceded." S. C. de P. F. 26 July 1845.

"Viaticum is not to be administered unless they at least discern spiritual food from bodily food, by knowing and believing the presence of Christ the Lord in the sacred Host." S. C. S. O. 10 Apr. 1861.

N. 329. - On the Hour of Fasting Required for Communion

Cf. On the 6th Precept of the Church, N. 489.

On Fasting as Regards Those Recently Baptized

"With salt having been tasted beforehand by Catechumens in the conferral of Baptism, although the fast seems to be broken, nevertheless there is still no doubt that, after receiving Baptism, they can be admitted to sacred Communion; indeed truly they ought to be: so altogether does the Church, in whose power it is to dispense in peculiar cases from the general law of the Eucharistic fast, introduced by herself for those who outside danger of death desire to receive sacred Communion, prescribe in the Roman Ritual, where it hands down the rite by which Baptism is to be conferred on adults." S. C. de P. F. 13 Feb. 1806.

N. 338. 341. - On the Faculty of Permitting More Frequent Communion to Nuns

"Nuns asking for sacred Communion daily will have to be admonished that they communicate on the days prescribed by the Institute of their Order. But if any shine forth by purity of mind and have grown so warm by fervor of spirit that they can seem worthy of more frequent or daily reception of the Most Holy Sacrament, let this be permitted to them by Superiors." S. C. C. 12 Feb. 1679. Cf. *Collect. Const.* etc. for the use of the Apostolic Workers, Paris, 1880, n. 367.

"Whether and by whose license nuns ought to receive the Eucharist who wish to receive it beyond the days established by the constitutions, or by the custom of the monastery, so that on those days all nuns communicate? Resp. By license of the ordinary confessor, and not of directors, with prior participation of the ordinary Prelate." S. C. C. 14 Apr. 1725. Cf. Lucidi, Vol. 2, p. 181.

"As regards sacramental Communion, the Most Holy Lord commanded that the Constitutions of the Sisters... are to be reduced to conformity with common law, as established by Decrees of the Holy See.... Let the Superior alone have the faculty of prohibiting a Sister access to Sacramental Communion in the single case in which she, after the last Confession, has committed a somewhat grave and public defect with the astonishment of the other sisters, and this until the aforesaid Sister has again approached the Sacrament of Penance...." S. C. EE. and RR. 27 June 1876. Much less does the Chapter of the Monastery have the aforesaid faculty. S. C. C. 14 Apr. 1725. Cf. cited *Collect.*, n. 368.

"... The aforesaid sisters and certain others, supported by the authority of ecclesiastical superiors, are all refreshed daily by the sacred Synaxis, although, according to the rules and decisions of very many Theologians, such and so great a grace ought to be reserved for certain persons only and in certain circumstances only. But since the above-praised pious sisters would be affected with much grief if they were to be deprived of so great a consolation, it is asked what must be done in the case? Resp. That the custom of nuns approaching daily to sacramental Communion is laudable. But it pertains to the Confessor to permit this to individuals according to the rules handed down by approved authors and especially by St. Alphonsus de Ligorio." S. Poenit. 19 Nov. 1885. "That the custom is to be praised, and the use of frequently receiving the Most Holy Eucharist to be promoted, according to the disposition of the Council of Trent, session 23, chapter 8." S. R. C. 2 Dec. 1885.

N. 349. - On the Application of Mass for Heretics and Infidels

Cf. On the Theological Virtues, N. 192.

N. 353. - A Mass of Requiem Applied for the Living

"1. Whether it is lawful for priests to use black vestments and to celebrate a Mass of Requiem, so that they may satisfy the obligation which they undertook of celebrating according to the intention of the one giving the alms, when they are wholly ignorant what his intention is, whether for the dead or not? 2. Whether it is lawful for priests to use black vestments and to celebrate a Mass of Requiem, so that they may satisfy the obligation which they undertook of celebrating for the living? The S. C. R. rescripted to the 1st affirmatively, to the 2nd affirmatively, provided that he who gave the alms did not prescribe otherwise." S. C. de P. F. 13 Oct. 1856.

N. 361. - On the Mass for the People to Be Celebrated by Bishops

"We decree and declare that all and singular Bishops, increased by whatever dignity, even Cardinalitial, likewise Abbots having jurisdiction quasi-episcopal over Clergy and people with a separate territory, on Sundays and other feast days which are still observed by precept, and which have been removed from the number of feast days of precept, every excuse of smallness of revenues or any other exception removed, are bound to celebrate and apply Mass for the people committed to them.

And lest access lie open to any doubt, we declare that the same Bishops and Abbots will satisfy this office by the celebration and application of one Mass for the whole people committed to them, even if they rule two or more Dioceses and Abbeys equally principally united. We know indeed that Our Roman Congregations have decreed otherwise concerning parish priests managing two or more parochial churches equally principally united; in each of these it is necessary that individual Masses be celebrated on feast days and applied for the people. But one account belongs to parish priests, another to Bishops. For since to each parish priest a special and defined care of the people has been committed in each parish, on feast days the parish priest ought not only to celebrate for the people, but also to admit the people into the parochial temple, so that it may be present at the most holy sacrifice of Mass, and hear the word of God, and receive the Sacraments according to opportunity, and be cultivated by all those offices which are to be furnished especially on Sundays and other feasts. But

these things cannot apply to Bishops, who are situated in a dissimilar condition and cause, since by no law today are they ordered on all feast days to perform the holy Sacrifice in the Cathedral church.

But although by no means necessary, nevertheless we judge it opportune to declare that those things which have been constituted above do not regard Bishops who are called Titular, and who, promoted to episcopal dignity, are therefore adorned by the Roman Pontiff with the title of Cathedral Churches which, once flourishing, now are destitute of Catholic Clergy and people, lest namely their ancient dignity and memory be utterly deleted. For since they themselves do not take possession of their sees, only when it has been received are Bishops bound to fulfill the duty of which we have spoken (S. C. Rit. in Marsor., 12 November 1831), and since neither Clergy nor people is entrusted to their rule, it is sufficiently established that, as they lack the use and exercise of the power received from episcopal consecration, so also they are by no means subject to the offices and burdens of episcopal care. But nevertheless, if account is had of episcopal equity and charity, it cannot but seem consonant that they also sometimes offer sacrifice, so that God may look upon the miserable condition of those Churches by whose title and name they themselves are honored. With this matter the things fit best which were said by Pius VI, Our Predecessor, in the consecration of the Bishop of Cyrene on 4 October in the year 1778 in the Ostian Basilica; namely, when enumerating the causes on account of which the Apostolic See is accustomed to confer Churches even occupied by infidels, he says, 'it is fitting that there exist someone upon whom it singularly falls, if not to rule that captive portion of the miserable flock, at least to pour out prayers and tears continually for the same to the Father of mercies.'" Leo XIII, Const. *In suprema rei*, Ides of June, 1882.

"20. Since a Bishop on feast days ought to apply for his sheep, it is asked whether, when the Bishop on these days celebrates pontifically, the canons ought to sing the conventual Mass for benefactors, and when? 22. Are Bishops bound to the application of Mass for their sheep after possession has been obtained, or as soon as they have been elected in consistory? 23. Are Capitular Vicars bound to this application of Mass when the See is Vacant? Resp. To 20. Let the Hebdomadary, or he to whom the burden of the conventual Mass belongs, celebrate that Mass read either before or after the pontifical Mass. To 22. After possession has been obtained. To 23. Negatively." S. R. C. 12 Nov. 1851, Gardell. n. 4669.

On the Mass for the People as Regards Apostolic Vicars, Missionaries, and the Eastern Church

"1. Whether apostolic Vicars and Missionaries, who in whatever way undertake care of souls in some determinate place, are bound indiscriminately from justice to apply Mass for the people on feast days? And insofar as affirmatively: 2. Upon which Apostolic Vicars and Missionaries does a burden of this kind fall? 3. Whether to those who are not bound from justice one must respond: it is fitting from charity, or: they are bound from charity, to apply Mass for the people? 4. Whether, the formula 'they are bound from charity' being approved, this ought to be understood of obligation under grave sin? Resp. To 1. Negatively, provided that the matter is not concerning places in which the Episcopal Sees and Parishes are already canonically erected, and to these the Apostolic Vicar and Missionary have been sent, so that they may act in the place of legitimate Pastors. To 2. Provision has been made in the first. To 3. The expression 'to be bound from charity' is to be avoided; but it is to be said 'to be fitting from charity,' and this in such a way that no signification of properly so called obligation

appears. To 4. Provision has been made in the third." S. C. de P. F. 23 March 1863. Previously the S. C. had answered: "Missionaries are bound from charity." Cf. *Acta S. Sed.* Vol. 1, p. 407.

1. "Whether the obligation of applying Mass for the people, which according to the law of the Western Church is imposed on parish priests and other ecclesiastical men obtaining the care of souls, has place similarly for the same persons of the Oriental rite? And insofar as affirmatively. 2. Concerning the determination of days, whether the laws and reasonable customs which perhaps are in force in some dioceses of the said rite ought to be observed? 3. In defect of these laws and customs, whether determination of this kind ought to be made according to the norm and in every part according to Western laws? 4. Whether because of grave causes and circumstances there can be place for some reduction of days predefined by Western laws, and even for total dispensation, yet with the obligation of praying for the people in those very Masses which would have to be applied for them? Resp. To 1. Affirmatively, the doubt having been reformed as follows: Whether the obligation of applying Mass for the people, which according to the law of the Western Church is imposed on Bishops and parish priests, has place similarly for the same persons of the Oriental rite? To 2. Affirmatively. To 3. Negatively. To 4. Provision has been made in the third, and according to the mind. The mind is that, when opportunity has been given, there be manifested to the Bishops of the Eastern Church the obligation which also in the same Church falls upon pastors of souls of applying Mass for the people some times, and therefore that, as pertains to the determination of days, the discipline of the Western Church be explained to them, so that they may take light from it by which they may be able to judge how far the same discipline can agree with their dioceses, and likewise that they propose to the Holy See, in whatever case, the temperaments which are judged more necessary." S. C. de P. F. 23 March 1863. Cf. *Acta S. Sed.* Vol. 1, p. 389 ff.

Also immune from this obligation are vicars or coadjutors of Parish Priests who do not exercise primary care of souls but only subsidiary care, Chaplains of Nuns, Chaplains of Hospitals, and of other places of this kind. S. R. C. 14 June 1845; 7 Dec. 1844; S. C. C. 2 June 1860.

N. 362. 363. On the Personal Obligation of a Parish Priest of Celebrating Mass for the People

"Whether parish priests ought to offer the Sacrifice of Holy Mass for the people, if they are not impeded by a legitimate cause, or whether they can satisfy this office through another, for example a sacristan or a visiting presbyter. Resp. Affirmatively to the first part, negatively to the second, except in the case of true necessity and when a canonical cause concurs." S. C. C. 25 Sept. 1847; 18 July 1789. Cf. Lucidi, ch. 3, sec. 2, n. 569 ff.

"Whether the application must always be made by the parish priest, even when celebrating privately, while another celebrates the parochial Mass? Resp. Affirmatively according to decrees issued at other times." S. R. C. 20 Dec. 1864.

"Whether parish priests on Sundays and other feast days, with a corpse present, can celebrate Mass for the deceased, and transfer to another day the Mass to be applied for the people in the case? And insofar as negatively, whether at least they can supply the application of Mass for the people through another priest in the case? Resp. To the 1st and 2nd, negatively." S. C. C. 26 Jan. 1771.

"1. Whether a parish priest absent from his parish on a feast day satisfies his obligation by celebrating Mass for the people in the place where he is staying, or rather is bound to substitute another who may say Mass for the people in his own Church? 2. Whether he is bound to apply Mass for the people in the place where he is staying, or rather, returning to the parish, is bound to apply in his own church? 3. Whether a parish priest legitimately impeded because of illness from celebrating Mass is bound, after health has been recovered, to apply as many Masses for the people as he omitted during the illness, whether in the case in which he could celebrate neither by himself nor through another, or in the case in which he could through another but from some empty fear or negligence did not take care, or did not obtain, that another celebrate for him? Resp. A parish priest legitimately absent from his parish on a feast day satisfies his obligation by applying Mass for his own people in the place where he stays, provided that for the necessary convenience of the people another priest celebrates in the parochial Church and explains the word of God. But a parish priest, however legitimately impeded from celebrating Mass, is bound to have it celebrated and applied through another on the feast day for the people in the parochial Church; but if this was not done, as soon as he is able, he ought to apply Mass for the people." S. C. C. 14 Dec. 1872. Cf. *Acta S. Sed.* Vol. 7, p. 191.

"1. Whether parish priests ruling two or more parishes are bound on feast days to celebrate two or more Masses for the people, by themselves or through others? 2. And insofar as they are bound by themselves, whether, according to the paths of the Constitution of Benedict XIV *Declarasti nobis*, the faculty of bination can be made for them? Resp. To the 1st. That the parish priest, as in the case, is bound either by himself or through another to celebrate as many Masses as the parishes he rules. To the 2nd. There is no place for the faculty of repeating Masses, unless, because of defect of clergy, no other priest is present who can celebrate and apply in place of the parish priest." S. C. C. 4 Feb. 1883.

"The Ordinary of the Diocese of Dijon in France sets forth these things: Because of the insufficient number of priests in the Diocese of Dijon, it not rarely happens that the same parish priest serves three churches, namely: 1. his own proper parish; 2. in a permanent manner another church, which, situated in another place and not enjoying a parochial title, is attached to the parochial church; 3. a church of a place having a parochial title, but because of the scarcity of priests, not possessing for a time its own resident parish priest.

By force of his institution, such a parish priest celebrates twice on individual Sundays and feast days, namely in his own parochial church and in the other church, not parochial, but permanently annexed to the parochial church, as is said. Hence it follows that the same by no means can celebrate Mass on Sundays and feast days in the third church, namely of the parish of which he has care for a time. Yet since he is bound to watch over that parish in which he does not reside, both for visiting the sick and for catechizing children and fulfilling many other duties, he receives two hundred francs from the Gallic government for the above-mentioned functions.

We ask: 1. Whether such a priest ought to supply the Masses which he cannot celebrate for his second parish on Sundays and feast days, with attention also to this circumstance, that the said pension of two hundred francs scarcely remunerates the aforesaid duties, the two parishes being very distant from each other; 2. Whether he ought to apply one or the other of the Masses which he celebrates, as has been said, on individual Sundays and feasts, at the same time for each parish; 3. Whether he ought to apply to this parish deprived of Mass that Mass which is celebrated in the annexed church without parochial title?

Since it has happened that several priests in good faith did not celebrate for their second parish, as in the case, we ask that their omissions, if it is necessary, be condoned.

Resp. To 1. Affirmatively, except that it would be desirable that he celebrate the second Mass in the second parish. To 2. It is not lawful. To 3. Affirmatively, if he cannot celebrate in the second parish, word having been had with the Most Holy Lord also as regards sanation as regards the past." S. C. C. 24 July 1886.

N. 364. - On the Obligation of Applying Mass on Suppressed Feast Days as Regards Beneficiaries

"Since several Benefices from their foundation have the burden of Mass to be applied on all feast days, a doubt emerges whether individual beneficiaries are obligated to this, even on feasts suppressed up to this time by the Apostolic See? Resp. According to resolutions issued at other times in similar matters, that they are bound." S. C. C. 15 Dec. 1856.

Whether an obligation exists of celebrating Mass in such a Church or at an altar, imposed only for feast days of precept, also on those days which, although they were of precept at the time of the founder, afterwards were suppressed? Resp. Negatively, if namely that obligation was imposed only for the greater convenience of the people. S. C. EE. and RR. 1 March 1872. Cf. *Acta S. Sed.* Vol. 7, p. 276.

N. 367. - On the Obligation of Celebrating by Reason of Benefice

1. "Whether Priests, obligated by reason of Benefice, Chaplaincy, legacy, or stipend to celebrate Mass daily by themselves, can sometimes be free from celebration? 2. When and how often can they be free from the said celebration? 3. Whether on days of lawful vacation they can celebrate Mass for themselves, or others, besides for the Founders? And insofar as affirmatively, 4. Whether, by celebrating for others, they can receive a stipend for a celebration of this kind? 5. Whether on those days on which they are lawfully free from celebration they are bound to have Mass celebrated by others according to the intention of the Founders? 6. Whether priests, as above, obligated to celebrate Mass daily, without however the burden of celebrating by themselves, can sometimes be free from celebration? Resp. To the 1st and 2nd, affirmatively, when some reasonable cause concurs. To the 3rd, 4th, and 6th, negatively. To the 5th, it deferred the Resolution." S. C. C. 18 Sept. 1683. And under the day 13 Nov. 1683 it responded as regards the 5th doubt, "that a Resolution will be given in particular cases." Cf. *Acta S. Sed.* Vol. 7, p. 179; Benedict XIV, Notification 56.

N. 369. - On Burdens of Masses Not to Be Multiplied Too Much

It is prohibited by the Constitution of Innocent XII *Nuper*, 23 Dec. 1697, to undertake new burdens of Masses, unless satisfaction can be made to those already undertaken within a moderate time, or, if it cannot, the offerers know and consent to this. Moreover the S. C. C., on 17 July 1655, defined a moderate time to be one month. Hence, lest Mass stipends be accumulated too much, several prescriptions are made in the same Constitution. Among other things it is prescribed to rectors of Churches and regular superiors that in a more visible and obvious place there be retained a little table of perpetual and temporal burdens, described in clear and intelligible letters. Likewise that they

keep two books, and in one note individual perpetual and temporal burdens, and in the other manual Masses and their fulfillment, and that each year they render an account to their prelates. Benedict XIV, *De Syn.*, bk. 12, ch. 7, nn. 4 and 5; Lacroix nn. 68, 98, 100, 106, 110, 111; Wolfgang Mühlbauer, *Decreta Authentica*, v. Stipends of Masses.

N. 374. - On a Mass Entrusted to Another, with Part of the Stipend Retained, as Regards Beneficiaries and Chaplains, and as Regards Legacies of Masses Which Are Founded in Perpetuity in Pious Places

In Benefices which are conferred in title, the Beneficiary is not bound to give a stipend according to the measure of the revenues of the Benefice; "but it is enough that the Rector of the Benefice, who can celebrate through another, assign to the celebrating priest the congruous alms according to the custom of the city or province, unless another thing has been provided by the foundation of the Benefice itself." S. C. C. approved by Urban VIII, Const. *Cum saepe*, 21 June 1625. Cf. *Acta S. Sed.* Vol. 4, p. 39 ff., 537 ff.

"Chaplains legitimately impeded on some day of any week, who satisfy the celebration of Masses through another priest, are not bound to pay to this priest the stipend established for Chaplains, but only the manual alms." S. C. 14 Apr. 1725.

"The whole alms is to be paid (by a parish priest in manual Masses); unless it is established with moral certainty that the excess of the common alms was offered in view of the parish priest himself." S. C. C. 25 July 1874.

A testator left to Church N. 500 scuta, so that from the revenues each year as many Masses would be celebrated as could be celebrated, an alms of three lire having been given for each one. It is asked whether the aforesaid Church could give to the celebrant one lira while retaining the other two for itself? Response was made: "that only the customary alms is owed to the celebrating priest; but the rest yields to the advantage of the Church." S. C. C. 3 Aug. 1638.

Catharina de Saccharo imposed on her heirs the celebration of as many annual Masses in perpetuity, with an alms of three lire for each one, as could be celebrated from the fruits of the inheritance. A part of these came to the Seminary, which asked from the S. C. whether it could give one lira for each Mass. Response was made: affirmatively. 18 July 1699.

On Prescription as Regards Burdens of Masses

Cf. *Acta S. Sed.* Vol. 15, p. 220 ff.

N. 373. - On the Reduction of Masses

"Whether a Bishop can reduce burdens of Masses, not yet accepted, without the good pleasure of the Apostolic See, or of this S. C., whenever he has judged the reduction to be necessary (because of the smallness of the legacy) from the fact that the pious place refuses to accept the legacy unless the burden is diminished? Resp. Negatively." S. C. C. 20 June 1682. Cf. Decrees of the same S. C. issued by authority of Urban VIII, 21 June 1625; Const. *Nuper* of Innocent XII.

N. 375. - On Books and Journals to Be Given and Accepted in Place of a Stipend for the Celebration of Masses

V. "Whether and in what way the Decree of the Bishop of Caltanissetta, absolutely prohibiting the priests of his Diocese from receiving books or religious newspapers for Masses to be celebrated or celebrated, is sustained in the case?"

Moreover the aforesaid Bishop had asked concerning that prohibition constituted more severely by himself:

"1. Whether those act illicitly who, although they are not booksellers, nor merchants, or in another way seekers of Masses to be celebrated, but ecclesiastical men, to whom alms of Masses are spontaneously handed by the faithful, and who, for publishing good books or religious newspapers, offer them to Priests to be celebrated, so that thence these may receive books or journals in place of a stipend?"

"2. Whether Priests of this kind act illicitly, who either accept Masses offered to them by the aforesaid Ecclesiastics, or themselves ask that they be celebrated, so that thence for Masses already celebrated they may be able, in place of their stipend, to accept or ask for books or newspapers, since they know from another source, or persuade themselves, that otherwise they will not obtain the same Masses to be celebrated for an effective alms?"

VI. "Whether and in what way are moderators or administrators of religious newspapers to be disapproved who entrust Masses to be celebrated to Priests, with the price corresponding to the newspapers themselves retained from their alms in the case?"

The S. C. C. on 24 Apr. 1875 responded: "To V. The doubt having been reformed: Whether and in what way response must be made to the Bishop of Caltanissetta in the case? Negatively in all things to each."

"To VI. Negatively, provided that nothing is detracted from the will of the founders or offerers concerning the quantity of stipend, the place and time of celebration of Masses, any zealous collection of Masses being excluded, and the one to whom by law it belongs having been informed concerning the celebration of Masses subsequently performed, word having been had with the Most Holy Lord." Cf. *Acta S. Sed.* Vol. 8, p. 653.

N. 376. 377. - On the Plenary Indulgence to Be Gained of a Privileged Altar

"So that a Priest may enjoy a privileged Altar on days not impeded, he ought to celebrate the Mass of the dead and to use black vestments, or for a reasonable cause violet." S. R. C. 16 Feb. 1852.

"A Priest celebrating at a privileged altar by reading a Mass of a Semidouble Feast, Simple, Votive, or of a non-privileged Feria, whether by reason of the exposition of the Most Holy Sacrament, or of the Station of the Church, or of another Solemnity, enjoys the privilege as if he read a Mass of Requiem permitted by the Rubrics on that day." S. C. Ind. 29 Feb. 1864. Cf. *Acta S. Sed.* Vol. 1, pp. 42, 45.

A Priest having the personal privilege of a privileged altar satisfies the burden undertaken of celebrating at a privileged altar, although he celebrates at an altar not privileged. S. C. Ind. 16 Feb. 1852.

"He who by whatever reason does not gain the Indulgence of a privileged altar cannot satisfy by applying another plenary Indulgence to the deceased for whom he had been obliged to celebrate at a privileged altar." S. C. Ind. 2 May 1852. Yet "he who on permitted days did not celebrate in vestments of black color at a privileged Altar for acquiring the Plenary Indulgence ought to gain a plenary indulgence for those deceased to whom he applied the fruit of the Mass, as often as on non-impeded days he did not use vestments of black color." S. C. Ind. 22 Feb. 1847. This decree is not opposed to the preceding. For in this latter decree "only to Priests, for whom the question was asked concerning the manner by which they ought to compensate the Indulgence of the Privileged Altar, which they were obligated to apply, and which, erring in good faith, they had not gained, did the Sacred Congregation concede that compensation be made through the application of another Plenary Indulgence as often as they had not gained that of the Privileged Altar." S. C. Ind. 24 July 1885. *Acta S. Sed.* Vol. 18, p. 94.

N. 381. - On Private Mass on Thursday and Saturday of Great Week; On Dawn

On Thursday in the Supper of the Lord, besides the solemn Mass, it is not lawful to celebrate another. S. R. C. 19 Dec. 1654. Nor can a read Mass be celebrated in those Churches in which the remaining functions are not performed. 31 Aug. 1839. The Bishop can concede to Regulars one read Mass for the sick who cannot be present at the solemn Mass. 27 March 1773. A regular Superior can celebrate Mass in a private Oratory, or, if it is lacking, in a Church with doors closed, so that he may communicate his subjects for the Paschal precept, if namely the customary functions of Holy Week are not carried out among them. 31 Aug. 1839. Mass is not to be celebrated for preserving the Sacred Host in the Sepulcher in those Churches in which the Most Holy Sacrament is not preserved. 14 Jan. 1659. Rural Parish Priests, destitute of Clerics, after permission has been sought from the Bishop, can celebrate read Mass in their Parishes. If at least three or four Clerics can be had, the functions of Great Week are to be paid in full, with the form of the small Ritual issued by order of Benedict XIII preserved. 31 July 1821. All of the Clergy on Thursday in the Supper of the Lord are bound to communicate from the hand of the celebrant. 22 Sept. 1837. Cf. *Acta S. Sed.* Vol. 1, p. 492 ff. Cf. Gardell. n. 4583.

Private Masses are prohibited on Holy Saturday according to the ancient practice and doctrine of the Church. S. R. C. 26 Apr. 1692; 11 Feb. 1690; 15 July 1697; 28 July 1821; 22 July 1848.

"As regards regions lacking dawn, the Rubric is understood morally concerning the time which is equivalent and corresponds to Dawn, that is, concerning the beginning of the civil, moral, and usual day, in which men are accustomed to rise early for works according to the received and approved customs of the Regions." Gardell. n. 1007.

N. 383. - Instruction of the S. C. de P. F. on Celebrating the Holy Sacrifice of the Mass Twice in a Day

"1. The faculty of celebrating Mass twice in a day, with which the Holy See is accustomed to distinguish the Ordinaries of Missions, so that they themselves may communicate it to their Missionaries, has raised not a few doubts, which have been proposed to this Sacred Congregation by the same. The reason of doubts of this kind is sought from the very strictness of the clauses which,

by order of Alexander VII, were added to the article of the Formulas which treats of this faculty. Wherefore it has seemed opportune, in this present Instruction, to collect the more common rules and principles which are to be had before the eyes in the use of the remembered faculty.

2. No one is ignorant that, from the general rule according to the present discipline of the Church, it is lawful for Priests to offer the Holy Sacrifice only once in the day. Thus Innocent III established: 'We respond that, except on the day of the Lord's Nativity, unless a cause of necessity should persuade, it suffices for a Priest to celebrate only one Mass in a day.' Chap. *Consuluisti*, On the Celebration of Masses.

3. Therefore in a case of necessity, repetition of Mass on the same day is permitted to Priests. Yet this must be understood, as is discerned from the very words of the Formulas, of permission to celebrate only two Masses, although grave causes should concur which would persuade celebrating a greater number. Once the Prefect of the Mission of the Capuchins of Tunis asked whether, on one and the same day, if necessity urged, he could celebrate more than two Masses, for this reason, that all his Missionaries had been thrown into prisons. And the general Sacred Congregation placed over the Propagation of the Faith responded on 7 August 1684: that he cannot by force of the faculties celebrate beyond two Masses. This had already been answered previously in the general Congregation held before the Most Holy Lord on 17 February 1648; for when an abuse had been set forth which had prevailed among Priests detained in captivity in Algeria, of celebrating three Masses, "the Most Holy Lord... ordered through the said Prefect (of Algeria) that it be enjoined in the name of His Holiness upon the Priests... that since the Apostolic See in the faculties of Missionaries has conceded the power or license of celebrating twice in a day where necessity has required this, henceforth they are not to celebrate beyond two Masses." The same was repeated in the years 1818 and 1820 to the Apostolic Prefect of Tunis.

4. Necessity therefore is the only title from which the faculty is made for Priests of saying two Masses. First however it is expedient to observe with Verricelli that "this necessity is not to be taken from the side of the scarcity of Priests, but from the side of the spiritual necessity of the people and the rarity of Priests." On Apostolic Missions, Tit. IV, q. 98, D. 18, n. 201. With this principle posited, it is easy to draw out certain negative rules concerning the use of the faculty of which there is question.

5. And first indeed it is evident that he would not think rightly who would say that Mass can be repeated on suppressed feast days, on which the people are not bound to hear Mass, as the Sacred Congregation warned in the year 1837 in these words: "The matter having been maturely weighed, from the words of the formula itself it appeared sufficiently clearly that the faculties cannot be extended to abrogated festivities. For since in the remembered formula it is declared that the faculty is valid if necessity urges, it follows that, from this title alone that those days were once festive, Mass cannot be celebrated twice by the same Priest."

6. Secondly. Likewise repetition of Mass is interdicted for the convenience of those who would wish to satisfy the precept of hearing Mass in their private chapels. In the year 1842 the Apostolic Vicar of Limburg had narrated the custom that had grown up in his Vicariate of

permitting the repetition of Mass in the camps of magnates; but since he did not think that in these circumstances there was that necessity which is required by the Formulas, he sought, both by reason of custom and by reason of the moral utility which came thence, that authority be made to him for permitting it. But the Sacred Congregation of the Inquisition judged that, according to the things set forth, it was not expedient. And when the Apostolic Vicar had added that some Priests, by a faculty previously had from his Predecessor, were pursuing the repetition of Mass, the Supreme Sacred Congregation decreed that the faculty was to be revoked, insofar as the Apostolic Vicar of Limburg judged that this could prudently be done.

7. Thirdly. From Resolutions of this kind it is inferred that custom is not a sufficient title that the same Priest can offer the Holy Sacrifice twice on one and the same day. This also agrees with what Benedict XIV taught in Const. *Declarasti Nobis*, given on 16 March 1746 to the Bishop of Huesca in Aragon. "Only we inquire," says the Pontiff, "whether that custom has acquired for itself the character of prescription or presumption, and we judge each to be false and foreign." And as regards prescription, he says: "For if according to civil laws holy things cannot be prescribed, it is absurd from every side to assert that something has been obtained or required by prescription which is adverse to the inviolable sanctions of the universal Church, which the Council of Trent commanded all Priests to observe in the celebration of Masses." But concerning presumption he adds: "But, the other things passed over, we submit that this could be understood of those privileges which could have been granted by the Apostolic See, if someone had asked for them, but not of those things which, when they are asked for, are by custom altogether denied custom, lest presumption have more strength and weight than truth." Hence it is that, when the Sacred Congregation has known that in some place the custom of repeating Mass without necessity had grown up, it did not omit to reprove a custom of this kind as an abuse, stirring up the zeal of Bishops for eliminating it.

8. Fourthly. Nor even the poverty of Presbyters is able to prove the repetition of Mass, as has been indicated from Verricelli, loc. cit. A certain Archbishop of Ireland in the year 1688 asked: "Whether from the sole cause of poverty Regulars can celebrate two Masses on feast days in private houses, although all parishes and convents have their own churches and chapels." The Response of the Sacred Congregation was negative: and when it had been reported in particular Congregations of Propaganda Fide held both on 7 March 1743 and on 28 July 1750 that an abuse of this kind still flourished in Ireland, because many Priests were using the faculty of repeating Mass for no other cause except that they might receive richer alms, and thence sustain themselves more conveniently, the Most Eminent Fathers decreed: "Let Priests be gravely warned not to abuse the faculty of celebrating twice in a day so that they may have a more ample and richer stipend." And by Benedict XIV, Const. *Apostolicum Ministerium*, 30 May 1753, section 11, it is called an intolerable abuse that the faculty is made for some Priest of repeating Mass to this end, that by a double alms he might sustain himself more decently. Only, that in some way it might consult for the poor Religious of that Kingdom, who had complained concerning a similar prohibition made by the provincial Synod of Tuam in the year 1817 because of the damage thence arising, the alms being taken away from them which they were accustomed to receive on the occasion of Mass at the church doors, since they themselves lived from the offerings of the faithful, the Sacred Congregation willed that Bishops be warned

that "in imparting by Apostolic authority to Priests the license of celebrating two Masses on feast days of precept because of causes of necessity approved by Apostolic Constitutions, they have account of Regular Priests, and especially of those who dwell in poor monasteries." For the rest, since the Sacred Congregation of the Council declared that "from general practice it is not conceded to Presbyters to receive an alms for the second Mass, even if the matter concerns those who, furnished with a parochial duty, cannot obtain a stipend for the first Mass because they are bound to apply it for the people," as was notified by circular letters of the Sacred Congregation of Propaganda Fide on 15 October 1863 to Ordinaries of Missions, any pretext whatever for the abuse of repeating Mass in view of a stipend has already been removed. Nevertheless, account having been had of the circumstances of certain particular Missions, the Most Holy Father deigned to make authority, as is established from the said circular Letters, for their Ordinaries of permitting "that, a just and grave cause intervening, Priests subject to them can and may receive a stipend even for a second Mass to be celebrated on the same day."

9. Fifthly. Finally it is necessary to note that repetition of Mass is interdicted to a Priest whenever another Priest can be had who can satisfy the necessity of the people, as Benedict XIV expressly teaches in the cited Constitution *Declarasti Nobis*. And hence it is that, before repetition of Mass is admitted, it must be seen whether some remedy from those constituted by law is at hand for providing for the spiritual necessity of the people; and first the Parish Priest himself is bound to supply a stipend to another Priest; but his inability being posited, the people are bound; and finally, if neither could the people be compelled to this on account of poverty, the Ordinary would be bound to supply. Benedict XIV, loc. cit.; Vote of Cardinal Zelada, *Thesaur. Resolutionum*, T. 37, in the cause of Derthusen, 26 Aug. 1768.

10. Thus far concerning cases in which repetition of Mass is prohibited. As regards the cases in which the necessity required for this concurs, these are found set forth in Const. *Declarasti Nobis*. In this Constitution there is first considered, according to the unanimous consent of Theologians, that repetition of Mass is permitted to the Priest "who obtains two parishes, or two peoples so separated that one of them can in no way be present for the Parish Priest celebrating on feast days because of the very great distance of places." And this is the first and more common case; the other, which is there recounted, is "when there is only one church in which Mass is celebrated, and to which the whole people together cannot come."

11. In these cases Mass can be repeated even by those who are not endowed with the faculty through the Formulas which are customarily conceded through the Sacred Congregation placed over the Propagation of the Faith, since common law itself concedes this, always nevertheless dependently on the Ordinary, to whom it pertains to pass sentence both concerning true necessity and concerning the possibility of applying canonical remedies (section 9). In reality, these means having been indicated, Benedict XIV adds: "The things said thus far rest also on general canonical sanctions." Indeed, the opinion of Theologians is concordant, as Benedict XIV himself also observes, that in the case of one Parish Priest with two parishes, "the Parish Priest not only can, but plainly is bound to celebrate Mass twice on the same day." *De Syn. Dioec.*, bk. 6, ch. 8, n. 2. From these things it easily follows that the article of the Formulas, since it is facultative, is extended also to other cases of necessity not considered in common

law; for otherwise that article would become useless, at least for those places in which parishes are canonically erected, with common law itself disposing for these parishes. This agrees with what Benedict XIV teaches in the work *De Sacros. Missae Sacrificio*, bk. 3, ch. 5, n. 4, in which, after he had asserted that "the case which truly occurs is that when a Parish Priest has two parishes," etc., he proceeds in these words: "Nor nevertheless do we will anything prejudged concerning other cases which occur in Missions, for which provision has been made by conceding to Missionaries the faculty of celebrating Mass several times on the same day; likewise concerning other cases in which either because of the distance of places, or because of the fewness of Priests, or the persecution of infidels, lest the faithful lack Mass, it is necessary that two Masses be celebrated by Priests." And concerning causes of this kind indeed, which have place in Missions, for which the faculty is given to Superiors of Missions, the Sacred Congregation of Propaganda Fide was speaking in the year 1832, when it gave an opportune warning to a certain Philippopolitan Missionary, who was not repeating Masses although he presided over various Christian communities. Namely, Mass repetition having been enjoined upon him, even from the mandate of the general Congregation, it was added: "But if you ask why those clauses of rigor are added to the faculty of repeating Mass in the formula of the Indult, you will find the response in the formula itself; for you will observe that the Indult is not restricted to the needs of the people on feast days; but since it is contained in general terms, it also comprehends other cases concerning which there is question, as would be the necessity of administering Viaticum to the sick in each parish, and in other cases of this kind the prescribed cautions ought to have place."

12. And in cases of this kind, namely less frequent ones, in the use of this faculty Bishops and Missionaries have repeatedly seemed to hesitate, doubting especially concerning the sufficiency of causes which would be required according to the clauses added to the faculty. But truly the cases which can happen in Missions in this matter are so many and so various that they can hardly be foreseen easily, and much less reduced to determined rules; for judgment concerning them can vary according to the diverse concurrent circumstances of places, times, and persons. This is the reason why the resolution of particular doubts which have been proposed concerning this matter has for the most part been remitted to the prudent judgment of the Superior of the Mission.

13. And first indeed a rule was often requested concerning the number of the faithful which would be enough that Mass could be repeated. In the Constitution *Apostolicum Ministerium* issued for England, it is said that a faculty of this kind can be employed "when the number of those who on feast days are bound to assist at Sacred things exhibits such necessity that unless power of celebrating two Masses on the same day is conceded to some Priest, many would not satisfy the command of the Church." Yet a general norm of this kind does not remove every doubt concerning the number necessary for repetition. The same can be said concerning a certain negative response of the Holy Inquisition given in the year 1688 to Capuchin Missionaries in Greece. These had asked: "Whether a Missionary Priest, dwelling alone in a place, could celebrate two Masses on Sundays and feast days for fifteen or twenty persons who, legitimately impeded, were not able to be present at the first Mass;" and the Supreme Holy Inquisition on 28 January of the same year decreed: it is not lawful. But if the number of twenty faithful is not

judged enough for Mass to be repeated, it can further be asked what minimum number suffices.

14. But concerning a doubt of this kind, as concerning those things which regard distance, the Sacred Congregation has had it in custom that these things are to be resolved by the prudent judgment of the Ordinaries of Missions on whom the faculty depends; for they themselves in the places in which they dwell can rightly estimate the circumstances concurring in individual cases. And indeed as far back as the year 1688, the Prefect of the Mission of Tunis in Mauritania generally asked that it be declared what number of faithful there ought to be who would be deprived of Mass, so that Mass could be repeated; and the General Sacred Congregation of Propaganda Fide on 16 November responded: Let it be left to the charity and conscience of the Father Prefect. Similarly the Bishop of St. Louis in the United States of America in the year 1828, having set forth his own fear and that of other Bishops of burdening their own conscience because of the clauses of the formulas, asked: "Whether whenever thirty or fifty faithful are exposed to the danger of not hearing Mass of precept, they may celebrate twice." But by order of Leo XII, by letters given on 13 March, it was rescripted: "You ought to lay aside every anxiety of mind, and, without being moved by the rigor of the words, He (His Holiness) commits it to your conscience and prudence that you judge in which cases, with account had of the circumstances of your diocese, grave causes are to be judged present for imparting to Priests the faculty of which there is question. But where you shall have judged these causes grave according to your conscience and prudence, His Holiness kindly declared that you can use that faculty without any doubt."

15. A similar response also was given in the year 1851 to the Apostolic Vicar of Limburg, who had proposed a doubt about distance thus: "In this region by ancient custom a license of binating is sometimes conceded because of moral necessity, although the nearer parish is not distant beyond the space of half a league; it is asked whether rightly?" The Sacred Congregation responded by letters of 31 July: It being premised that it is the duty of Bishops, according to their powers, to take care that there be no need to use this faculty for relieving the necessities of the faithful, a general practice to be observed in individual cases cannot be assigned. Wherefore in particular cases as above, the supply of Presbyters being lacking, and all other circumstances maturely weighed, it must be defined by the prudent judgment of the Superior whether in that case there concur grave circumstances of things, which Doctors hand down as effecting a case of necessity (as the proposed one seems), in which there is place for dispensation from the universal precept concerning the repetition of the Sacrifice by the same Presbyter on the same day, and for the faculty of binating to be bestowed; which, from the words of the Apostolic Indult itself, it is especially clear that he ought to use altogether sparingly. And this instruction was sent in the same words to the Bishop of Trier in the year 1853, in whose name various doubts concerning repetition of Mass had been proposed; for it was rescripted to him on 28 September that, his questions having been considered, the Sacred Congregation judged that the instruction should be given which... the Apostolic Vicar of Limburg obtained under the day 31 July in the year 1851.

16. For the rest, among various responses which remit to the judgment of the Superior the measuring of the gravity of causes, some deserve particular mention; of this kind are those which, while they follow the customary rule of remitting to the Superior's judgment the estimation of causes, at the same time indicate in some manner the kind or degree of necessity which repetition of Mass demands, and repeatedly temper somewhat the fear and soften the excessive anxiety of mind which those clauses had created for Bishops and Missionaries, by which this faculty is restricted in the Formulas. One of responses of this kind was given in the year 1848 to a Bishop in the United States of America; for by letters given on 9 May it was rescripted thus: I come to your request concerning the mode of interpreting the necessity which is required for the lawful use of the faculty of celebrating Mass twice in a day.... Let Your Amplitude therefore know that necessity of this kind, concerning which the discourse is, is indeed true, but is understood as moral; not however absolute, concerning which therefore to judge in individual cases depends on prudent judgment, after the circumstances have been inspected.

Therefore you must beware in this matter of excessive anxiety in judging, lest the aforesaid faculty seem to have been conceded in vain or to have to be reduced to act in almost no case. More worthy of note is the declaration which was sent in the year 1828 to a certain Apostolic Prefect in the Antilles of America. For since he did not trust that he could tranquilly use the faculty concerning which there is question, because of the grave conditions by which it is constrained, he had implored a more ample faculty from the Apostolic See of making provision for Presbyters... that on Sundays and feasts of precept they can celebrate Mass twice, when necessity or the spiritual utility of the faithful demands it. A report of this matter having been made to the Supreme Pontiff on 13 April, response was made in this way: Such is the estimation of your virtue and prudence, that Our Most Holy Lord ordered that you ought to lay aside every anxiety of mind; and if you shall have judged it to be necessary, or vehemently useful to the faithful, that Priests celebrate Mass twice on the same feast day, you ought not to be moved by the rigor of the words by which the rescript seems to be contained. Therefore His Holiness commits to the prudence and conscience of Your Lordship to judge concerning that necessity and the gravity of causes; and in these circumstances, he kindly declared that you have the faculty, through the remembered Rescript, of making provision for Priests that they celebrate Mass twice.

17. The same rule, of committing to the judgment or charity of Superiors of Missions the application of general principles to practical cases, has also been observed when in the cases themselves, as they were set forth, there did not appear that force and gravity of causes (at least if these causes were considered in themselves and in the abstract) which the clauses of this faculty require; this indeed confirms that, in considering causes which may persuade the use of the faculty, great account must be had of all the conditions and state of the faithful. An argument of this matter is the response given by the S. C. in the year 1688 to the Vice-Prefect of the Tripolitan Mission. This man, uncertain because of the clauses, had asked "for what number of slaves or free persons he could precisely celebrate a second Mass, since sometimes the case was given that in the bath outside Tripoli not more than ten or fifteen slaves present at the Sacrifice were present... and whether, in the lack of Presbyters, for those alone a second Mass could be celebrated on feast days." Now indeed, although the Resolution given in the

same year by the Sacred Congregation of the Inquisition for a similar case did not stand in the way, as was noted above in section 13, the Sacred Congregation placed over Propaganda Fide on 5 October responded: Let it be left to the charity and conscience of the Father Vice-Prefect. Nor should it be marvelous if this Sacred Congregation indulged a more benign interpretation; for the matter concerned slaves, who, because of their own condition, deserved peculiar indulgence, since the one consolation perhaps for them was the Most Holy Sacrifice of the Mass. Another argument of this kind of benignity, with account had of circumstances, was supplied by the Holy Inquisition in the year 1860; for although on 20 June it responded to the Apostolic Vicar of the same Kingdom adjacent to China that the desire of Neophytes wishing to receive the Most Holy Eucharist twice or three times in the year was not of itself a most urgent cause in the case concerning which there is question, that is, of repeating Mass according to the faculty; nevertheless it added: but, all the circumstances of places and persons having been weighed, it is to be left to the judgment of the Reverend Father Lord Vicar Apostolic. From these things it is drawn out that those causes which of themselves and therefore in many places are not grave can become grave in other places because of the circumstances which accompany the case.

18. These are the principles which have been had before the eyes as regards the faculty of repeating Mass, and which indeed will be able to render Ordinaries of Missions tranquil in the exercise of the same faculty. But although in this matter deference is customarily made to the wise judgment of Ordinaries of Missions, nevertheless from the things said thus far it appears with how much caution they ought to use it, since their conscience always remains burdened in the legitimate exercise of an extraordinary faculty of this kind. Nevertheless here there will help what the Sacred Congregation rescripted in the year 1832 to the Bishop of Nicopolis in Bulgaria: that the clauses employed in the Formulas are not to be understood in the extreme rigor, with the principle kept before the eyes that the Apostolic See concedes the said faculty for the spiritual good of the faithful, with the desire that all may easily fulfill the ecclesiastical precept.

19. It remains now to speak concerning the rite or the mode by which Mass can be repeated. It has always been prescribed by the Sacred Congregation to Missionaries, and by Benedict XIV himself, that he who repeats Mass ought not to take the customary ablutions of the chalice because of the fast, so that, "if in the first Mass after the reception of the Body and Blood he has accepted the pouring in, he ought not to celebrate a second Mass in the aforesaid cases" (Council of Nimes, 1284, at Benedict XIV, *De SS. Sacrif. Miss.*, bk. 3, ch. 5, n. 4), that is, even in those cases in which the people would otherwise be deprived of the Sacrifice on feast days. But although in the Decree of the Sacred Congregation of Sacred Rites in the Ebusitan case on 16 September 1815 it had been prescribed that there be only one chalice which he ought to use who celebrates two Masses, nevertheless, since the execution of a Decree of this kind was subject to difficulties by no means light when celebration had to be done in two churches remote from each other, the same Sacred Order in general assemblies held on 12 September 1857 rescripted, for the moderation of the said Decree: that the use of two chalices can be permitted in the case. The Instruction which is added here, drawn up by order of the same

Sacred Congregation of Sacred Rites, regards the mode of purifying the chalice which will have served for the first Mass.

From the buildings of the said Sacred Congregation, 24 May 1870." Cf. *Acta S. Sed.* Vol. 1, p. 8 ff.; Vol. 6, p. 345 ff.; Lucidi, ch. 3, sec. 2, n. 378 ff.

Instruction on the Purification of the Chalice Given by the S. R. C. on 11 March 1858 for Those Who Must Repeat Mass in Distant Places

"When a Priest on the same day must celebrate two Masses in distant places, in the first, while he takes the divine Blood, let him drink it most diligently. Then let him place the chalice upon the corporal and cover it with the pall, and with hands joined in the middle of the altar let him say: *Quod ore sumpsimus*, etc.; and then, the little vessel of water being brought near, let him wash his fingers, saying: *Corpus tuum*, and wipe them. These things having been done, let him cover the chalice still remaining upon the corporal with the pall drawn down, as is customary, namely first with the purificatory linen, then with the paten and pall, and finally with the veil. After these things let him pursue the Mass, and, the last Gospel having been completed, let him again stand in the middle of the altar, and, the chalice having been uncovered, inspect whether any of the divine Blood has or has not settled at the bottom, which will happen for the most part. For although the sacred species have first been carefully drunk, nevertheless while they are taken, since the particles which are around are left everywhere upward, only after the chalice has been set down do they return to the bottom. Therefore, if some drop of the divine Blood still remains, let it again and diligently be drunk, and indeed from the same part from which it was first taken. This is by no means to be omitted, because the sacrifice morally endures, and with the species of wine still remaining it must be completed by divine precept.

Afterwards let the Priest pour into the chalice itself at least as much water as he had first placed of wine, and, after moving it around, let him pour it from the same part from which he had drunk the Sacred Blood into the prepared vessel. Then let him wipe the chalice itself with the purificatory linen, and finally cover it, as is done at other times, and depart from the altar. The sacred vestments having been deposited and thanksgiving completed, the water poured from the chalice, according to the circumstances of things, is either to be preserved until the next day (if namely the Priest is going to return there again to have Mass), and in the second purification poured into the chalice, or, absorbed by cotton or tow, burned, or left in the sacrarium, if there is one, to be dried, or poured into the piscina.

But since the chalice which the Priest first used has already been purified, if he needs that very one for the other Mass, let him carry it with him; but otherwise in the other Mass he will be able to use a different chalice."

Since the above Instruction of the S. R. C. regards only the case in which a Priest is going to celebrate two Masses in distant places on the same day, it has seemed worthwhile from the Commentaries of Bartholomaeus Gavanti and Cajetan Maria Merati to add here the rite to be observed by a Priest when he must offer each Mass in the same church.

"Therefore in this case the Priest, after diligently drinking the Blood of the Lord in the first Mass, the customary purification having been omitted, covering the chalice with the paten and the paten with

the pall and leaving it upon the corporal, will say with hands joined: *Quod ore sumpsimus, Domine*, etc. Then he will wash the fingers with which he touched the Most Holy Sacrament in some clean vessel prepared for this on the altar, meanwhile saying: *Corpus tuum, Domine*, etc.; and, his fingers having been wiped with the purificatory, he will cover the chalice with the veil, and, veiled, place it upon the extended corporal. The Mass having been finished, if there is no sacristy in the church, he will leave the chalice in the same manner upon the altar; but otherwise he will carry it into the sacristy, and there place it upon a corporal or pall in some decent and closed place until the second Mass; in that Mass, since he ought to use the same chalice, he will again carry it with him to the altar, and place it back upon the extended corporal. But when in the second Mass the Priest has come to the Offertory, the veil having been removed from the chalice, he will place this for a little while toward the Epistle corner, but not outside the corporal; and the oblation of the Host having been made, he will take care not to wipe the chalice with the purificatory, but, leaving it within the corporal, he will raise it slightly and cautiously place wine and water in it, lest some drops rebound to the lips of the chalice itself, which then, by no means wiped within, he will offer in the customary manner."

On the Stipend for a Second Mass

"1. Whether a Parish Priest who rules two Parishes, and has the faculty of celebrating twice in the day, is bound to apply his Mass to each Parish, even if the revenues are slight? 2. Whether a Parish Priest who in the same Parish by faculty celebrates twice on the same day ought to apply each Mass gratis? 3. Whether vicars and other priests not having care of souls, if ever by faculty they celebrate twice in the day in a Parish, hospitals, etc., ought to apply gratis? He responded: to the 1st, affirmatively; to the 2nd, negatively, the prohibition of receiving an alms for the second Mass remaining firm; to the 3rd, negatively, insofar as they do not have care of souls, the prohibition of receiving an alms for the second Mass always remaining firm." S. C. C. 25 Sept. 1858. Lucidi, Vol. 3, p. 380, 3rd ed.; *Acta S. Sed.* Vol. 7, p. 69 ff.

"That some remuneration can be permitted (in the case of repeated celebration of Mass) by the prudent judgment of the Bishop in view of labor and inconvenience, any alms whatever for the application of the Mass being excluded." S. C. C. 23 March 1861.

N. 384. - On Mass on the Night of the Nativity of Our Lord Jesus Christ

"Whether on the night of the Nativity, after the first Mass has been sung, it is lawful immediately to celebrate the other two, and communicate the faithful? Resp. By no means is it lawful, but it is altogether to be prohibited." S. R. C. 20 Apr. 1641; 7 Dec., 23 March 1686, etc.

"Whether on the night of the Nativity of Our Lord Jesus Christ it is lawful for any Priest whatever to celebrate private Mass before dawn, without an indult of the Apostolic See in the case? And insofar as negatively, whether a contrary practice, where it wished to be introduced or had already been introduced, must be declared an abuse and directly opposed to the laws of the Church, so that it is to be cut off by the Bishop? Resp. To the 1st, it is not lawful. To the 2nd, that the contrary custom is an abuse, and let the Bishop take care that it be cut off." S. R. C. 18 Sept. 1781.

"On the day of the Nativity of the Lord, can this priest celebrate three Masses of the Blessed Virgin?" namely, a priest "to whom by reason of illness, or another reasonable cause, power has been made by

the Holy See of celebrating a votive Mass of the Blessed Virgin." Resp. negatively according to decrees at other times. S. R. C. 28 Apr. 1866.

"Whether a priest can celebrate only two Masses on the day of the Nativity of Our Lord Jesus Christ? Resp. Affirmatively, or that a Priest can according to his own judgment celebrate only two Masses on the day of the Nativity of the Lord, and thus it declared on 19 June 1875." S. R. C. "A Priest who celebrates only one Mass should read the Mass which corresponds approximately to the hour according to the peculiar Rubrics of the same day. And thus it rescripted and commanded to be observed." S. R. C. 19 June 1875.

On Three Masses on the Day of the Commemoration of All the Dead in Spain

In the kingdoms of Spain and Lusitania, on the feast of the Commemoration of All the Dead, it has been conceded to individual priests dwelling there to celebrate three Masses, as is established from the Constitution of Benedict XIV *Quod expensis*, 26 Aug. 1748. Now indeed in that Indult it was provided that Priests of Aragon for the third Mass, and all the others of other regions for the second and third, can obtain plainly no alms, even if spontaneously offered. These things having been posited, it was doubted: "Whether it is prohibited to priests comprehended in the Indult of which there is question to receive for the first Mass on the day of the Commemoration of All the Faithful Departed an alms greater than that which was predefined by the synodal tax, or by the custom of the place, although spontaneously offered in the case?" In the great contest of those opining diversely, the S. C. rescripted: "Affirmatively." Almeria, Alms, 2 March 1861. Lucidi, Vol. 1, p. 468, 3rd ed.

N. 386. - On the Celebration of Mass in Temples of Heretics

Cf. On the Theological Virtues, N. 192.

On the Celebration of Mass in Chapels, and in a Private House

A dormitory cannot be had above a chapel in which Mass is celebrated. S. R. C. 11 May 1641. It cannot be celebrated in chapels under bedrooms (*camere da letto*), unless a canopy is had over the altar, or a double vault (*doppia volta*). S. R. C. 12 Sept. 1840. Indeed, although a canopy is present, let the custody of the Most Holy Sacrament be removed, if it can be done. S. R. C. 12 March 1856.

"Whether a Bishop can, a just cause intervening, concede the faculty of celebrating in private oratories in the case? Resp. Negatively, unless nevertheless great and urgent causes are present, and only by way of an act." S. C. C. 20 Dec. 1855.

"When the sacrosanct Sacrament of the Eucharist is sought by sick Christians, it is asked: 1. Whether Missionaries are allowed to celebrate the sacrifice of Mass in the houses of the aforesaid sick? 2. Whether this proceeds also when danger of death urges, but Viaticum can be carried, at least secretly? 3. Whether it is lawful at least when it cannot be carried even secretly? Resp. To the 1st, it is not lawful. To the 2nd, it is not lawful. To the 3rd, that in such a case it is lawful, either in the house of the sick person, or at least in a neighboring house, if the place is decent, lest the sick person be deprived of Viaticum." S. C. de P. F. 14 Dec. 1668.

"The Parish Priest knows that Sacred Viaticum can very difficultly be supplied to a sick person near death unless he can carry the Most Holy Sacrament from a private Oratory. And insofar as affirmatively, whether in such a case he can celebrate, even with the Indultary being absent by necessity? Resp. Affirmatively, even with the Indultary absent." S. R. C. 27 Aug. 1856.

N. 387. What Is to Be Understood by Church and Public Chapel

"A Church is understood as that which is built especially to this end, that it may serve for the public use of the faithful people. But a public Chapel is that which, although it has entrance on a public way, nevertheless does not seem destined so much to the free use of the faithful people as to the convenience of some family or College." S. R. C. 22 July 1855.

On Mass to Be Celebrated by Outsiders in Churches of Regulars

Regular Superiors cannot admit "for celebrating in their Churches the others of their own or another Religion, vagabonds or pilgrims, unless the letters of obedience or assignment of their Superiors and testimonials of promotion to the priesthood have been diligently examined; but as regards secular priests, unless testimonial letters have been seen, signed by the Vicar general or forane of the Bishop of the place." S. I. C. 11 Aug. 1649; S. C. EE. and RR. 14 March 1879.

N. 388. - On the Profanation of a Church

"Whether a consecrated Church which served for military stations and watches for two days is to be judged profaned, and therefore needs the reconciliation prescribed by the Roman Pontifical? Resp. That for caution it is to be reconciled." S. R. C. 27 Feb. 1847.

N. 390. 391. - On Altar Stones or Portable and Fixed Altars

"Altar stones or portable altars which consist of true hard and compact stone, even if not marble, ought to be held suitable; but those which have been made from pumice stone, or from gypsum, or another similar material, are altogether illicit. But as regards altars whose sepulcher or confession was dug not in the middle of the stone but in its front, they are not to be admitted, as not conforming to the prescriptions of the Roman Pontifical." S. R. C. 24 Nov. 1885.

"The consecration both of a stable Altar and of a Traveling or portable Altar, as regards the essential prayers, rites, solemnities, is altogether the same; in this however it differs, that the portable Altar, or stone, in the middle of which the Sacred Relics are stored, is anointed with sacred unction only on the surface; but on the contrary in a fixed Altar not to be transferred, another sacred unction is employed, by which the stone is joined in the corners and connected with the lower support or structure; and by this method not one stone, but the whole Altar, is judged consecrated. Therefore a portable Altar is execrated if either it has been enormously broken, or the sepulcher of the Relics violated; but a fixed altar is execrated even if, without violation of the sepulcher, the stone alone is removed from the support. Thus Alexander III, chap. *Ad haec*, On the Consecration of a Church or Altar: 'To this, if the Altar has been moved, or only that stone placed beneath which contains the seal has been broken or enormously diminished, it must be consecrated anew.' And in chap. *Quod*, same title: 'But an altar in which the table, to which the blessing of consecration is applied by pontifical ministry, has been removed or enormously broken, ought not undeservedly to be consecrated.' And

although there are not lacking those who think that a fixed Altar loses consecration even if the whole Altar is transferred from the place in which it was built and anointed with sacred ceremonies to another place, nevertheless the common opinion is that in this case a new consecration is not necessary. The reason is that although a fixed Altar in this seems to differ from a portable altar, that the latter is transferable from one place to another, but the former is not so, and therefore is called fixed and immovable, nevertheless this difference is merely extrinsic, accidental, and respective to the place itself rather than between the Altars themselves; for the formal reason by which a fixed Altar intrinsically differs from a portable one properly consists in this, that a fixed Altar has and essentially imports the joining of the Table with its lower structure, or base, to which the Table therefore must necessarily be united; where on the contrary a portable Altar by its nature imports being separated from a base; for because of this it is portable, because of itself it has separation from the base; otherwise it would no longer be a portable Altar but a fixed one. Hence the essence of a fixed Altar truly and properly consists in the said joining, that is, in the mensa or table united with the base; and it imports fixation in such a place for this reason, that he who had it constructed willed it there: which therefore is something extrinsic and accidental to the Altar itself. For that same one could have been built elsewhere. Wherefore since the Altar is supposed to preserve the same joining, namely of the Table with its base, notwithstanding its transfer from one place to another, it must be said that it still retains its own being and, consequently, its consecration, which had accrued to it: for it is fitting that the accessory, since it is founded upon the principal, follow the nature of the principal; from Rule 42, On Rules of Law in VI. Therefore, so that that word 'moved' may be verified, it is not necessary that the Table have been transferred from one place to another, but it suffices that it has been separated from its base; and thus through this the Altar needs a new consecration. Hence the Gloss both to Canon *Si motum* and to Chapter *Ad Haec*, I, v. Altar; Panormitanus in the same place and others, by Altar understand the Altar Table itself which is connected with its lower structure; but by moved they understand the supervening disjunction of the same Table, or even of the consecrated Stone, from the lower structure itself; so that the sense of that Text: If the Altar has been moved, etc., is this: If the Table itself, or the consecrated Stone of the Altar, has been disjoined from its lower structure: the Altar must be consecrated anew. But if the Table which we call the mensa, placed upon a stone and stable Altar, although it is of such size that it surpasses or at least equals the subject structure, nevertheless had never been joined and united with the lower support, and in some way bound together in the corners through sacred unction, it would not lose Consecration by removal and translation from place to place, because in this case it would have no other character except that of a portable Altar, which is execrated only either through enormous fracture or through violation of the sepulcher of the Relics. Therefore since in the proposed species of fact the matter is of a fixed and stable Altar, and the superimposed Stone of the great Altar was removed from the lower support to which it had been joined through Sacred unction, it plainly follows that through removal of this kind the Altar was execrated and needs a new Consecration, as the S. R. C. declared." Note of Gardell. n. 4562.

Pius IX, 26 May 1867, by special Rescript as regards a Privileged Altar declared "that it suffices for constituting the quality of a fixed Altar that in the middle of a stable and immovable Altar, although not consecrated, a stone even removable be placed." Cf. *Acta S. Sed.* Vol. 3, p. 100. The S. I. C., 20 March 1846, likewise declared as regards a Privileged Altar: by a fixed or local Altar "the S. C. understood indeed a fixed altar, which cannot be moved from the place, but not one whose upper

part or mensa is of whole stone or so joined with lime that the consecrated stone cannot be removed; otherwise, when an altar which had been conceded privileged because of the image of some Saint was destroyed, after new construction it would need a new privilege." But by a portable Altar "it understood an Altar, as it is called viaticum, which consists only of one whole stone of such magnitude that it can contain the foot of the chalice with the paten at least for the greater part, or which is transferred from one place to another." Cf. Wolfgang Mühlbauer, *Decreta Authentica*, v. Indulgence 6.

N. 393. - On the Color and Matter of Vestments

"Whether sacred vestments of gold color can serve for the colors white, green, and red?" S. R. C. 29 March 1851 responded: "Negatively."

1. Whether vestments of yellow color can be employed for whatever color, black excepted? 2. Whether vestments made from silk and woven with other colors and flowers, so that the primary and predominant color is scarcely discerned, can be used mixedly, at least for white, red, and green? 3. Whether chasubles, stoles, and maniples can be made from linen cloth, or cotton commonly called percale, dyed or painted with the prescribed colors? Resp. To the 1st, negatively. To the 2nd, likewise negatively. To the 3rd, let the Rubrics and the use of all Churches be observed, which do not admit chasubles of this kind. S. R. C. 22 Sept. 1837.

"Can yellow color, both silken and woven from gold, be employed for white, green, red, and violet, especially in poorer churches not able to make vestments of the individual colors prescribed by the Rubric? Resp. As regards vestments of yellow color, negatively; as regards vestments woven from gold, affirmatively, the color violet nevertheless excluded." S. R. C. 5 Dec. 1868.

"Can silver cloth be permitted for vestments of white color? Resp. Affirmatively." S. R. C. 20 Nov. 1885.

That the cincture can be of the color of the vestments. S. R. C. 8 June 1709.

"Whether it is lawful to use yellow or blue color in the Sacrifice of Mass and exposition of the Most Holy Sacrament? Resp. Negatively." S. R. C. 16 March 1833; 23 Sept. 1837.

Whether the use of blue color in sacred vestments can be permitted for white color, as is customarily done in Masses of the Blessed Virgin Mary, or rather for violet? Resp. Negatively in all things, and the use of blue color is to be eliminated as an abuse." S. R. C. 23 Feb. 1839.

"Since in Spain at the present time many Churches are poor, it is asked: Whether at least in them it can be permitted in the celebration of Masses both for Holy Confessors and Martyrs that one and the same Vestment be employed, woven from two colors, namely white and red? And similarly another one and the same Vestment composed of violet and green colors for the days to which the color violet or green agrees according to the Rubrics? Resp. Let him have recourse to the Ordinary.... And thus it rescripted, declared, indulged, and commanded to be observed." S. R. C. 23 May 1846, to 7.

"Whether it is lawful for celebrating Mass to use ornaments whose texture is glass mixed with gold or silver? Resp. In the Vote of the Master of Ceremonies, or Negatively to the proposed doubt, and therefore it is not lawful to use the aforesaid ornaments." S. R. C. 11 Sept. 1847.

"Whether chasubles made of wool are permitted? Resp. The use of churches does not admit woolen chasubles." S. R. C. 18 Dec. 1877.

N. 394. - On the Matter of the Chalice and of Communion Cloths; On Vessels Already Employed, by No Means Blessed

Let every priest sacrifice only in a gold or silver chalice, or at least a tin chalice. Benedict XIV, Const. *Etsi pastoralis* for the Italo-Greeks.

Whether chalices made from aluminum can be employed in the Sacrifice of Mass? The S. R. C. on 1 Sept. 1866 responded: "Nothing is to be innovated." But on 6 Dec. 1866, the Most Holy Lord permitted chalices and patens thus made, truly under the form and conditions prescribed in the attached Instruction. Cf. *Acta S. Sed.* Vol. 6, p. 589; Vol. 2, p. 238.

"1. Whether Chalices for the Most Holy Sacrifice of the Mass can be made, whose Cups are made from metal, brass, or copper? 2. Whether Cups of this kind, even if gilded, can lawfully be consecrated by the Bishop? 3. Whether it can be tolerated that Churches which already have the aforesaid Chalices can retain the use of the same? 4. Whether in ministering Holy Communion to the faithful it is lawful in place of linen Communion cloths to use little Tablets of metal, or whether a use of this kind can be tolerated in those Dioceses in which it was introduced? Resp. To the 1st, let the rubrics be observed. To the 2nd, provision has been made in the 1st. To the 3rd, that it is an abuse to be interdicted, a fitting time nevertheless being assigned so that provision may be made concerning other Chalices. To the 4th, that it is not to be interdicted; nevertheless let it be signified to the Most Reverend Lord Bishop of Alexandria that the use of linen Communion cloths is not to be disapproved." S. R. C. 20 March 1875.

Whether sacred vessels not blessed or consecrated, and already employed, are then to be blessed or consecrated? Resp. Negatively. S. R. C. 22 Sept. 1703. Gardell. n. 3663.

N. 395. - On the Matter of Sacred Furnishings, and on the Form of Sacred Vestments

"Although the S. R. C., under the day 15 March 1664, reproved the custom which perhaps had prevailed somewhere, of making amices, albs, altar cloths, and also corporals and palls from a certain cloth composed of linen and very fine cotton, nevertheless in most recent times the abuse has so prevailed that, the constant discipline of the Church having been set aside, in some churches no other furnishings are used, either for sacrificing or for the use of altars, except those made from simple cotton. To root out this corruption, which very many try to adorn with the name of custom, the Most Eminent and Most Reverend Lord Cardinals placed over the protection of the sacred Rites turned their attention. Therefore, solicitous that what from the beginnings of the Church, as regards sacred vestments and furnishings, was introduced on account of real and mystical significations, be retained, restored, and altogether observed for the future, they declared and decreed that there must be no departure from the ancient custom under any pretext, color, or title whatever, and that the same sacred vestments and furnishings are to be made from linen or hemp, but not from any other material whatever, even if in cleanliness, whiteness, and durability it imitates and equals linen or hemp. Yet, using some indulgence, they permitted that amices, albs, altar cloths, and small cloths, if any are had from cotton, can meanwhile be used until they are worn out; but, when furnishings of

this kind must be renewed, they ordered that they are not to be made from another material except from linen or hemp. But they strictly ordered that corporals, palls, and purificators, after the lapse of one month from the publication of the present Decree, be wholly of linen or of hemp, the use of others which remain from cotton being interdicted and forbidden. And thus they decreed and ordered that it be observed in every place, if it pleased Our Most Holy Lord. The Most Holy Lord approved and confirmed the Decree of the S. C., and ordered it, printed in type, to be published. S. R. C. 18 May 1819. Cf. Gardell. n. 4563.

"Whether in the general Decree of Pope Pius VII of holy memory, by which the use of sacred furnishings serving the sacrifice of Mass and made from cotton is interdicted, there are also comprehended chasubles woven from the same cotton? Resp. They are not comprehended." S. R. C. 23 May 1835. Cf. N. 393 and the following Resolution.

"The S. C. R. has often declared illicit the use of chasubles and other similar vestments made from cotton cloth or linen cloth, or even from wool." S. R. C. 28 July 1881. Cf. *Acta S. Sed.* Vol. 14, p. 144.

"Whether Priests in the sacrifice of Mass can use a silken cincture? Resp. More fittingly they use a linen cincture." S. R. C. 22 Jan. 1701.

"Whether cinctures of wool can lawfully be employed in celebrating the Most Holy Mass? Resp. Nothing prevents the cinctures mentioned in the prayers from being employed." S. R. C. 23 Dec. 1862.

"Whether it is lawful everywhere on earth, in the fringes and sleeves of albs and other vestments, under a transparent veil to put a red ground, or whether it is a privilege peculiar to Italy, Spain, etc.? Resp. Negatively." S. R. C. 17 Aug. 1833.

"Since, upon the reporting of some Most Reverend Bishops and other ecclesiastical and lay men, it was not hidden from the Holy See that certain Dioceses in England, France, Germany, and Belgium had changed the form of sacred vestments which are employed in the celebration of the sacrosanct sacrifice of Mass, and had conformed them to the style which they call Gothic, with indeed a more elegant workmanship.... The Sacred Congregation placed over the protection of lawful Rites did not omit to institute an accurate examination concerning changes of this kind.

Now from this examination, although the same Sacred Congregation well knew that those sacred vestments, bearing before them the Gothic style, especially prevailed in the thirteenth, fourteenth, and fifteenth centuries, nevertheless it equally observed that the Roman Church and other Churches of the Latin rite throughout the world, the Apostolic See by no means protesting, from the sixteenth century, namely from almost the very age of the Council of Trent, even to these our times, had relinquished the use of them; and therefore, while the same discipline endures, and the Holy See has not been consulted, it judged that nothing can be innovated, as the Supreme Pontiffs have often taught in their Constitutions, wisely admonishing that these things, as contrary to the approved custom of the Church, can often produce disturbances and bring the minds of the faithful into wonder. But since the Congregation of Sacred Rites judges that the reasons which persuaded the present change can be of some weight, hence, the oracle of Our Most Holy Lord Pope Pius IX having been heard, it judged that Your Amplitude should be invited in most loving words that, insofar as changes of this kind have taken place in your Diocese, you would be willing to set forth the reasons themselves which gave cause for them." S. R. C. Aug. 1863.

N. 396. 397. - On the Pyx, the Ostensorium, and the Purificatory to Be Blessed

"Whether and when the Pyx, Purificatories, Ostensoria, or at least the Lunula, which immediately serve the Sacrament more than other things which have their own form of blessing in the Missal, are to be blessed? Resp. The Rubrics are to be observed." S. R. C. 16 Nov. 1649.

"1. Whether the purificatory ought to be blessed? And insofar as affirmatively, 2. What blessing is to be used? To the 1st, negatively. To the 2nd, provision has been made in the preceding case." S. R. C. 7 Sept. 1816.

N. 399. - On a Small Cross and the Blessing of a Cross

A small Cross with the Image of the Crucified, placed upon the Tabernacle, is not sufficient while Mass is celebrated; but another Cross ought to be placed in the middle of the Candlesticks. But if a large Statue of the Most Holy Crucified is present on the Altar, it is sufficient, and does not need another Cross. S. R. C. 16 June 1663. The abuse is to be reproved of placing a small Cross scarcely visible either above the Tabernacle or above some smaller tablet situated in the middle of the Altar, in place of the Cross to be placed between the candlesticks, as the Rubric prescribes. S. R. C. 17 Sept. 1822. Cf. Gardell. n. 4590.

"1. Whether the crosses of altars or of Processions are to be blessed by precept? 2. Whether, if they are not by precept, a simple Priest can bless them privately and not solemnly? Resp. To the 1st, negatively. To the 2nd, affirmatively." S. R. C. 12 July 1704.

N. 400. 401. - On Petroleum, Gas, Electric Light, Stearin

Cf. N. 311. Cf. also *Acta S. Sed.* Vol. 12, p. 644; Wolfgang Mühlbauer, *Decreta Authentica*, v. stearin.

N. 402. - On the Observance of the Sacred Rites

"Among the accusations against the Presbyters of your Vicariate there are also recounted that they, in the administration of sacred things, especially in the tremendous Sacrifice of Mass, neglect the Rites established by the Church, add to and subtract from them according to their own will, and form a certain mixed liturgy out of the statutes of the Church and out of other things devised by their own impulse. No one will fail to understand that this manner of acting is to be reproved in the highest degree. For Rites and Ceremonies have been introduced in the Church so that external worship toward God may be exercised with due veneration, so that the sacred mysteries which are performed may be made more august, and so that they may be for the great edification of Christ's faithful, by exciting their piety toward God and the affection of devotion. Hence the Sacrosanct Synod of Trent says thus to this matter, sess. 22, on the sacrifice of Mass, ch. 5: *And since the nature of men is such that it cannot easily be raised up to meditation on divine things without external helps, for that reason holy Mother Church instituted certain rites, namely that some things be pronounced in a low voice and others in a higher voice in Mass. Likewise she employed ceremonies, such as mystical blessings, lights, incense, vestments, and many other things of this kind, from apostolic discipline and tradition, by which both the Majesty of so great a sacrifice might be commended, and the minds of the faithful, through these visible signs of religion and piety, might be excited to the contemplation of the most lofty things which lie hidden in this sacrifice.* Since such are Ecclesiastical Rites and Ceremonies, it follows that they are of the right of the Church, and that it belongs only to her to

establish them, just as it belongs to the Ministers of the Church to observe them exactly, especially because in these Rites of the Church there is contained the implicit profession of many Catholic dogmas. Hence also from Liturgies faith is drawn concerning the divinity of the Word and of the Holy Spirit, concerning the truth of the humanity and divinity of Christ, concerning the virginity of the Mother of God, concerning the dignity of Bishops above Presbyters, concerning the necessity of the grace of Christ for works meritorious of eternal life, concerning original sin diffused into all men, concerning the sacrament of Confirmation, concerning the unbloody Sacrifice of Mass, concerning the real presence of the Body of Christ in the Eucharist, concerning the marvelous transubstantiation which takes place in it, concerning Purgatory, concerning the cult and invocation of the Saints, and concerning many other things; from which it has come about that Theologians have recognized in Liturgies a theological source from which the doctrine of the Church is made manifest to us. Since these things are so, the Tridentine Synod just praised most rightly decreed thus in sess. 7, on the Sacraments in general, canon 12: *If anyone shall say that the received and approved Rites of the Catholic Church, customarily employed in the solemn administration of the Sacraments, can either be contemned, or be omitted by Ministers at pleasure without sin, or be changed into other new ones by any Pastor of the Church whatsoever, let him be anathema.*" These things sanctioned in the Synod of Trent are to be opposed against violators of the sacred rites of the Church, and perhaps also against despisers; the authority of the Supreme Pontiffs Pius V, Clement VIII, and Urban VIII, who approved the Roman Missal together with its Rubrics for the universal Church by three published Constitutions, is to be opposed to them; and against the obstinate a stricter manner of acting will have to be used, if that seems agreeable to evangelical prudence, from which those who rule and govern in the Church of Christ ought never to turn aside." Instruction of the S. C. de P. F., Aug. 1827.

"Whether prelates, archbishops, and bishops can be judges for declaring doubts concerning sacred Rites and ceremonies? Resp. Negatively." S. R. C. 11 June 1605. - "The Ordinary of the place is strictly bound to provide by opportune remedies that the rubrics and decrees of the S. R. C. be duly observed; if any doubt occurs, recourse must be had to the same S. C. for declaration." S. R. C. 17 Sept. 1822.

"Whether any inveterate custom whatever to the contrary can derogate from the Law prescribed by the decrees of the S. C.? Resp. Negatively." S. R. C. 3 Aug. 1839.

"Only those books are to be employed, and in only those Blessings, which are conformable to the Roman Ritual." Nor in this matter is the dispensation of a Bishop sufficient. S. R. C. 7 Apr. 1832; 23 May 1835; 10 Jan. 1852.

"The S. R. C., as often elsewhere at the request of particular persons, so now at the request of all Churches in the kingdoms of Spain, declared that the said Ceremonial book does not abolish immemorial and laudable customs." 11 June 1605. This has place in whatever kingdoms and places throughout the whole Christian world. 17 June 1606.

"Whether the old customs of this Church, namely those which are opposed to no statute of the Church, have been abrogated by these words of the Rescript: *Let the Ceremonial always and by everyone be observed*? Resp. Recourse must be had to this S. C. in particular cases." S. R. C. 6 May 1826, Alexandrina. Cf. Gardell. n. 4620; *Acta S. Sed.* Vol. 14, p. 142; Vol. 15, p. 507.

N. 404. - On the Response of the S. C. Regarding the Use of a Small Spoon

"Whether the words: the rubric is to be observed, are to be understood in this sense, that the use of a spoon is prohibited? Resp. Negatively, or that the use of a small spoon is not prohibited." S. R. C. 6 Feb. 1858.

N. 405. - On the Celebration of Mass in Another's Church

"No foreign Cleric is to be admitted by any Bishop to celebrating divine things and administering the Sacraments without commendatory letters of his Ordinary." Conc. Trid. sess. 23, ch. 16, de R. Cf. N. 387.

A Priest celebrating in another's Church must conform to that Church: 1. when in the same Church a feast is celebrated with solemnity and attendance, S. R. C. 11 June 1701; 29 Jan. 1752; 22 March 1817; 2. when a double feast is celebrated, or one of a Sunday, and the color does not correspond to the proper Office of the Priest celebrating, 7 May 1847; 17 Sept. 1853; 3. when the aforesaid Priest celebrates concerning a Blessed who is not found in the Calendar of the Church in which he celebrates, 7 Sept. 1818; 4. when, supplying the place of the Parish Priest, he celebrates in the aforesaid Church the parochial Mass for the people, 3 May 1846; 5. when he celebrates the conventual Mass in a Church of Nuns, or in another in which there is the obligation of choir, 1 Dec. 1844; 6. when he celebrates Mass with chant, 15 Dec. 1691; 7. besides the preceding cases, in any Church, generally speaking, he must celebrate the Mass corresponding to his proper Office; except on the days on which the rite of his proper Office and the rite of the Church in which he celebrates permit a votive Mass and one of Requiem, and unless the Church has a Privilege that it be otherwise, 20 March 1817; 12 Nov. 1831; 17 Sept. 1853.

"It is lawful hereafter both for the Confessor and for Chaplains only assigned to the service of any nuns whatsoever, to celebrate Masses of the Saints concerning whom they recite the Office, but with the Roman Missal and from the common, not however the proper Masses of the same Saints conceded to various Orders." S. R. C. 20 Nov. 1717, general Decree. - This faculty must be understood for each and all who are bound by duty to celebrate in the churches of those nuns. S. R. C. 11 Feb. 1720.

There are many Regulars and Nuns who have the Privilege that any priest celebrating in their Churches can in absolutely all things use the Missal of the respective Order. Cf. Bouix, *De Iure Regul.*, Vol. 2, p. 195; Schneider, *Manuale Sacerdot.*, Part 2, book 2; *Acta S. Sed.* Vol. 4, p. 672.

N. 406. - On Collects to Be Added

It is not lawful in Masses to add prayers at the choice of the priest, besides the prayers assigned or permitted by the Rubric. S. R. C. 12 Aug. 1854.

In the prayer *A cunctis*, at the letter N., the patron or titular of that Church where the celebration takes place is to be named; but if he has already been named in the prayer itself, no other is to be named. S. R. C. 23 Sept. 1837; 21 Nov. 1831. If, however, it is celebrated in an Oratory which does not have a Patron or Titular, then the patron of the city or place is to be named. S. R. C. 1840.

On the Sundays of Advent and Lent the collect imposed by command is not to be omitted, except on Palm Sunday, and on the fourth Sunday of Advent when it occurs with the vigil of the Nativity, and likewise on the vigil of Pentecost because of its dignity. S. R. C. 20 Apr. 1822.

If a third Prayer at choice is prescribed, and some Collect is prescribed by the Bishop, the one at choice must not be passed over, but some Prayer at choice is to be recited in the third place; and in the fourth place the one which must be said by order of the Bishop. S. R. C. Aug. 1709. - If from the Rubric a Prayer for the Church or for the Pope is prescribed, and the superior has prescribed a prayer for the Pope, both are always to be said, so that the Rubric and the precept of the superior cannot be satisfied through one prayer. S. R. C. 23 May 1835.

1. Whether in a church of regulars and in other exempt Churches, the collects prescribed by the Ordinary of the place are to be recited? 2. Whether it is lawful for the Clergy of those Churches to cease from reciting them at will, before the Ordinary has ordered it? To the 1st, affirmatively; to the 2nd, negatively. 3 Apr. 1821, by general Decree of the S. R. C.

On Prayers in Masses of the Dead

"In daily Masses of the dead can more than three Prayers be said? And can the second Prayer be changed, namely can there be said, for example, for the father, instead of the one noted beforehand, *Deus veniae largitor*? Resp. In daily Masses which are celebrated for the dead, more Prayers than three can indeed be said, but care must be taken that they be odd in number, and sometimes another, for example for the father, for the mother, etc., will be substituted without punishment for that *Deus veniae largitor*, provided that in the last place that one *Fidelium* is said." S. R. C. 2 Sept. 1741.

"As regards the first Prayer, let the order of the Missal be observed." S. R. C. 27 Aug. 1836.

"Whether in daily Masses of requiem a Priest, whether by reason of an alms or of a legacy, privately celebrating for some determined deceased person or for some determined deceased persons, must indiscriminately say as first Prayer, *Deus qui inter apostolicos*, etc., assigned in the first place in the Missal; or rather, in place of the said first Prayer, is he bound to say another from the various ones placed in the same Missal, which agrees with him or with those determined persons for whom he applies the Mass? Resp. Affirmatively to the first part, negatively to the second." S. R. C. 16 Sept. 1865.

"Private Masses of requiem, even with the body present and unburied, cannot be said on days on which there is an Office of a double, or on others excepted by the Rubric, and any custom whatever to the contrary is declared to be an abuse. Yet a single solemn Mass, with the body unburied, can be celebrated, even on Sundays and feast days, not however on the more solemn days of the first class." S. R. C. 29 Jan. 1752; 4 Sept. 1745; 23 May 1846.

"A usage has prevailed in the Diocese of Bruges that, in the funerals of the poor, who are not able to pay the expenses of a sung Mass, a private Mass of Requiem is read, with the corpse present, on double Feasts even the greater ones, not however of the first or second Class, nor within privileged Octaves, nor on Sunday, nor on those days which exclude double feasts. But the S. C. responded on 12 Sept. 1840 that this custom can be observed. Since the aforesaid usage has prevailed also in many Churches of the Archdiocese of Mechlin, it is asked whether through this whole Diocese it is lawful to conform itself to the aforesaid Decree? Resp. Affirmatively." S. R. C. 22 May 1841.

"Whether on the 3rd, 7th, and 30th days from the laying-away of the deceased, on which there occurs a double Office through the year, not however feasts of precept, the Office and Mass of the dead can be celebrated? And whether the aforesaid days ought to be numbered from the day of death, or from the day of laying-away? Resp. Affirmatively to the first part, provided that the matter concerns a sung Mass; to the second part, that the aforesaid 3rd, 7th, and 30th days can be numbered from the day of death or from the day of burial, according to the diverse custom of the Church." S. R. C. 23 Aug. 1766. If the 3rd, 7th, or 30th day falls on a Sunday or feast day, it is anticipated or transferred to the following day with the same solemnity. S. R. C. 23 May 1603; 4 Sept. 1745.

N. 409. - On a Priest Who Is Dim-Sighted

"1. The Apostolic See has been accustomed to concede to dim-sighted Priests an indult of celebrating a votive Mass of the B. V. M. and one of Requiem; a doubt arises: Whether the said Priest on semidoubles and simple ferias is bound under grave obligation to celebrate the Mass of Requiem, or can at choice always celebrate the Mass of the B. V. M.? 2. At the time when access to the Holy See was not open, a blind Priest, from a Bishop having this faculty from the Supreme Pontiff, had an Indult of celebrating a votive Mass of the B. M. V., but in the Decree there was omitted the obligation of the assistance of another Priest in the performance of the Sacred Rite. Hence an occasion of doubting arose: I. Whether the said Priest is bound under grave obligation to have recourse to the S. C. of the Council, and meanwhile to abstain from the celebration of Mass? II. And whether he is bound under grave obligation to use the assistance of another Priest, although the said obligation was not placed in the Decree? 3. Whether the said Priest can always celebrate the votive Mass of the B. M. V. from Pentecost to Advent, or the one assigned according to the time? Resp. To the 1st, negatively to the first part, affirmatively to the second. To the 2nd: to the first question of the doubt, insofar as he obtained the Indult from a Bishop furnished with Apostolic faculty, negatively. To the second: that in the future he is bound under grave obligation to use the assistance of another Priest, although this obligation was not placed in the Decree; as regards the past, let him consult his conscience. To the 3rd, affirmatively." S. R. C. 12 Apr. 1823.

N. 410. - On the Purification of the Chalice

"Whether Priests in China, Cochinchina, and Tongking, account being had of the scarcity of wine in the said kingdoms, can for the purification of the hands and chalice, amid the solemnities of Masses, use only water not mixed with wine? To the S. C. de P. F. humbly asking the said license, by responding affirmatively, it was kindly conceded." 15 Jan. 1665. But the S. I. C. on 14 June 1707 responded: "short of the greatest scarcity, the Rubrics of the Roman Missal are to be observed according to ability, especially in the purification, or first ablution."

On a Subdeacon in a Sung Mass Not Ordained in Sacred Orders

"Whether, a subdeacon being lacking for solemn Mass, one constituted in minor orders can be substituted by superiors to sing the Epistle, vested without a maniple? Resp. Given necessity, it can be permitted." S. R. C. 5 July 1698.

"Whether it can likewise be permitted that a Regular Cleric, sometimes not even initiated with tonsure, perform the office of Subdeacon in solemn Mass, while another, either a Priest or one

constituted in major Orders, is present, who can serve as Subdeacon at the same solemn Mass? Resp. In a case of necessity, provided that there is not another; but he must be a Cleric." S. R. C. 22 July 1848.

"Whether outside the case of necessity it could be permitted by superiors that a canon, constituted in minor orders, sing the Epistle in solemn Masses, vested without a maniple? Resp. Negatively, and let the Bishop take care to cut off the custom both in the Cathedral and in the Collegiate church; namely, outside the case of absolute and precise necessity it cannot be permitted by superiors that a cleric in minor orders supply for a subdeacon in solemn Masses, vested without a maniple," etc. S. R. C. 18 Dec. 1784. Gardell. n. 3328, 4269.

On Mass Sung by a Priest Alone

"Almost all the Priests of this Mission, Deacon, Subdeacon, and choir being lacking, sing Mass alone, and in it are accustomed to incense the altar. Yet there are certain Ministers vested in surplices, by whom the incense boat is ministered. Perhaps it will be that the Holy See will pity this poor Mission, and the Man of God will say to us: *Go in peace*. These things having been said with a somewhat more trusting mind, I profess that we are altogether prepared to correct those things which the Supreme Vicar of Christ or the S. C. shall not have wished to tolerate. Resp. They are not to be disturbed." S. C. de P. F. 18 Jan. 1797.

On the Faculty and Formula of Blessing Sacred Furnishings, and Other Things

"A Bishop cannot delegate to a simple priest the faculty of blessing sacred vestments, unless he has for this a special privilege of the Apostolic See, by which nevertheless it is sometimes conceded to persons constituted in dignity, provided that in them there is not to be used sacred unction, or holy oil, which are to be blessed, anointed, and consecrated only by the Bishop himself, ordained and consecrated...." S. C. C. 28 Nov., 12 Dec. 1733. Cf. Wolfgang Mühlbauer, *Decreta Authentica*, v. Sacred Furnishings, Blessing 20.

"Whether Bishops, whether by ordinary right or by custom, can delegate to lesser Priests all blessings described in the Roman Ritual and reserved, in which sacred unction does not intervene? Resp. Negatively." S. R. C. 2 Apr. 1875.

"The Bishop of Blesen obtained an Indult from the Sacred Congregation of Rites for the faculty of subdelegating his Vicars General, Rectors of churches, etc., for the Blessing of that sacred furnishing in which sacred unction is not employed. But since no formula is found for the Blessing of a Priest's or Levitical vestment except that which is found in the Pontifical, and therefore seems reserved to Bishops, subdelegated Priests must have recourse to the Blessing for Priestly vestments in general added to the Missal. But this Blessing does not appear altogether suitable in all circumstances, for example, for the Blessing of a cincture. Hence the aforesaid Most Reverend Petitioner most humbly requested from the S. R. C. that Priests subdelegated by him might be able to use the formula given by the Pontifical for the Blessing of any vestment whatever, which moreover is a less solemn formula. Resp. Let the subdelegated Priests use the Blessing which is read in the Roman Ritual." S. R. C. 16 March 1876.

"Whether in Blessings for which the Ritual does not give a formula, for example in Blessings of seeds to be committed to the earth, in forming the sign of the Cross over the thing to be blessed, it is expedient to say: *In the name of the Father and of the Son and of the Holy Spirit. Amen*, and whether a candle ought to be used, and the thing is to be sprinkled with blessed water? Resp. The sign of the Cross is to be made over the thing to be blessed with the formula, *In the name of the Father*, etc.; then the thing itself, without a lit candle, is to be sprinkled with blessed water." S. R. C. 12 Aug. 1854. Cf. Scavini, book 4, n. 402, Milan 1874.

On the Sacrament of Penance

N. 429. 467. - On Absolution by Telephone

"Whether in a case of extreme necessity absolution can be given by telephone? Resp. Nothing is to be answered." S. Poenit. 1 July 1884.

N. 430. - On the Stole in Administering the Sacrament of Penance

"In the Cathedral of Padua, by immemorial custom, in the public administration of the sacrament of Penance, the Priest Confessors are forbidden from the use of the stole prescribed by the Roman Ritual; it is asked whether one must stand by a custom of this kind? Resp. Negatively, but one must stand altogether by the Ritual and other Decrees." S. R. C. 7 Dec. 1844.

"Whether the custom of ministering the Sacrament of Penance without a stole, even in a Church and in the Confessional Seat, can be observed? Resp. It is fitting that in a Church the stole be employed according to the decrees of the S. R. C." S. R. C. 31 Aug. 1867.

On the Confession of Women in Churches and at Grilles

"Whether the Reverend Lord Bishop Visitator of Tongking rightly established that the Confessions of women are not to be received unless a small grating is interposed, except in the case of sickness? Resp. Affirmatively, according to the orders given many times by the S. C." S. C. de P. F. 12 June 1764.

"Since it befits men who, released from secular cares, have professed the institute of a stricter life by regular vows, to shrink from all familiarity with women, hence, that what has been sanctioned both by the Decrees of general and provincial Councils, and by the Constitutions of the Supreme Pontiffs, and especially most recently of St. Pius V, Gregory XIII, and Benedict XIV, namely that within the enclosures of male Religious no entrance be open to any women whatever, with most grave penalties inflicted both upon men who admit females, under whatever pretext, within the enclosure of Regular houses, and upon females who violate the cloister of the same houses: adhering to these most salutary sanctions, the S. C., although it has not ceased from time to time to warn Prefects of Missions if it has learned that some of them at any time have not been sufficiently vigilant in this matter, nevertheless with the interval of time, or from forgetfulness of the law, or because the disposition of man is prone to lessen the force of laws however most holy, it has often happened, as was reported to the same Congregation by the letters of many, that in stations and hospices of Missionaries women have sometimes been admitted, and in rooms, or in other places within the enclosure of the hospices, have received the sacrament of Penance. Indeed, the S. C., well knowing how unbecoming and how dangerous this is, since it desires its Missionaries dwelling among enemies of the Christian name to abstain not only from evil, but also from every appearance of evil, so that, according to the admonition of the Apostle, they may be without offense to Jews and Gentiles and the Church of God, upon the report of the Reverend Father Lord Stephen Borgia, Secretary, established and ordered that hospices and stations, or any houses whatsoever of whatever Order, Congregation, or regular Institute existing anywhere in places of Missions, in which two or three Missionaries of the Latin rite dwell, or may happen to dwell, are subject to the laws of cloister,

so that it is not at all lawful for any Regular whatsoever to introduce any female within the private rooms, dwellings, or recesses of the same hospices or stations, under any title, appearance, and pretext whatever, much less to administer to them there the most holy sacrament of Penance; nor is it lawful for women, under the pretext of any licenses whatever, to enter the aforesaid private rooms, dwellings, or recesses of the hospices, under the penalties inflicted by the sacred Canons and by the above-mentioned Constitutions of the Pontiffs against violators of cloister. But so that access may also be open to women to the internal oratories, churches, and places of the same hospices where sacred things are performed, that they may be present at the sacrosanct sacrifice of Mass and at other ecclesiastical functions, and receive the sacrament of Penance, the same Sacred Congregation declares and decrees that women can be admitted in the internal churches, chapels, or public oratories of the aforesaid hospices, to which nevertheless they are to approach by a direct path, and not turn aside into rooms or private dwellings, and by the same way by which they approached, they are to return. The Sacred Congregation further orders and commands that the confessions of women be heard openly in churches, chapels, or public oratories where they are present, but where these are lacking, in another open and accessible place, and as near as can be to the door of the hospice, to be designated by the respective Ordinaries, and, these being lacking, by the local Superiors of Missions, with an iron grating or another barrier interposed between the mouth of the confessor and of the woman penitent. Those who shall have done otherwise, and shall have contravened these most salutary ordinances, shall incur the penalties against violators of cloister and despisers of the sacred Canons and of the aforesaid apostolic Constitutions.

This Decree of the Sacred Congregation, having been reported to Our Holy Lord Pope Pius VI, His Holiness kindly confirmed, adding the strength of his apostolic authority, and ordered that it be inviolably observed by all, under the aforementioned penalties." S. C. de P. F. 26 June 1780.

"Whether Your Eminences approve: 1. That, under penalty of excommunication *latae sententiae*, it be commanded to the Priests of that Vicariate that they hear the Confessions of women who are not lying sick only with at least a wooden or reed grating interposed, with small holes and with a veil placed over it, and only by day, unless grave necessity urges? 2. That, under the same penalty, entrance to the houses of Nuns be prohibited to the same Priests and their ministers, unless true necessity urges, namely when the Sacraments are to be ministered, or unless they have a special faculty given in writing by the Superior of the Mission? That, under the same penalty, access to Priests be prohibited to Nuns, except in cases approved by the Superior of the Mission? Resp. The Most Eminent Fathers, the gravity of the matter having been weighed with due maturity, judged that, in order to remove abuses, Decrees issued at other times are to be renewed and confirmed. One of these, appended here, from the year 1780, begins: *Cum deceat*, etc. But the other, of the year 1785, on 7 March, established that the precept of the grating which is in the first be observed in churches or oratories erected in the Mission; but in those cases in which there is lacking a duly constituted church or oratory, and the Missionary is compelled to administer the sacrament of Penance in private houses, and other suitable barriers are not at hand, in receiving the Confession of women he is to hear them only covered with a veil.

But as regards the association of women and sacred Ministers, besides those things which are contained in the Decree recounted above of the year 1780, the S. C. earnestly commends to Your Amplitude that you command the Missionaries never to turn aside from those rules which are

handed down in the Synod of Szechuan, and especially in the Pastoral letters of the Bishop of Caradrus brought forward in the appendix. Indeed all these things, if they are exactly observed, will not only remove abuses, but there will not even be a place for suspicion. For the rest, the S. C., in rescripting these things, does not prohibit Your Amplitude from also ordering and decreeing other things, according to ordinary power, as shall seem more expedient in the Lord, yet in such a way that you proceed most cautiously to greater penalties, and much more to reservations, having before your eyes the inconveniences which follow thence in the place of Mission and the difficulties of obtaining absolution." S. C. de P. F. 17 Aug. 1839, to the Coadjutor of the Apostolic Vicar of Cochinchina.

"Whether the Confessionals of Nuns can be in Sacristies or houses which Confessors inhabit? Resp. They cannot, but ought to stand in the churches of monasteries." S. C. C. 2 Sept. 1642.

N. 504. - On Confession Through an Interpreter

"Although, as the Council of Trent teaches, it has been commanded by no Divine precept, nor can it by any human law be prescribed with sufficient counsel, that offenses, especially secret ones, be opened by public Confession, nevertheless it seemed to the delegated Fathers, adhering to the same Holy Synod, that those who voluntarily wish to confess through an interpreter ought not to be prohibited by the Apostolic Vicar of Constantinople; for whom it will suffice to guard against abuses and scandals, and to take care that the interpreter be admonished concerning the obligation to the observance of the secret." S. C. de P. F. 1633.

"Whether in distant regions a Catholic, unconfessed for many years, asking absolution by signs only, because of defect of language, can be absolved without the help of an interpreter? Resp. There is no need of an interpreter in the proposed case, just as also absolution of sins can and must be imparted to one exhibiting the signs which he can..., provided they suffice for expressing some sin in species. But in the case in which someone tries as much as he can to exhibit signs of sins in species, but they cannot be understood at all, he can be absolved through only a manifestation of sins in general." S. C. S. O. 28 Feb. 1653.

"Missionaries dealing with penitents whose language they do not know should exhort them to employ an interpreter, through whom they may confess all sins; but if they should be unwilling to do this, let them at least confess some through an interpreter and the rest through nods and signs, as much as they can; but if they wish to confess none through an interpreter, let them confess through signs in every better way in which they will be able, as is done in the case of mute persons. But let Missionaries take care to learn from each language usual there those few words which are necessary for explaining the principal sins against the precepts of the Church." S. C. S. O. 10 Feb. 1668.

"But that the abuse which in the aforesaid regions, namely Goa and the adjacent islands, as is stated above, has crept in, of receiving Confessions through an interpreter, or by a catalogue of sins read to the penitent so that he may indicate by nods whether any have been committed by him, may be uprooted radically, it is strictly commanded to the capitular Vicars, the conscience also of the Regulars themselves and of whomever it concerns being gravely burdened, that in the future they permit this in no way, but that Confessions be heard only by those who sufficiently perceive the meaning of that language; and, to increase their number according to the requirement of the matter, secular Priests of that region are to be promoted altogether for receiving the Confessions of the faithful in the native language." Clement IX, Const. *In excelsa*, 13 Sept. 1669.

N. 505. 506. 688. - On Assistance to Be Given to the Dying

Whether and when parish priests are bound, under grave obligation, by themselves, or at least through another, to assist the dying even to the final agony of life, although they have already been duly furnished with the sacraments and seem well disposed? Resp. "One must stand by the prescriptions of the Roman Ritual; in the rest, let him consult approved authors." S. C. C. 23 March 1878. Cf. *Acta S. Sed.* Vol. 11, p. 189 ff.

N. 521. - On the Quantity of Satisfaction

".... Another inconvenience is in the excess of satisfactions which they impose, namely of many rosaries, even up to the number of three hundred, of as many litanies, with fasts, hair shirts, and other afflictive works, on stated days, through weeks, or months, or whole years....

But as regards the second excess in imposing a satisfaction of many rosaries, litanies, fasts, etc., two extremes also are to be avoided. A prudent Confessor, says St. Charles Borromeo in the *Institutions of Penance*, for imposing penance, should neither apply one so light that the power of the keys is thereby contemned, and he himself becomes a participant in the sins of others, nor also one so grave or long-lasting that penitents refuse to comply with it, or do not carry out completely the one accepted. There is no reason why we should linger over avoiding the first of these extremes; for it is enough to hear the Council of Trent, sess. 14, ch. 8: *The Priests of the Lord ought, as much as spirit and prudence shall suggest, according to the quality of the crimes and the faculty of the penitents, to enjoin salutary and fitting satisfactions: lest, if perchance they connive at sins and deal too indulgently with penitents, by enjoining certain very light works for very grave offenses, they be made participants in the sins of others.*

Yet to mitigate the second excess, which prevails among the Tongkingese Priests, we bring forward a few documents indeed, yet solid ones, full of wisdom and prudence, to which they ought diligently to attend, so that they may respond both to their own office and to the utility of penitents. Therefore let them attend to this doctrine of St. Thomas Aquinas, in Quodlibet 3, dist. 13, art. 1: *It seems sufficiently fitting that the Priest not burden the penitent with a grave weight of satisfaction, because just as a small fire is easily extinguished by many pieces of wood placed upon it, so it could happen that the small affection of contrition recently excited in the penitent might be extinguished because of the grave burden of satisfaction, with the sinner totally despairing; whence it is better that the Priest indicate to the penitent how great a penance ought to be enjoined upon him for his sins, and nevertheless enjoin upon him something which the penitent bears tolerably, from the fulfillment of which he may become accustomed to fulfill greater things. For those things which the Priest would not have dared to enjoin, and which he does apart from an expressed injunction, receive a greater force of expiation of past guilt from that general injunction when the Priest says: Whatever good you shall have done, may it be for you unto the remission of sins.* The same Angelic Doctor repeats the same doctrine in 5, dist. 2, ch. 1, art. 2, little question 2, ad 3: *A Priest*, he says, *imposing a penance less than condign, does not always sin...., because sometimes, even by design imposing a lesser penance, he benefits the penitent more than he harms him, who perhaps by the magnitumagnitude of the penance he could be impeded from performing the penance, because of the weakness of virtue still newly recovered in him; and therefore he neglects the lesser harm in order to avoid the greater, and meanwhile the divine love strengthened in him will stir him up of his own accord to perform more works of penance than the Priest could have enjoined upon him according to the gravity of the sins.

Let them attend to and weigh the admonition of St. Charles Borromeo in the *Institution of Penance*: In imposing penance he will employ both prudence and piety and justice, account being had of status, condition, sex, and age, etc. Wherefore let him impose such a one as he judges can be performed by him; therefore sometimes, if he shall see it expedient, let him ask him whether he can, or whether he doubts that he can, perform the penance enjoined upon him; otherwise he will change or lessen it. He will consider besides the soul and mind of the penitent, and the weeping, groaning, and tears which are signs of inward sorrow.... Let them not impose alms upon the poor, nor is a fast indicated for those who seek their living from their own labor, which is also to be observed in other penances.

Finally let them attend to the counsel of St. Francis de Sales in the admonitions written for the instruction of Confessors, ch. 8: It is not expedient to impose satisfactions that are intricate and composed of various kinds of works or of a great number of diverse prayers, because that accumulation of diverse prayers or variety of pious works induces forgetfulness of the imposed penance, and thence will beget anxiety and scruples in the souls of penitents; then devotion is usually relaxed and grows tepid, while the penitent thinks more about what prayers he ought to recite or what he ought to do, and daily, than he attends to the prayers themselves which he pours forth, or to the works themselves which he does.

If they diligently attend to these and the remaining admonitions and counsels of St. Charles Borromeo, they will certainly mitigate the excessive rigor which they have exercised until now, and will consult both for the salvation of souls and for their own obligation." Instruction of the S. C. de P. F. for the Tongkingese or Annamite Priests, 1736.

N. 527. - On Penance to Be Fulfilled Before Absolution

Cf. n. 621.

N. 543. 546. 560. 561. - On the Power of the Vicar Capitular as Regards Confessors; on Approbation *at Our Good Pleasure*; on Recalling Parish Priests to Examination

"As regards the doubt whether the Vicar Capitular can suspend the faculty of hearing confessions of confessors who were approved by the deceased Bishop *at pleasure*, and without a defined time, the Most Eminent Lords ordered me to rescript that there is no difficulty as regards secular priests, because, since they depend immediately on the ordinary jurisdiction of the Bishop, to which the Chapter succeeds when the See is vacant, consequently the Vicar Capitular enjoys full power of limiting their faculty and also of suspending them from hearing confessions, either because of grave faults pertaining to the Sacrament of Penance, or because of defect of that doctrine, honesty, and integrity of life which is required in sacred Ministers. The same cannot be said of regular confessors; indeed, since these have been approved after a prior examination and without limit of time, or even *at Our Good Pleasure*, by the deceased Bishop, the Chapter or the Vicar Capitular cannot punish them by the penalty of suspension, even for just reasons, since this is the personal right of the Bishop, to which, according to the more common opinion of the Doctors, the Chapter does not succeed when the See is vacant. But since grave inconveniences would be produced from this defect of power, recourse must be had to the same S. C." S. C. EE. and RR. 19 June 1866.

"The Vicar Capitular sets forth that he has discovered that several secular and regular priests obtained from the deceased Bishop the faculty of hearing confessions with no prior examination, and that they are so unskilled that several scandals result. Therefore he supplicates for the faculty of calling them to examination, and of approving those whom he shall have found suitable and prohibiting the incapable. Hence it is asked: 1. whether the Vicar Capitular can do this; and insofar as negatively, 2. whether the requested faculty is to be conceded? The S. C. of the Council on 5 Feb. 1688 responded: to the 1st, affirmatively; to the 2nd, provision has been made in the first. Scavini, book 3, n. 472, Milan 1874.

"The S. C. C. judged that successor Bishops can, a reasonable cause supervening, even by office, even outside visitation, examine Parish Priests approved for parochial Churches." And it says the same concerning regular Parish Priests. The Roman Rota decreed that the pleasure alone and the sole quiet of the Bishop's conscience is a sufficient cause of a new examination. But if the matter concerns Parish Priests already examined by the same Bishop, whether he can examine them again, the same Congregation has these things: 1. "A Bishop can examine Parish Priests and Rectors once approved for the care of souls, when there is a vehement suspicion concerning their lack of skill. 2. He can proceed to an examination of this kind outside visitation. 3. For making the said examination it is not necessary that judicial proofs of lack of skill precede." Scavini, loc. cit.

N. 548. - On Defect of Jurisdiction Without a Colored Title

The S. C. C., being asked whether Capuchins who in the Diocese of Padua had received Confessions without the license of the Bishop of that Diocese validly absolved, because some of these had been approved in another Diocese, while others had indeed been approved by the Bishop of Padua for a year, but the year had already elapsed, responded: "They illicitly and invalidly received Confessions, but those who confessed in good faith are not to be disturbed. Yet if those confessing should have learned this, or should have doubted concerning the invalidity of the Confession, they are bound to repeat the Confession." 11 Dec. 1683. Benedict XIV, Notification 84; Scavini, book 3, n. 479, Milan 1874.

N. 555. - On Approbation as Regards the Confession of Those Sailing

"Priests undertaking a journey can be approved by the Ordinaries of the places from which ships set sail, so that while the journey lasts they may be able validly and lawfully to receive the confessions of the faithful sailing with them, until they arrive at a place where another ecclesiastical superior endowed with jurisdiction has been constituted. Nevertheless the Ordinaries themselves must beware lest they grant a faculty of this kind to priests who have not been recognized as suitable according to the lines of the Council of Trent, sess. 23, de R., ch. 15." Holy Office, 29 March 1869. Cf. Paul Villada, *Cases of Conscience Accommodated to These Present Times*, Part 3, Case 6, Brussels 1887.

N. 556. 738. 841. 848. - On Soldiers as Regards Penance, Extreme Unction, and Matrimony

"1. Whether chaplains of any army whatever, whether regulars or secular Catholic priests, can administer to soldiers dwelling in garrisons Penance, the Eucharist by way of Viaticum, and Extreme Unction, without faculty of the Apostolic See, or license and approbation of the Ordinary in whose

Diocese they happen to be? 2. Whether they can assist at the marriages of soldiers of whatever station dwelling in garrisons with military women, without the said apostolic faculty and preceding proof of free status, and its recognition before the Ordinary of the place, and the license of the Parish Priest under whose Parish they remain? 3. Whether the same with soldiers dwelling in camps and winter or summer stations? 4. Whether the same with soldiers placed on actual expedition? 5. Whether the same with soldiers wishing to marry women who are not military, but Italian women originating from the place or Diocese in which they are found? 6. Whether non-Catholic soldiers contracting with non-Catholics are bound to observe the form of Trent? 7. Whether much more non-Catholics contracting with Catholic military women remaining in garrisons, camps, and expedition? 8. Whether non-Catholic chaplains can assist at marriages of non-Catholics with non-Catholics and respectively Catholics, even within the borders of Italy; and insofar as negatively in all things except the sixth and seventh, 9. whether and what should be consulted with and established by the Most Holy One for the healing of things done in the past and to be done in the future concerning all the aforesaid things as a certain rule?

The S. C. on 6 March 1694 responded: "to the 1st, negatively; to the 2nd, negatively and confirmed in Casalens. 28 June 1704; to the 3rd, 4th, and 5th, negatively; to the 6th, affirmatively, where the Council has been published according to the decree of the S. C. 26 Sept. 1602; to the 7th, affirmatively, and furthermore that they need a dispensation for the marriage to be licitly done; to the 8th, as to the sixth; to the 9th, as regards the past, concerning the sacrament of Penance, consciences are not to be disturbed; and concerning Marriages, for healing, consultation with the Most Holy One, the consent being renewed even before the confessor, who is bound to deliver testimony of the renewal of consents to the Parish Priest of that place where such renewal of consent followed." Scavini, loc. cit., n. 893.

Faculties and Privileges of Confessors who Confer Spiritual Aids on the Sick in Roman Hospitals (Holy Office, 9 March 1870)

I. Confessors Authorized to Hear Confessions in the Hospitals of Rome

1. All secular and regular priests approved for confessions by the Ordinary of Rome can confess in any hospital whatever of the city.[1]

[1] The confession certificate, where it is said: *that sacramental confessions of Christ's faithful.... in any hospitals whatsoever of the kindly City, according to the Briefs of Clement XII of holy memory, issued on 28 Apr. 1738, you may be able to hear*, etc.

2. As regards Regulars, even those approved only in other dioceses can confess the sick of those hospitals to which they are sent by their superiors, according to the prescription made to these by the Supreme Pontiffs.[2]

[2] Edict of His Eminence Cardinal Guadagni, 6 Sept. 1738, renewed by His Eminence Cardinal Patrizi on 22 July 1850.

II. Faculty as Regards Absolution from Censures and from Sins

The faculty as regards absolution from censures, in the forum of conscience only, and from sins, which according to the Council of Trent (sess. 14, ch. 7) Holy Church concedes to any Priest whatever for the faithful placed in the article of death, namely, *that there be no reservation. And therefore all Priests can absolve any penitents from any sins and censures whatever*; this same most ample faculty is conceded by the Supreme Pontiffs to Confessors approved in the aforesaid manner, for the benefit only of the sick in the hospitals of Rome, although they are not placed in the article of death.[3]

[3] The aforesaid Brief of Clement XII of holy memory, by which he approves that of Pope Paul III: "with all and singular faculties of absolving from all and singular sins, crimes, and offenses, however grave and enormous, even those reserved to the Apostolic See, etc., even if they were such that for them the Apostolic See deservedly ought to be consulted."

Then as regards the two cases reserved to the Vicar of Rome, namely of the buying and selling of the Easter ticket, and of the non-fulfillment of the Easter precept, besides the faculty of absolving them in the internal forum, there is likewise conceded the faculty of absolving in the external forum from the interdict him who may have incurred it because of the non-fulfillment of the said precept, and whose name had been published at the door of the Church, with the obligation on the Confessor, after having made the penitent aware of it, immediately to transmit the notice by means of authentic attestation to the office of the Vicariate, using the following formula.

I, the undersigned, declare that I have absolved the sick person N. N. of the Parish

And as regards censures he adds: "from any sentences, censures, and penalties whatsoever of excommunication, suspension, and interdict, and other ecclesiastical sentences, censures, and penalties, in whatever way incurred, and from other reserved cases.... in the forum of conscience only, we concede and indulge the faculty of absolving...."

N., notoriously denounced and interdicted because of the non-fulfillment of the Easter precept. In witness, etc. From the venerable archhospital N., on the day, etc.[4]

[4] Decree of His Eminence Cardinal Patrizi, 23 February 1851.

III. Other Faculties and Privileges

1. *Of commuting any vows whatever into other works of piety, excepted,* etc. That is, of commuting into other pious works any simple vow whatever, excepted that of chastity, of religion, and of the three pilgrimages to the places of the Holy Land, *ad limina SS. Apostolorum,* and to St. James in Compostela.

2. *Of relaxing any oaths whatever.* That is, of dissolving any promissory oath, when there is no harm to a third party.

3. *And of ministering ecclesiastical sacraments to those sick persons.* By this is understood, besides the administration of the sacrament of Penance, also that of the Eucharist, both in common form and in the form of Viaticum, and the sacrament of Extreme Unction. Concerning this faculty, it is a fitting thing not to make use of it when it could displease the Priest who by his special office is bound to administer the said Sacraments.

4. *Of imparting in the article of death a plenary indulgence and remission of all their sins*; and this not only to the dying persons of the hospital, but also to those of the family, using the prescribed formula.[5]

[5] The faculty concerning vows, oaths, the administration of the sacraments, and the blessing in the article of death is established from the aforesaid Brief of Clement XII, declared and confirmed by Pope Pius IX, Rescript of His Eminence Cardinal Vicar Patrizi, *from an Audience of the Most Holy One,* 5 Jan. 1856. But the faculty of giving the blessing in the article of death also to the dying persons of the family of the hospitals is had from the same Pope Pius IX, Rescript of 11 Feb. 1851.

5. In suffrage of the souls of the deceased in the hospitals, there are privileged the altar of the Most Holy Crucified in the cemetery of S. Spirito, and any other altar existing in the wards and chapels of the hospitals dependent on the Commission.[6]

[6] Rescript of the Supreme Pontiff Pius IX, 11 March 1851.

IV. Places Where the Aforesaid Faculties Can Be Exercised

In all the archhospitals and hospitals of Rome, namely those which are public and general for every class of persons, such as are at present those noted below; as also in those which may be opened in the future, even if subsidiary and temporary, and in the places annexed to the same.[7]

[7] Cited Brief of Pope Clement XII.

The hospitals indicated above are precisely those which now depend on the Commission, namely:

1. The archhospital of S. Spirito, and the annexed foundling hospital, or conservatory of exposed children, and the conservatory of females, illegitimate, annexed to the same archhospital, with its infirmary.

2. The archhospital of the Most Holy Savior at S. Giovanni in Laterano.

3. The archhospital of S. Giacomo in Augusta.

4. The archhospital of S. Maria della Consolazione.

5. The archhospital of S. Gallicano.

6. The hospital of S. Maria de' Pazzi.

7. The hospice of S. Rocco.[8]

[8] Motu Proprio of Pope Pius IX concerning the Commission of the hospitals of Rome, 18 September 1850, title I.

Warnings

1. Confessors approved for men alone cannot confess sick women in the hospitals.

2. Confessors enrolled in the Pious Union of St. Paul the Apostle can obtain from the primary Regulator of the same other special faculties to use them in the hospitals to which they are assigned by him, and in other places and works of the said Pious Union.

3. Priests who confess the sick in the hospitals are not obliged, as they are under penalty of suspension with regard to the sick in private houses, to leave a written attestation of it. But it will be well done, after hearing the confession of a sick person who confesses there for the first time, to make the one who has care of the hospital aware of it.

4. The Confessors who go to confess the sick in the hospitals can also confess there healthy persons, both of the family, excepting hospital nuns, for whom special approbation is required, and other outside persons. But for healthy persons the Confessors can make use only of ordinary faculties, and of those which they may personally have obtained also for other places.

5. The secular and regular Ecclesiastics who apply themselves to the spiritual good of the sick in the hospitals of Rome, by preaching, catechizing, administering the Most Holy Sacraments to them, etc., gain each time an indulgence of two hundred days, and a plenary one once a year if they apply themselves there at least twelve times.[9] Cf. *Acta S. Sed.* Vol. 6, p. 284 ff.

[9] Rescript of His Eminence Cardinal Patrizi, *from an Audience of the Most Holy One*, 5 January 1856; it is preserved in the archive of the Pious Union of St. Paul the Apostle together with the other Rescript cited above.

N. 557. - On the Confession of Regulars Made to a Confessor Outside the Order

"Const. *Quoad communi*, 30 March 1742, for the Capuchins, section 2, declares that any one of the Order of Capuchins, whether Priest or Lay Brother, dwelling outside the cloister with due license, if he finds no Confessor of the said Order, can confess his sins to any secular Priest approved by the Ordinary of the place, and also to a Regular, provided that he is approved by his Regular superior for receiving sacramental confessions. Benedict XIV issued this Constitution for the Capuchins, because

from the statutes of their general Chapters, superiors, even major ones, cannot deputize Confessors outside the Order. The Most Holy Lord Pius IX enlarged the Indult conceded by Benedict XIV through Apostolic letters in the form of a Brief on 28 September 1852, so that Capuchins can choose for themselves an outside Confessor, as above, even in the case in which there is present only one Capuchin Priest approved for confessions; granting, besides, that from an outside Confessor they can obtain sacramental absolution also as regards cases reserved by the statutes of the Order, and the censures consequently incurred, yet with the obligation furnished of presenting themselves to their regular superior at once as soon as it is permitted, and of again obtaining from him absolution concerning cases and censures of this kind." Bizzarri, Collection, ed. 1885, p. 723.

"A certain religious, from the Augustinian family, using a faculty obtained from the Prior of his Convent, confesses to a priest, and indeed an approved one. It is asked: 1. whether validly? and insofar as affirmatively, 2. whether the Prior can by right concede this faculty to his subjects or not? Resp. In the Order of the Hermits of St. Augustine, affirmatively to both, provided that the Priest has been among those approved by the Ordinary of the place. For other Orders one must stand by the Constitutions and Statutes." S. C. EE. and RR. 3 June 1864.

Faculties Conceded to Regulars Suppressed by Violence in Italy, as Regards Confession

"To superiors both general and provincial, it concedes the faculty, whether by themselves or through other suitable religious men deputed by them, of indulging to the suppressed regulars of their Order that, while the circumstances of the present times last, they may be able to choose for themselves any confessor whatever, whether regular or secular, yet from those approved by the Ordinary of the place, by whom also, insofar as there is need, they can be absolved from cases and censures reserved in their own Order; and concerning irregularity contracted in whatever way from violation of the same censures, provided that it remains occult, they can receive the grace of dispensation in the forum of conscience only.

It declares besides that it is lawful for any suppressed regulars whatever, whether dwelling in some house, as n. 1, designated by the Superior, into which dispersed Religious have gathered, or dwelling outside religious houses as secularized for a time, to make their sacramental Confessions before confessors of their own Order, legitimately approved by their own Prelate." S. Poenit. 18 Apr. 1867.

On Confessors of Suppressed Regular Convents

"His Holiness ordered it to be rescripted to the proposed doubt, namely that Religious of suppressed Convents, who for this reason do not live in community, can choose for themselves as Confessor any Presbyter whatever, whether from the secular Clergy or from the Regular Clergy, provided that he is from those approved for receiving confessions by the Ordinary of the place. But to those Religious concerning whom there is question, who, although ejected from their Convents, nevertheless live in Community in the better way in which it can be done, His Holiness kindly grants the Indult of choosing for themselves any Confessor whatever, as above, provided that in it there are not had at least four Confessors of their own Order." Bizzarri, loc. cit., p. 155. S. C. EE. and RR. 3 July 1862.

On Confessors of Religious Outside the Cloisters

"Regulars, even those secularized for a time, ought to make their confession before confessors approved by the Ordinary of the place, by whom in the act of sacramental confession they will be able to be absolved even from censures and cases reserved in the Order, if they are by no means reserved in the Diocese." S. C. EE. and RR. 27 Aug. 1852.

N. 560. - On the Restriction of Faculties for Regular Confessors

"The S. C.... judged that the aforesaid Regulars, of St. Francis, approved by the Ordinaries of places for hearing the confessions of secular persons, cannot be prohibited by the same Ordinaries from hearing the confessions of the same persons when sick in their own houses without the license of the parish priests; provided that they leave a note, or notify the Parish Priests themselves, that the sacrament of Penance of this kind has been ministered by them." S. C. EE. and RR. 13 Sept. 1641; 22 Sept. 1645. - Cf. N. 543; Bizzarri, Collection, ed. 1885, p. 753 ff.; and *Acta S. Sed.* Vol. 1, p. 678 ff.

N. 563. - Whether Regular Confessors Can Absolve Their Own Guests and Servants

"Whether Regulars can minister the Eucharist as Viaticum and also Extreme Unction to lay persons dwelling in their convents by reason of hospitality and the like, if they fall sick there? Resp. They cannot, but only to those who are continuous table-companions and of the family of the Convents, from Trent, sess. 26, ch. 11, de Regul., and Constitution *Circumspecta* of Gregory XIII, 17 Feb. 1649." S. C. C. 1649.

"Whether the weekly servant, cleric, baker, gardener, and stewardess dwelling in the Courtyard of the Monastery.... have, the requirements of the Council being considered - Resp. Negatively." S. C. C. 21 Jan. 1713.

"1. Whether secular male and female servants of nuns, dwelling in the same dwellings, situated in the courts of monasteries surrounded by a wall, and which are contiguous to the monasteries and have a door which is closed in the case, are bound to receive the Eucharist in paschal time from the Parish Priests in whose Parishes the monastery and dwellings are situated in the case? 2. Whether it pertains to the said Parish Priests to minister the Sacraments to the said male and female servants in their final illness in the case? Resp. To the 1st, affirmatively; to the 2nd, affirmatively." S. C. C. 17 Sept. 1822. Cf. Benedict XIV, Notification 55, nn. 7, 8.

N. 564. - Whether Regular Confessors Can Absolve Their Own Boarding Pupils

"Whether young persons and boarding pupils, living for studies in Colleges of Regulars, and girls dwelling for the sake of education in exempt monasteries of Nuns, are to be held as belonging to the family of the monastery and convent, so that, the Parish Priest not being required, they can receive paschal Communion, Viaticum, and Extreme Unction from the regular Superior? Resp. Deferred, and let the doubts be divided." S. C. EE. and RR. 8 June 1860. Cf. *Acta S. Sed.* Vol. 3, p. 47 ff.; Lucidi, 3rd ed., Vol. 2, p. 371 ff.

N. 565. - On Changing the Confessors of Nuns Every Three Years

The confessor of nuns is to be changed at least every three years. S. C. EE. RR. 26 Nov. 1602; 15 Feb. 1593; 10 March 1634. - It is declared an abuse that the confessor of Nuns be constituted for life or for several Monasteries. 4 March 1594. - Only one confessor is to be deputed for each Monastery. Benedict XIV, Const. *Pastoralis curae*. Cf. Bizzarri, Collection, ed. 1885, p. 374.

"But since sometimes from peculiar circumstances of things it can happen that confirmation for another three-year period is not only useful, but necessary, hence the same S. C., the Ordinary having been heard, and the Nuns capitularly by secret votes, in particular cases grants confirmation for a second, and even for a third, three-year period, yet on this condition, that for confirmation for a second three-year period the consent of two out of three parts of the Nuns concur; and for confirmation for a third three-year period the consent of all accede. But the Ordinary must report concerning the probity of life and prudence of the confessor, and make the S. C. more certain concerning the necessity, or at least utility, of the confirmation." Bizzarri, Collection, ed. 1885, p. 13.

N. 565. 366. - On Regulars, Ordinary and Extraordinary Confessors of Nuns Subject to the Bishop

Ordinaries of places, as a general rule, cannot designate Regulars as ordinary confessors of Nuns immediately subject to the Bishop, without leave of the Sacred Congregation. S. C. Nov. 1721 and 5 Sept. 1727. Cf. Bizzarri, ed. 1885, pp. 313, 322, 335, 345, 382, 383; Ferraris, v. Nuns, art. 5, n. 29.

"To the doubts proposed.... the S. C. EE. and RR. responded that the Bishop can deputize Regulars, to whom this is not forbidden by their Constitutions and rules, as extraordinary confessors. But that Bishop petitioner, in the defect of presbyters who are suitable, may be able to deputize religious men as ordinary confessors, the S. C., from the special authority of Our Most Holy Lord, grants the faculty for three years only." 14 Feb. 1851, at Francis Sentis, *Decretals of Pope Clement VIII*, Freiburg im Breisgau 1870.

N. 567. - On the Extraordinary Confessor of Nuns

Edict of Clement XI, beginning *Avendo determinato*, etc. "Since the Council of Trent decreed that extraordinary Confessors are to be given to Nuns twice or three times, and even four times, per year, although they themselves do not wish to confess their sins to them, nevertheless by the present edict they are ordered to present themselves to them, so that they may receive salutary admonitions and exercise an act of subjection. And the ordinary Confessors are ordered, meanwhile, while the extraordinary is present, to hear the Confession of no Nun of the same monastery. But if any Nun does not wish to present herself to the extraordinary Confessor, let her be punished by the Superior; but girls to be educated who are unwilling to subject themselves and present themselves are to be expelled. They also command that neither the ordinary nor the extraordinary confessors approach those monasteries to hear confessions when the time of their office has already been completed; nor receive from any of them, or send to her, letters, unless there is special license." 12 Dec. 1708. Bizzarri, Collection, ed. 1885, pp. 295, 294.

"The expressed mind of His Holiness is that the ordinary Confessor ought not to exercise his ministry, nor approach the Monastery, during the whole time in which the commission of the general extraordinary lasts. - A regular extraordinary Confessor, his office having been completed, cannot any

longer approach the Monastery without the necessary leave, because he remains subject to the prohibition and penalties established against Regulars, as all other regulars do. His Holiness declares, however, that this prohibition does not include secular Presbyters, and therefore these, even after the office of extraordinary confessor has been completed, can, as before, continue to the Monasteries, because in this part the new Constitution of Benedict XIV, *Pastoralis Curae*, innovated nothing as regards secular presbyters." S. C. EE. and RR., Jan. 1749.

N. 569. - On Confessors of Nuns Outside the Cloister

"Sometimes Nuns, either by reason of health or for another cause, obtain leave of going out for a short time from their Monastery, retaining the habit; it is asked whether in such a case they can make their confession before confessors approved for both sexes, although not approved for Nuns. Resp. Affirmatively during the stay outside the Monastery." S. C. EE. and RR. 27 Aug. 1852.

In Diocese N. of France, "in many parishes there are two or three, and scarcely four, Sisters of more recent Congregations, serving the education of girls. Now those Sisters, living in common but outside cloister, do not have a private chapel, but frequent the parish church, like the others, attending Mass there and the other Offices, receiving the sacraments both of Penance and of the Eucharist; furthermore those Sisters rather often pass from one parish to another according to the will of the Superior General. Now, whether in these circumstances the disposition of law concerning the triennial change of confessors is to be applied, especially since in these parishes there is only one presbyter, namely the parish priest? Resp. The Sisters concerning whom there is question can make sacramental confession outside their own pious house before any confessor whatever approved by the Ordinary." S. C. EE. and RR. 22 Apr. 1872, to 3.

N. 570. - On Cases Reserved by the Bishop with Respect to Nuns

"Whether the reservation made by the Bishop in his Patent Letters as regards cases reserved to himself is sustained in the case? namely with respect to Nuns subject to Regulars. Resp. Affirmatively only as regards cases reserved in matter clearly pertaining to delegated Jurisdiction; in the rest, negatively." S. C. EE. and RR. Sept. 1746. Cf. Bizzarri, Collection, p. 756, ed. 1885.

N. 573. - On the Force of the Decree of Clement VIII Concerning Cases Which Regular Superiors Can Reserve to Themselves

"Since it was doubted by some Regulars whether, in the Decree of Pope Clement VIII of happy memory, issued on 26 May 1593 concerning the quality of cases to be reserved by the Superiors of the same Regulars, censures were also comprehended, so that it would be lawful for the same Superiors, without the consent of a general or provincial Chapter, to attach excommunication to some sins not contained in a Decree of this kind, and to reserve absolution from the same to themselves, the S. C. of Cardinals placed over the affairs of Regulars, the Most Illustrious Bardinus reporting, judged that censures are comprehended in the aforesaid decree." 7 July 1617.

On Cases Reserved at Rome

Cf. N. 556.

N. 574. - On the Faculty of Absolving from Reserved Cases for Seculars

"Meanwhile, by mandate of His Holiness himself, the same Ordinaries are admonished that throughout their whole Diocese, and especially in those places which are farther removed from the City and the Cathedral See, they constitute and delegate Penitentiaries and other Priests, to whom they concede the faculty of absolving from Cases reserved to themselves, so that to these also it may be lawful to impart the same to other confessors if there is need, even by living voice." S. C. EE. RR. 26 Nov. 1602. - "But the same S. C. declares that the faculty and license of absolving from reserved cases.... can be conceded even by the living voice alone." 26 Nov. 1602.

On the Absolution of Reserved Cases for Regulars

"In small Communities Superiors altogether ought habitually to deputize one confessor from the Religious of their own Order, who has the faculty of absolving from cases and censures reserved in the Order." S. C. EE. and RR. 16 Aug. 1866, approved and confirmed by Pius IX on the 17th of the same month.

Pius IX, Brief 28 Sept. 1852, indulged to the Capuchins that from an outside confessor "they can obtain sacramental absolution also as regards cases reserved by the Statutes of the Order, and the censures consequently incurred, yet with the obligation furnished of presenting themselves at once, as soon as it is permitted, to their regular Superior, and of obtaining absolution from him." Cf. N. 557.

On the Absolution of Reserved Cases in the Hospitals of Rome

Cf. N. 556.

N. 575. - On Absolution from Papal Reserved Cases, to Be Sought by Letter

"1. Whether the opinion teaching that absolution of cases and censures, even those reserved in a special way to the Pope, devolves upon the Bishop or upon any approved priest, when the penitent is in the impossibility of personally approaching the Holy See, can still safely be held? 2. Insofar as negatively, whether recourse must be had at least by letters to the Most Eminent Prefect of the S. Penitentiary for all cases reserved to the Pope, unless the Bishop has a special indult, except in the article of death, in order to obtain the faculty of absolving? Resp. To the 1st, account being had of the practice of the S. Penitentiary, especially from the publication of the Apostolic Constitution of Pius IX of holy memory, which begins *Apostolicae Sedis*, negatively. To the 2nd, affirmatively; but in truly more urgent cases, in which absolution cannot be deferred without danger of grave scandal or infamy, concerning which the conscience of confessors is burdened, absolution can be given, the things to be enjoined by law having been enjoined, from censures even reserved in a special way to the Supreme Pontiff, yet under the penalty of falling again into the same censures, unless the one absolved, at least within a month, by letter and through the medium of the confessor, has recourse to the Holy See. The Most Holy One approved and confirmed the resolution of the Most Eminent Fathers." S. I. C. 23 June 1886. Cf. Commentary *On Censures*, Part I, art. 5.

N. 598. - On Denunciation to Be Made to Apostolic Vicars in the Matter of Solicitation

"Whether Apostolic Vicars without a special faculty can receive denunciations in the matter of solicitation to shameful things, and whether, denunciations of this kind having been received, they are bound to refer them to the Holy Office? Resp. Supplication is to be made to the Most Holy One for extension to all Apostolic Vicars of the Instruction for the Apostolic Vicar of Cochinchina, dated 1 June 1775, with this addition: that they send to the Holy Office through the medium of the S. C. de P. F., in a sealed letter, the names of those soliciting." Holy Office, 20 June 1883. Supreme Pontiff Leo XIII on the same day approved and conceded the extension. Other decisions concerning this matter, please compare, in the Commentary on Const. *Sacramentum Poenitentiae*.

N. 624 ff. - On Absolution to Be Granted, Denied, Deferred

"There are certainly many cases in which the denial and delay of absolution is an opportune remedy, and at times necessary. Let the Confessor see, says St. Charles Borromeo in the *Instructions of Penance*, that he absolve no one who is unwilling either to lay aside hatred or enmity, or refuses to restore another's goods according to his ability, or is not prepared to depart from a state of mortal sin, or to avoid the occasion of a similar sin. Hence the Apostolic See has always risen up with marvelous zeal against the soft and ill-ordered facility of some casuists in granting absolution, as is evident to any reader from the propositions deservedly and justly condemned by Alexander VII, Innocent XI, and other Roman Pontiffs. But it would be very prolix to enumerate cases of this kind, but they can be seen in St. Charles Borromeo in the *Instruction of Confessors*; and let Confessors not allow themselves to be led away from those holy rules, confirmed by the consent of the whole Church, by false mercy toward penitents.

But, the excepted cases having been premised, the holding back, indiscriminately and everywhere applied, of any mortal sin whatever, for the sake of conceiving a greater horror against crimes and of acquiring a better disposition for obtaining the benefit of absolution, is certainly not a medicine nor a congruous chastisement ever employed by the Church upon unwilling penitents, but one usurped by rigid and imprudent Confessors alone, against every right, and proscribed by three Roman Pontiffs. Peter de Osma already attempted to introduce this excessively severe and imprudent practice, to say nothing worse, by that proposition: *Penitents are not to be absolved unless the enjoined penance has first been completed*, deservedly condemned in the Council of Complutum and by Sixtus IV in the year 1579, in the Bull which begins *Licet ea*. It is clear that the same destructive practice, after the apostate Marcus Antonius de Dominis, book 5, *On the Republic of the Church*, ch. 7, and Antoine Arnauld, book *On Frequent Communion*, part 2, from ch. 8, prevailed among the Belgians and some French followers of rigorism. From their books Alexander VIII, among the rest, struck these two propositions with just anathema: 16. *The order of putting satisfaction before absolution was introduced not by the polity or institution of the Church, but by the very law and prescription of Christ, the nature of the thing itself in some way dictating the same*, and 17. *Through that practice of immediately absolving, the order of Penance is inverted.* Quesnel again attempted to introduce this cruel practice as regards its substance, under deceitful and equivocal terms, by these two propositions: 87. *It is a mode full of wisdom, light, and charity to give souls time to bear with humility and to feel the state of sin, to ask for the spirit of penance and contrition, and to begin at least to satisfy the justice of God before he is reconciled.* 88. *We do not know what sin and true penance are when we wish immediately to be restored to the possession of those goods of which sin despoiled us, and we refuse to bear the*

confusion of that separation, deservedly and justly condemned in the Bull *Unigenitus* by Clement XI. Indeed, that severe practice brings very great ruin to souls, especially to those attrite, or, if you prefer, beginning to love, from St. Leo and Augustine, Epistle 180 to Honoratus, teaching: *many perish through defect of the Sacrament who by its aid would have flown up to heavenly things*. Therefore they remain exposed to the danger of eternal damnation, our most wise Savior admonishing us that we always watch in justice, for *at the hour when we do not think, the Son of Man will come*.

But let us grant to rigid directors that persons of this kind who are attrite survive until absolution: absolution having been delayed for them, they remain enemies of God, incapable of all merit and satisfaction; for their works, according to St. Thomas, in 4, dist. 15, since they are done without charity, are not satisfactory: *For it is impossible*, he says, *that someone satisfy God unless he please God; and therefore, that there be a suitable satisfaction, it must be informed by sanctifying grace*, and in the Supplement, q. 14, art. 2: *works done without charity are not satisfactory*. Therefore whatever things may have been proposed, the sinner deprived of absolution will be able to obtain no indulgence; suspicions, losses of reputation, scandals, arise from an indiscriminate delay of absolving; shame in confessing is a strong bridle against sin, as is had from chap. *Quem*, 88, On Penance, dist. I; because penitents who have been repelled often cast aside thought of salvation by despairing.

Therefore let Missionaries not follow the disorderly reformers of the Church. Let them rather adhere to the Council of Trent, sess. 6, ch. 14, On the fallen and their reparation, where we have absolution prior to satisfaction, and the guilt of sins together with eternal punishment remitted by the sacrament of Penance before satisfaction, by which only temporal punishment remaining after absolution is remitted. But this prudent and benign practice was not instituted only by Trent, but is, as the Roman Catechism testifies, the most ancient use of the Church, approved by Scripture and the authority of the Fathers. The evangelical father orders the first robe to be brought quickly to the prodigal son returning, and does not send him back so that by feeding swine he might conceive a greater horror against sins and be disposed for the paternal embrace. Among the articles because of which Chrysostom was wrongly deposed by certain Bishops, but restored by Apostolic authority, this was one: *If you have sinned again, repent again, and as often as you have sinned, come to me, and I will heal you.* Basil to a spiritual son: *When*, he says, *you have felt yourself liable to sins, turn quickly to penance, lest you be confounded.* The Clementine law *Dudum*, On burials, commands the Priest to hear Confessions, impose penances, and absolve. The Decree of Boniface, Bishop of Mainz, establishes that each Presbyter should take care, after receiving the Confession of penitents, at once, a prayer having been given, to reconcile. I would be endless if I wished to bring forward the documents of all the Fathers for such a practice of the Church, but the things alleged suffice.

Therefore that practice, prudent and benign, fortified by so many testimonies, of at once absolving sinners, as attrite or contrite, flourishes in the whole Church where there is an abundance of Confessors, where there is no danger of persecution. How much more, then, must it necessarily be observed in Western Tongking, where many and continual persecutions against Catholics flourish, and where indeed the harvest is great, but the workers very few. Nor let innovators deceive you, who under the shadow of zeal nourish cruelty and deadly sluggishness in the heart; let them not, I say, deceive you by testimonies of Scripture, Ezekiel 13 and Jeremiah 6, which they everywhere abuse. For from these we can collect nothing more than that absolution is not to be imparted to those lacking the necessary disposition, but not that it is to be denied to those furnished with that disposition; nor

will you find any place in the oracles of the ancient covenant according to which reconciliation with God was delayed for penitents, or to be deferred. Scarcely had David confessed his offense, saying, *I have sinned against the Lord*, when Nathan announced in the name of God: *The Lord also has taken away your sin; you shall not die*. Nor again let them lead you astray by testimonies of Cyprian, of the Roman Clergy, of Innocent I, and of other Fathers, which they likewise abuse; for when those testimonies are read not cut short but whole, it will appear to anyone sincerely attending that they speak concerning certain public sins which at that time were to be punished by public penance; and although approved authors think that in the very imposition of public penance sinners were regularly absolved from the guilt of fault, for this indeed was to receive the imposition of the hand unto penance, to be absolved from the guilt of fault and to receive the mode of public satisfaction. Indeed Morinus himself, of the highest authority among the new Theologians, although he thinks that the absolution, even Sacramental, of public crimes was delayed until the fulfillment of canonical penance, agrees with us as regards other sins; for thus he says: *All crimes and sins which in those centuries were not expiated by public penance were remitted at once or a little after confession was made to the Priest, a few excepted, which, when they were public, were sometimes punished by the Canons with privation of Ecclesiastical communion.* He teaches the same thing as the Roman Catechism, that the custom of absolving at once after confession is from the very cradles of the Church, if you except certain enormous crimes for which public penance was owed; indeed, that in the Eastern Church from twelve centuries to this time the custom has been observed of absolving at once even from public sins, which toward the end of the work he proves more fully from Greek penitential books.

But since from the Council of Trent there ought to flourish the use of inflicting public penance for public and scandalous sins, descending to the particular case reported by the Apostolic Visitator concerning parents who give consent to the marriage of their children with disparity of cult, it seems certain that as long as it is in their power to dissolve the marriage, and, having been admonished concerning this, they refuse dissolution, they are not capable nor disposed to receiving the benefit of absolution; but if on their part they have done whatever they can, and it is no longer in their power to remove their children from the invalid union, there is no reason that, being contrite and having confessed, they should be deprived of Sacramental absolution for whole years, or even to the end of life. But lest they be an example to others so that similar Marriages be perpetrated, they could, already confessed and absolved, be punished either by communion of the Eucharist, or by another public penance, at the judgment of a prudent and discreet Bishop.

Therefore the mode full of wisdom and charity is to snatch sinful souls as quickly as possible from the state of sin, according to the practice of the universal Church, founded in the Gospel of Christ, so that they may quickly receive the first robe; and not to prolong, but as much as can be done to hasten, the precept of penance, according to the form which the Council of Trent most wholesomely prescribes: that before reconciliation they propose, so that after it, more safely and salutarily, restored into the state of grace, they may strive to satisfy." Instruction of the S. C. de P. F. for the Tongkingese or Annamite Priests who administer the sacrament of Penance in Western Tongking, 1736.

"You place another abuse in this, that you suspect the benefit of Sacramental absolution is excessively deferred. In this matter a certain judgment can by no means be brought. The Confessor, who sits before the tribunal as judge and ought as physician to prepare medicine for the sick, alone can search out how great is the atrocity of crimes, what the obstinacy of sickness, what the disposition of the

penitent. Therefore he must diligently investigate whether those who approach the sacrament of Penance execrate the crimes committed with that sorrow of soul which is required for the integrity of the Sacrament by the Council of Trent, sess. 14, ch. 4, On Contrition; whether they promise the beginning of a new life and hatred of the past, not only by voice and lips, but by the inward affection of the heart; whether, in testimony of this good and firm will, they show that they have already ceased for some time from sins; whether they have plainly dismissed those occasions which, either of themselves or from their own malice or depravity, induce to sin, if it was in their power; whether they have applied remedies proposed to them at other times, by whose aid they may avoid sin in necessary and involuntary occasions; whether they have cast off the habit of sinning; whether, if at other times they obtained the benefit of absolution, having again relapsed into the same crimes from their own malice, they were rolled in the same mire; whether, as to goods, reputation, and honor in which they have injured a neighbor, they are ready and prompt to repair the damage or injury, if means or occasion are at hand. These and many other things, which Missionaries can seek from the praised Instructions of St. Charles, are diligently to be weighed by them before they bestow the benefit of absolution. But since these very things lie hidden among the secrets of Confession, it is certainly difficult to judge whether they abuse that power of judge and authority of physician which we indicated above, or whether they act more harshly and severely with penitents duly disposed.

Nevertheless let Missionaries diligently take care that, if sometimes public penance is to be enjoined, and even prolonged for some time, they meanwhile allow no one to be deprived of the benefit of Sacramental absolution, provided that he place no obstacle on his part, and be held worthy that the grace of reconciliation with God be imparted in the forum of conscience. For we think it does not escape you that private absolution of sins, to be indulged to penitents in the Sacramental forum, and public reconciliation with the Church, differ very greatly between themselves. The former is to be denied to no one who is rightly affected and bears before him the necessary dispositions for obtaining this grace. For Holy Mother Church is benign and merciful, and does not suffer anyone to remain under the yoke and servitude of the devil, an enemy of God, lacking all merits of good works, who from the heart and with true striving of soul and mind begs pardon from God for his offenses. But the other, namely public reconciliation, is to be reserved to the judgment of the Bishop, who according to the circumstances of places and times will establish what needs to be done, and will so reconcile severity with gentleness that it will bring both punishment to the guilty and a bridle to the innocent....

The third suspicion of abuses which moves you is that you fear not only that Sacramental absolution is deferred for certain criminals, but that they are even, perhaps for a light cause, repelled from the tribunal of Penance. Yet you do not sufficiently declare how that matter proceeds. For it is not lawful to suspect that those Missionaries, whom you yourself acknowledge to be doing excellent work in procuring the salvation of souls and to be very much commended before you for zeal of piety and charity, have been so forgetful of mercy and gentleness that they repel sinners, excited by some spur of penance, approaching them for Confession of their faults; for to deny Sacramental absolution to the undeserving is within the power of the Priest, but not to hear the Confession of crimes would be an offense not to be borne. Therefore we judged that the question proposed by you is to be taken thus, that one must ask only concerning those sinners who are entangled in those bonds of crimes to which the penalty of excommunication is joined by law. And in this matter it seems that this chiefly must be considered: whether someone has been excommunicated by sentence of the Judge and

publicly denounced, or whether indeed he has contracted that censure by law, not indeed declared by sentence of a Judge; but since the crime, because of which he fell into excommunication, is so notorious and manifest that it can be hidden by no evasion, or excused by no support of law, hence everywhere among the rest of the faithful he is held as a public sinner. Both certainly ought to be repelled from the sacrament of Penance; for the excommunicated cannot be made participants in the Sacraments. Yet a distinction intervenes between the two, because one excommunicated and denounced by sentence of a Judge, since he is separated from the communion of the other faithful, is also to be avoided, and therefore he cannot be admitted into church, to assist at the unbloody Sacrifice, pour forth public prayers, and be present at the other common offices of Religion, excepting only the preaching of the word of God, which it is permitted by law for an excommunicated person to hear, chap. *Respons.*, 43, On sentence of excommunication. But he against whom no sentence of excommunication or judicial declaration has been pronounced is neither repelled from the assembly of the faithful, nor prohibited from the entrance of the church, nor excluded from public prayers; nevertheless from participation in the Sacraments, just as he is incapable in himself, so he is deservedly to be kept away by a faithful dispenser of the mysteries of God, because of the notoriety and pertinacity of his crime; from which, since a public scandal has arisen, unless it shall have ceased and been amended by suitable and fitting penance, he is to be judged altogether unworthy to become a participant in the mysteries of Christ, lest, against the precept of the Gospel, pearls be cast before swine. But what and how great the penance to be inflicted on the guilty should be, by what method scandal can be removed, Missionaries must establish, the circumstances of places and times having been weighed, and especially take care that nothing be decreed except with you as author and judge, if the power of consulting you is given.

And hence for this reason the manner of acting of those is not to be approved who, no distinction being employed between excommunicated persons to be avoided and those to be tolerated, prohibit all indiscriminately, even on feast days, from entrance to the church and from the sacred assembly of the faithful. For if they do this because they judge that excommunication has this force, that he who is subjected to it is at once to be kept away from all communion of the faithful, they are opposed to the remembered distinction, and therefore they err. But if they decree this punishment themselves, according to their own judgment, for all excommunicated persons indiscriminately, they are to be corrected for excessive severity. But whether those who, by force, snatch and convey to the house of the spouse girls betrothed by their parents to a gentile man, unwilling as they are, incur the penalty of excommunication, understand thus: either the betrothals were entered into by the parents before the girls obtained the use of reason, and it is not established that after the use of reason they confirmed and ratified them; since these betrothals are wholly void, certainly those who furnish counsel, aid, or favor to the abduction of these virgins are excommunicated by the law itself according to chap. 6, sess. 24, de R. M., Council of Trent; but otherwise if the betrothals either were first entered into with their consent or were then confirmed, and consequently are reputed firm and valid, for those who drag brides by force to the spouse, although they are unwilling and resisting, are not subjected to the penalties of abductors." 29 Apr. 1784, Instruction of the S. C. de P. F. to the Apostolic Vicar of Szechuan.

"No one enjoying the communion of the Church is to be repelled from the tribunal of Penance. - Let an Instruction be given, that they are always to be received for Confession, but only the disposed are to be absolved." S. C. de P. F. 16 Jan. 1804.

"The S. C. could not approve the excessive facility which is narrated concerning the Confessors of your Vicariate in the administration of the sacrament of Penance, who are said, with no distinction made among penitents, to absolve all indiscriminately, even recidivists and those remaining in a habitual custom of the sin of superstition. Certainly, since from the very institution of the sacrament of Penance it is established that sins are to be remitted to some, but retained to others, John 20:23, it is manifest that this custom of your confessors, if the things narrated about them are true, is opposed to the very institution of the sacrament of Penance; for it cannot be supposed that in all penitents of your Vicariate there are present the dispositions which are known to be necessary, from the just-praised institution of the sacrament of Penance, for obtaining Sacramental absolution. To this custom of your Confessors there is also opposed the Roman Ritual itself, in which, title On the sacrament of Penance, it is read: *But let the Priest diligently see when and to whom absolution is to be conferred or denied.* This would not have been prescribed if absolution were to be imparted indiscriminately to all penitents, even recidivists and those existing in a habitual custom of sinning. Therefore let your Confessors be taught concerning this threefold species of penitents, according to the Roman Ritual just praised, and let them deny absolution to those who provide either no indications or only feigned indications of penance; but let them defer it for those whose penance is deservedly held uncertain and suspect. Thus teach the more judicious Theologians; thus teach the Instructions proposed to Confessors by St. Charles Borromeo and by St. Francis de Sales, who adopted the rules handed down by St. Charles in his synodal Constitutions, as can be seen in their title 9, art. 5, n. 5; and the Confessors of your Vicariate just mentioned ought to remember that from great facility of absolving a great facility of sinning must necessarily arise." Instruction of the S. C. de P. F. to the Apostolic Vicar of Cochinchina, Aug. 1827.

On Extreme Unction

N. 675. - On the Anointing of the Feet and of the Loins

"Which part of the feet, the upper or lower, is to be anointed in the Sacrament of Extreme Unction? Resp. Nothing is to be innovated." S. R. C. 27 Aug. 1836. Cf. Gardell. n. 4780.

"The good pleasure of His Holiness is desired, that in Extreme Unction to be given to women, the anointing of the feet be omitted. It was responded at another time: the common custom of the Church is to be observed." Qualifiers of the Holy Office, 1674, Father Navarette, Missionary in China. Cf. On Baptism, N. 253.

"But as regards the anointing of the loins, which Your Amplitude testifies was never employed in that Diocese in administering the Sacrament of Extreme Unction, and which therefore you request be permitted to be omitted in the Roman Ritual, it seemed to the Sacred Congregation that no suppression or change whatever in the Ritual, whether in this or in any other matter whatever, ought to be introduced, but it willed that it be printed integrally and faithfully as it was edited by Paul V and revised and corrected by Benedict XIV. But if the anointing of the loins has been unused there until now, the Sacred Congregation declared that it indeed would patiently bear it, if the singular circumstances of that Diocese impede that this anointing be immediately and universally reduced to practice; at the same time, however, it expressed its most ardent wish that, through the care of Your Amplitude and by the teaching of Parish Priests, the faithful be gradually and imperceptibly disposed to receiving also that special anointing in the final struggle, according to the prescriptions of the Roman Ritual." S. R. C. 14 Aug. 1858, Utrecht.

N. 677. - On Oil Not Blessed by a Bishop

"Whether the Sacrament of Extreme Unction can be validly ministered with oil not consecrated by Episcopal blessing? Resp. Negatively. The S. C. I. condemned the contrary doctrine as rash and proximate to error." 13 Jan. 1655; 14 Sept. 1842.

N. 681. - On the Administration of Extreme Unction by Means of an Instrument

"Whether in that Diocese of Port Louis, in which the use has prevailed of employing a style or little silver rod in the administration of Extreme Unction, that use itself can safely be continued? Resp. Negatively, the cause of necessity being removed." S. R. C. 9 May 1857.

N. 684. - On Extreme Unction to Be Ministered to Oneself

"The very words of divine utterance having been inspected, it is easily clear that the Sacrament of Extreme Unction, even in a case of necessity, namely when another Presbyter is absent, cannot be ministered by a sick Missionary to himself." S. C. de P. F. 23 March 1844.

On the Ceremonies of Extreme Unction

The Oil of Extreme Unction is not to be carried solemnly to the sick with surplice and lanterns. S. R. C. 28 Jan. 1606.

"Priests exercising care of souls, for their own convenience, retain with themselves in their houses the Holy Oil of the sick. Whether, account being had of custom, they can lawfully retain this practice? Resp. Negatively, and let the Roman Ritual be observed; except, however, the case of great distance from the church; in which case the Rubric is altogether to be observed, even at home, as regards honest, decent, and safe custody." S. R. C. 16 Dec. 1826.

N. 690. - On Extreme Unction to Be Conferred Immediately After Baptism

"When some adult Pagan sufficiently instructed and duly disposed is baptized, because he has fallen into grave illness, ought, indeed can, the sacrament of Extreme Unction be conferred upon him immediately after Baptism? Resp. Affirmatively, with the form of the Decree of the Holy Office of the year 1803 observed." S. C. de P. F. 26 Sept. 1821.

On One Gravely Sick, Not Nearly Dying, in Places of Missions

"Sometimes when Missionaries visit the Christians committed to them, there occurs a sick person laboring from hectic fever or a similar disease, who according to experience will still live several months, but will die within a year. It is asked whether in such a case the Missionary can administer to him Viaticum and Extreme Unction, because when the more true case of receiving them will be present, a Missionary will not be able to be had present because of great distance and other circumstances impeding it? Resp. Affirmatively." S. C. de P. F. 20 Feb. 1801.

N. 693. - On the Dispositions Prerequisite for Extreme Unction

"Whether Extreme Unction is to be conferred on dying adults whom we sometimes believe capable of Baptism, but not of the other Sacraments? Resp. The sacrament of Extreme Unction is not to be conferred on a dying neophyte whom the Missionary believed capable of Baptism, unless at least the same person has some intention of receiving Sacred Unction ordered for the benefit of the soul for the time of death." Holy Office, 1803; 10 Apr. 1861. Cf. On Confirmation, N. 271.

On Holy Order

N. 700. 701. - On Extension of Hands in the Ordination of the Presbyterate

"The S. C.... does not intend to call into doubt the value of a sacred Ordination because in it the ordaining Bishop did not hold his hands extended also through the interval which intervenes between the first and second imposition of hands." S. R. C. in the Syriensis, 14 June 1873. Gardell. n. 5557.

On the Elevation and Extension of Hands over Those to Be Ordained

"1. Whether, in the Ordination of a Presbyter, both the Pontiff and the Priests who are present ought first to impose both hands upon the head of each ordinand, and after this imposition has been completed by all, then to elevate the right hands and hold them extended over them while the Pontiff standing with miter alone says the Prayer, as some explain the prescription of the Roman Pontifical concerning this matter; or rather, as is done at Rome in the Lateran Archbasilica, both the Pontiff and the Priests who stand by, scarcely after the imposition of both hands has been made, immediately extend the right hands and hold them thus extended until the Bishop has completed the prayer? 2. In giving Communion to newly-ordained Presbyters, ought the formula *Corpus*, etc., to be employed, or rather ought it to be omitted? Resp. To the 1st, negatively to the first part, affirmatively to the second. To the 2nd, as in the preceding." S. R. C. 31 Aug. 1872.

On the Imposition of Hands by Bodily Touch

"According to Canon Law, in the Ordination of a Presbyter and Deacon, the imposition of hands ought to be done by bodily touch; but if that had been omitted, what had been omitted by error would have to be supplied cautiously. But it is doubted: 1. Whether, if the imposition of hands was made without bodily touch, the imposition of hands by bodily touch ought to be supplied? 2. Insofar as affirmatively, whether public rumor and the bad reputation which would thence come upon the Ordaining Bishop, especially in these regions, would be a sufficient reason for abstaining from an imposition of hands of this kind repeated with bodily touch? 3. If bodily touch ought to be supplied, whether the words should be repeated which are uttered at the same time by the Bishop with the imposition of hands, especially in the Ordination of a Deacon, in which the words, *Receive the Holy Spirit*, etc., seem to many to be the form of the Sacrament? 4. Whether that bodily touch can be supplied privately, when Orders of this kind are not conferred? Resp. To the 1st, affirmatively. To the 2nd, negatively. To the 3rd, affirmatively. To the 4th, affirmatively, and secretly in the action of Mass, and even outside the times of a general Ordination." Holy Office, 19 Aug. 1851, to the Apostolic Vicar of Western Cochinchina.

On Disturbance of the Form

"While in the S. R. C. the doubts exhibited in the name of Your Amplitude were being weighed... and already two Theologian Consultors had been requested to give their vote concerning the validity of the Ordination of a certain Presbyter, in which the form of conferring the power of remitting or

retaining sins was incautiously vitiated, certain news arrived from the General Congregation of the Roman and Universal Inquisition, under the day 27 May 1840, that an entirely similar case had been discussed and decided.... Therefore, communicating to Your Amplitude word for word the resolution then issued, as follows, namely:

On Wednesday, 17 May 1840..., the prayers of the Dominicans of Bologna having been proposed, in which they set forth that their Religious N. N., while he was receiving the Ordination of a Presbyter from the Reverend Father Lord Bishop, had been warned that he himself had disturbed the form attached to the final imposition of hands, by saying: *Whose sins you shall remit are retained, and whose you shall retain are remitted*; likewise, the acts of the Episcopal Curia having been proposed for establishing the truth of the things set forth, together with the vote of one of the Lords Consultors, which had been distributed by hand; likewise, the suffrages of the Lord Consultors having been proposed, the Most Eminent and Most Reverend Lords said: Under condition, in a private oratory, at any time of the year, let there be supplied by any Bishop vested according to custom the third imposition of hands and the respective form: *Receive the Holy Spirit*, not however repeating the accidental ceremonies previously employed....

By force of the faculties specially granted to Us by the same Most Holy Lord Pope Gregory XVI, we concede that those things which are lacking to the stated Ordination, or were vitiated, be altogether supplied, according to the lines of the remembered Decree of the Sacred Universal Inquisition, on any day of the year, by any Bishop vested according to custom as in Ordination, and making the Sacred Rite in his private oratory, the stated Presbyter standing by, likewise vested in priestly vestments; and thus let the third imposition of hands and the respective form be supplied: *Receive the Holy Spirit*, without the accidental ceremonies which were previously employed having to be repeated." S. R. C. 22 May 1841, to the Bishop of Viviers.

In the Ordination of a Presbyter the Bishop pronounced the form thus in the third imposition of hands:

Receive the Holy Spirit: whose sins you shall remit are retained for them, and whose you shall retain are retained. What is to be done? Resp. "Secretly and under condition, at any time of the year, let the third imposition of hands and the respective form be supplied as a precaution by any Bishop having communion with the Holy See, vested according to custom: *Receive the Holy Spirit*, etc.; as regards the past, let him acquiesce." Holy Office, 4 March 1874.

On the Successive Touch of the Instruments

"From the Pontifical, Subdeacons and Presbyters ought successively to touch the chalice and paten in their Ordination. Is it enough that they touch them simultaneously and not each one successively, and that over two, or three, or four simultaneously touching the matter, the form be pronounced, while the Pontifical says: *Receive*? Resp. Affirmatively as regards Subdeacons, negatively as regards Presbyters; since, according to the Rubric of the Pontifical, in the Ordination of Subdeacons, over two or three simultaneously touching with the right hand the chalice with the paten, the form can be pronounced by the Bishop: *See whose ministry is handed over to you*, etc. But in the Ordination of Presbyters, to each one the chalice with wine and water and the paten with the host are to be handed, and to each one the formula is to be repeated in the singular: *Receive power*, etc." S. R. C. 11 March 1820. Cf. Gardell. n. 4565.

On the Omission of the Handing Over of the Book of the Gospels in the Ordination of a Deacon

".... We received Your Amplitude's Letter.... concerning the omission of the handing over of the book of the Gospels, which happened inconsiderately in the most recent general Ordination in promoting certain Subdeacons to the Order of the Diaconate.... Therefore the Congregation, in its own judgment and that of the Consultors, responds that if Your Amplitude prudently judges that the delay of time which intervened between the Ordination of these Subdeacons as Deacons and the supplying of the defect was not so great that the moral conjunction of the form with the handing over of the matter is deservedly judged broken off, you can leave those thus Ordained in their good faith as regards the past, and declare them absolved from any suspension for the future, insofar as they can freely exercise the office of their Order publicly with a safe conscience, if no other impediment stands in the way, according to the reason of their state. But if you doubt whether there was so great an interval of time and of diverse operations, and such a variety, that that gap between the Ordination and the supplying of the defect can be joined by no interpretation of approved Authors, then again, if with the handing over of the book of the Gospels previously omitted you at the same time pronounced the form, know that you can acquiesce, and thus also dismiss those Ordained, acquiescing in the exercise of their Orders. But if you handed over only the partial matter of the book of the Gospels without the form, it will be safer if, cautiously and secretly, at an opportune time, you supply the defect for those thus Ordained, by repeating the handing over of the matter together with the pronouncement of its form. In this case, if the time of the next future Ordination constituted by Canon for a supplement of this kind, that is, the statutory time for conferring Orders from chap. *Presbyter*, On the Sacrament, not to be repeated, cannot be awaited, either because of danger of scandal, or because of other causes and circumstances of no slight moment, which Your Amplitude will have well known, and no other impediment stands in the way, you will be able to dispense from the interstices, and on any next feast prudently and secretly supply the aforesaid defect. As regards secular Clerics, concerning whom, as is set forth in the case, it is doubted whether the same omission happened, Your Amplitude will be able to take care according to your prudence that those thus Ordained become known, which does not seem so difficult if you go through the catalog which you will certainly have with you of the Subdeacons raised to the Diaconate in that Ordination, and cause those upon whom suspicion of this kind can fall to be cautiously and secretly questioned concerning a doubt of this kind. Therefore if you find any to whom the same omission happened, you will perform the same thing which was said above concerning the two Religious; and if you find that they have exercised the Order of Diaconate in good faith until now, absolve them from censures insofar as there is need, if nothing else stands in the way, and declare them safe in conscience for the ministry and office of the same Order to be exercised in the future insofar as there is need, that is, for ministering piously and faithfully in the received office of the Diaconate." S. R. C. 16 June 1857, to the Bishop of Turin. Cf. Gardell. n. 4813.

On the Omission of the Touch of the Book of Epistles in the Ordination of a Subdeacon

"Brother F. A. of this Order... approached the Bishop of Senigallia to receive the sacred Order of Subdiaconate; in the act of its conferral he indeed touched the chalice and paten, but not the book of Epistles, from inadvertence of the Assistant.... Resp. It is to be supplied by the Bishop, even privately." S. C. C. 10 Jan. 1711, of the Order of Capuchins.

On the Matter of the Order of Acolytes

"Whether the instrument called the *Bugia* with candle, serving Bishops for the book, can be the matter of the Order of Acolytes, in place of the Candlestick or candle-bearer? Resp. Negatively." S. R. C. 8 June 1709.

On the Ringing of Bells for Ostiaries, and on the Book of Lectors

"1. In the Ordination of an Ostiary, the Pontifical prescribes that the Archdeacon hand to those ordained the ropes of the bells, making them ring the bells. It is asked whether insistence is to be made on the plurality of bells, or whether one bell suffices where several are not had? 2. Some Churches, such as my Cathedral, do not have a tower joined with the church itself, but one distant from it by several paces. It is asked whether the newly ordained Ostiaries ought to go out outside the church and through the open go to the tower to ring the bells hanging there, or whether it suffices to shake the little bells of the altar at the doors of the church? 3. What is to be done if no bell is present in the case of the aforesaid Ordination? Will little bells suffice? 4. In the Ordination of a Lector, the Pontifical enjoins that the Pontiff hand to all the codex from which they are to read. It is asked what is understood by codex: whether a volume of Sacred Scripture, or a Missal, or a Ritual? 5. In the same Ordination of a Lector, the exhortation of the Pontiff, a little from the beginning, contains these words: *For a Lector ought to read those things which* (or *to him who*) *preaches*. It is asked whether also the particle *or*, written in red color, and the two words added below, *to him who*, are to be pronounced? Resp. To the 1st, negatively to the first part, affirmatively to the second. To the 2nd, negatively to the first part, affirmatively to the second. To the 3rd, affirmatively. To the 4th, in the case, that the codex is a Missal, Breviary, or volume of Sacred Scripture. To the 5th, that the Bishop can say in the case either, *For a Lector ought to read those things which he preaches*, or, *For a Lector ought to read to him who preaches*." S. R. C. 27 Sept. 1873.

On Keys in the Ordination of an Ostiary

"You ought to know that in the ordination of Clerics to the office of Ostiary, keys are indeed to be employed, but they need not be the keys of the church, so that you will be able to use any key whatever." S. C. de P. F. 23 March 1844, to the Apostolic Vicar of Cochinchina.

"In Ordination the Pontiff hands to the Ostiaries the keys of the Church. 1. In an oratory or church which has only one key, is this one key sufficient for the remote matter of Ostiariate? 2. Ought the Ostiaries individually to touch the keys successively? Is it enough that they touch simultaneously and not successively, and that over two, or three, or four simultaneously touching the matter, the form of Ordination be pronounced? Resp. To the 1st: although one key can be sufficient matter for the Ordination of an Ostiary, nevertheless the Rubric is to be observed, which commands that keys are to be handed over; whether they are silver, or iron, or wooden, provided they are suitable for opening, they constitute the remote matter of this Order. To the 2nd, affirmatively to both parts, provided that those who are simultaneously ordained Ostiaries touch the keys with the right hand while the Bishop pronounces the formula." S. R. C. 11 March 1820.

On the Doors of the Church to Be Closed and Opened

"When the Ostiary, the Archdeacon accompanying, closes and opens the doors of the church, ought he to close and open also with a key, especially if at the doors of the Oratory where the Order is conferred there is no key? Resp. It is not strictly necessary." S. R. C. 12 Nov. 1831, Marsorum.

N. 708. - On Dimissorial Letters for Regulars

"The Regular Superiors to whom it pertains can concede dimissorial letters of this kind to the professed, namely those of simple vows in Orders in which solemn vows are emitted, only for first Tonsure and minor Orders, yet with those things observed which are to be observed by law, and especially those things which have been prescribed by the Apostolic See concerning Ordinations of Regulars." S. C. concerning the state of Regulars, 12 June 1858.

"Can Novices after emitting simple vows before the emission of solemn ones be promoted to sacred Orders under title of poverty, notwithstanding the Constitution of St. Pius V, 12 Nov. 1568? Resp. Negatively as regards Sacred Orders." Same S. C. 20 Jan. 1860. Bizzarri, Collection, p. 859, ed. 1885.

"If the professed of simple vows have been loosed from the vows emitted, whether through dismissal from the Order or through Apostolic dispensation, let the Bishop conduct himself with them as he ought to conduct himself with the rest of his diocesans." S. C. concerning the state of Regulars, 2 Jan. 1860.

"1. Whether and how the Bishop of Treviso can admit the students of the Institute of Priests *a charitate*, having simple vows, on the attestation of the Superior of the house declaring that those students are enrolled in the same house; or whether rather dimissorial and testimonial letters of the Bishop of origin or domicile are necessary, according to the form of the Constitution of Innocent XII which begins *Speculatores*. 2. Whether and how the same ought to be said as regards students already promoted to tonsure or to some order? 3. Whether and how, notwithstanding the promise of obedience made to the Bishop in sacred Ordination, it is lawful for the Superiors of the Institute to transfer the same students into another province, without leave being sought from the said Bishop? 4. Whether in the case of departure from the Institute through dismissal or dispensation, the same students are subjected to the jurisdiction of the Bishop of the diocese in which the house to which they were enrolled is situated, or rather to that Bishop to whom they were subject before they were enrolled in the Institute? Resp. To the 1st, negatively to the first part, affirmatively to the second. To the 2nd, affirmatively in all things. To the 3rd, that the Provincial Superior can freely use the faculty of transferring students of the province according to the Constitutions approved by the Holy See. To the 4th, negatively to the first part, affirmatively to the second." S. C. EE. and RR. 6 May 1864. Bizzarri, Collection, p. 706 ff., ed. 1885.

N. 709. - On Baptism with Respect to Orders

"The question was being raised whether those are to be rebaptized under condition who are to be promoted to Minor or sacred Orders, and who exhibit no document or testimony of Baptism conferred upon them, both because of lack of books, and because of the frailty of memory, or because parents, sponsors, etc., have died, or a doubt arises whether they were validly baptized by less-instructed Catechists or other Christians. Concerning this matter it is well for Your Amplitude to know that, as regards the first part of the doubt, namely the defect of testimony, it has always been

rescripted negatively, both by the S. C. and by the Supreme Inquisition, whenever questions of this kind were proposed, the common opinion being brought forward, namely that those who were born from Christian parents and educated by them in Christian manner are altogether to be presumed to have been baptized. But it is lawful to adhere to a presumption of this kind also in the other case, or when there is doubt concerning the sufficient instruction of Catechists or Christians who baptized the Cleric, for administering the Sacrament. For unless the reason for doubting is very strong, which would produce moral certitude in this or that particular case, one must stand for the validity of Baptism, nor adhere to a chance suspicion, by which either the faithful, in a matter so familiar in China, and much more Catechists, to whose deputation Apostolic Vicars proceed so cautiously, would be judged less instructed. Otherwise, indeed, and if negative doubts are admitted, a place would be made for ambiguities in any case whatsoever and without end." S. C. de P. F. 30 Sept. 1848, to the Apostolic Vicar of Western Cochinchina.

N. 710. With What Things Those to Be Ordained Ought to Be Instructed

"Those to be promoted to minor orders should have a good testimony from the Parish Priest and from the master of the school in which they are educated. But those who are to be taken up to the individual major orders shall approach the Bishop for a month before ordination; he shall commit to the Parish Priest or to another, to whom it will seem more expedient, that, the names and desire of those who wish to be promoted having been publicly proposed in the Church, concerning the birth, age, morals, and life of those to be ordained, from faith worthy persons he should inquire diligently; and testimonial letters, containing the inquiry itself that has been made, he should transmit to the Bishop himself as soon as possible." Council of Trent, sess. 23, ch. 5, de R.

On the Title of Ordination

1. Since it is altogether indecorous and wholly alien to the dignity of clerics who are constituted in sacred Orders, that they themselves should be compelled either from begged supports or from sordid gain to obtain for themselves those things which are necessary for livelihood, no one is ignorant that from the most ancient times provision was made that whoever were to be promoted in the Church of God to sacred Orders should be provided with a suitable and perpetual sustenance. Indeed formerly no one was ordained unless he was ascribed to a certain Church, to which he was perpetually attached, so that from it he might have that by which he could sustain life honorably (Council of Chalcedon, canon 6). But in later times the title of Ordination was introduced, namely that by which sufficient provision might be made for the livelihood of clerics. The necessity of this was first sanctioned for the ordination of Deacons and Presbyters, then by Innocent III was extended also to Subdeacons (Third Lateran Council, canon 5); and those things which the Synod of Trent (sess. 21, de R., ch. 2) constituted concerning this matter are known to all. Its most wholesome prescriptions, neglected in some places with the progress of time, Innocent XI of holy memory, by encyclical letters given to all Bishops through the Sacred Congregation of the Council on 13 May 1679, gravely commanded to be observed.

2. Now a twofold title is distinguished, namely ecclesiastical and patrimonial. This latter, to which Alexander III seems to have given occasion, in chap. 4, On prebends; Thomassinus, *On*

the old and new discipline of the Church, part 2, book 1, ch. 9, n. 2, and which began to come into use around the end of the thirteenth century, obtains when the one to be ordained is furnished with such certain, stable, and fruitful goods, coming from elsewhere than from the Church, which are judged, by the judgment of the Bishop, sufficient for his suitable sustenance. To the aforesaid is added the title of pension, which not only must suffice for suitable food of the cleric, but must also be perpetual. And these two titles are to be judged extraordinary, and are admitted as if by dispensation, namely if the Bishop shall have judged, for the necessity or convenience of the Church, that someone is thus to be ordained (Council of Trent, loc. cit.; and Benedict XIV, *Ecclesiastical Institution* 26, nn. 1, 3).

3. But the ecclesiastical title is subdivided into beneficial and that of poverty; to these certain other species, as it were subsidiary and extraordinary, must be added, namely the title of common table, and of service of a Church, of Mission, of sufficiency, and of College. But the title of benefice is the perpetual right of receiving fruits from the goods of the Church on account of some spiritual office constituted by ecclesiastical authority; and this ought to be called the ordinary and principal title of sacred Ordination (Fagnanus on chap. 4, On prebends, n. 24).

4. But the title of poverty is placed in religious profession, by force of which those who have emitted solemn vows in an approved Religion have all things in common, from the revenues of goods if that Religion itself possesses any, or from the pious largesses of the faithful, which they need for sustaining life. But the title which they call of common table touches those clerics who, living in the discipline of common life after the manner of Religious, either pronounce no vows, or only simple ones, and therefore are permitted to go out from or be dismissed from the religious house and return to the world. For the title of poverty does not pertain to them, as is deduced from the Constitution *Romanus Pontifex* (the day before the Ides of October 1568) of St. Pius V. But from these clerics only those can be promoted to sacred Orders under the title of common table whose Congregations or Institutes have been increased by the Apostolic See with a special privilege for this.

5. The title of service of a Church, which was formerly ordinary, as was noted above, and afterwards became extraordinary, is sometimes conceded to those who, since they lack an ecclesiastical benefice or pension, or do not possess patrimonial and other goods, are ordained on this law, that they be assigned to some Church, from whose service and from alms to be bestowed by pious Christians they can be sustained, and from the same Church they can never at any time be removed, nor can they themselves withdraw, unless provision has otherwise been made for them. It is established that Sixtus V of holy memory indulged the Patriarch of Venice that he might confer sacred Orders upon his clerics under this title (Campanile, *Diverse matters of canon law*, rubr. 8, ch. 4, n. 14; and Garcias, *On Benefices*, part 2, ch. 16, n. 96).

6. Finally, the title of Mission, concerning which the discourse here chiefly is, the titles of sufficiency and College being passed over, which, since they occur rarely, it will be enough merely to mention, is customarily employed when another legitimate title is not at hand for those who desire to be initiated into major Orders, that they may devote themselves to the service of Apostolic Missions. But this often happens in places of Missions, in which the

condition of things is such that the common law of the Church concerning those things which regard the title prerequisite for sacred Ordination cannot be observed exactly. But those who have been ordained under a title of this kind obtain the necessities of life from the apostolic ministry in the Mission to which they were assigned.

7. But it is established that Ordinaries cannot impart the gifts of the most sacred Ordinations to clerics under the title of Mission unless they are furnished with a special indult of the Holy See; for the matter concerns an extraordinary title, which has been employed beyond common law. This indult indeed is customarily conceded to Superiors of Missions or Colleges or Congregations which serve Missions, either for a certain time or for a fixed number of cases. But let Superiors remember that it must be used sparingly by them; for not all without selection are to be initiated into sacred Orders under the title of Mission who seem disposed to enter upon the course of Missions. For if according to the admonition of St. Paul hands are to be imposed quickly on no one, this is especially valid when the discourse is about those who are assumed into the arduous work of the apostolic ministry. Wherefore this title is to be employed only in favor of those who, by disposition of soul and docility, rectitude of intention, aptitude of mind, progress in sacred studies, integrity of morals, and contempt of worldly things, give hope that they will be strenuous preachers of the Gospel; concerning this the conscience of the same Superiors is strictly burdened.

8. No otherwise than the Alumni of Pontifical Colleges, all those who desire to be enrolled among sacred ministers under the title of Mission are first bound to emit an oath, by which they promise that they will give perpetual labor to the Mission to which they are destined or will be destined. This indeed the Holy See has constantly been accustomed to require from those who wish to enjoy this title, that it might consult for the service of the Missions at whose expense they are supported. To this Instruction there is subjoined the Form of that Oath, long since approved and received by use, and the Sacred Congregation altogether commands that it be used by all, so that uniformity may be preserved in this matter.

9. It is not necessary that he who is to be elevated to the most sacred Orders under this title actually be in the Mission, but it suffices that he be prepared to undertake Missions when and how Superiors shall have judged that he must be sent and shall order him to go.

10. By force of the oath taken, those who have been ordained under this title are forbidden to enter Religion without leave of the Holy See; for it is reserved to its judgment, after the report of the Ordinary whom it will concern, to judge whether the necessity of the Missions to whose service they are assigned allows this. Namely, public good must excel private good, by that reasoning by which it has been conceded to some Orders that it is not lawful for their Religious to pass to a stricter one without license of their Superiors.

11. As other titles, so also this one concerning which there is question can be lost according to canonical sanctions, and be taken away by Ordinaries, yet with the consent of the Sacred Congregation, whose part it is to release those thus ordained from the bond of the oath taken. But if the title generally has been lost, or even the title of Mission, and another is not substituted for it, the Priest does not on that account remain suspended; but Ordinaries are

bound to compel those ordained to the substitution of another title, as has been provided by the sacred Canons. This Sacred Congregation declared this in the general Meetings of 1 September 1856.

12. Likewise regular Priests who have pronounced solemn vows, and by Apostolic indulgence are permitted to live in the world, or who have issued simple vows and have gone out from their Congregations or Institutes, lest they be compelled to beg with disgrace to their own grade, are obliged to provide for themselves concerning a canonical title; but in places of Missions they are bound at least to prove that they have at hand the means by which they may provide, as is fitting, for their own sustenance.

13. Those who have ascended to ecclesiastical Orders under the title of some certain Mission, when they have dismissed the office of Missionary, without doubt lose their title and must provide themselves with another. But if they are deputed to the service of another Mission, so that they may assume the title of this Mission, there will be need of a new concession of the Holy See; for the faculty, if the Ordinary of that Mission has obtained any, of ordaining clerics under the remembered title does not avail them.

14. Let Ordinaries in Missions use the work also of those Priests who were admitted to sacred Orders under other titles, with those things observed which are to be observed by law; for they themselves cannot constrain them to substitute the title of Mission. Indeed the Sacred Congregation exhorts Ordinaries that, as far as can be done, other legitimate titles also be introduced for sacred Ordination.

15. Finally the Sacred Congregation, observing that it can greatly conduce to the increase of Missions if those who have been educated in Colleges or Seminaries of either Clergy, soon to be preachers of the Gospel, or who were promoted to Orders under the title of Mission, call to mind from time to time the oath by which they bound themselves to cooperate with God unto the salvation of souls, exhorts them that each year, on the anniversary day of the oath taken, they take care to repeat it, seriously meditating on the divine goodness toward themselves, which constituted them ministers of the Word for announcing the wonders of his virtue and power; what an unfading crown of glory has been prepared for them in heaven if they have fulfilled their office holily; and, on the contrary, how strict a judgment remains if by their negligence or sluggishness, which God forbid, anyone happens to perish. But that they may perform this more promptly and readily, let them know that Pius VI of holy memory, in the audience of 7 May 1775, imparted to each one of them a plenary indulgence, applicable also to souls detained in Purgatory and to be valid for perpetual times, not only when they shall first have emitted the aforesaid oath, but also when they shall have renewed it on the already fixed day, provided that in either case they do not omit to cleanse their conscience by the sacrament of Penance, and receive eucharistic Communion or celebrate the sacrifice of Mass." Instruction of the S. C. de P. F., 27 Apr. 1871. Cf. Wolfgang Mühlbauer, *Decreta Authentica*, v. Title of Ordination; *Acta S. Sed.* Vol. 4, p. 554 ff.; Vol. 5, p. 113 ff.; Vol. 12, p. 569 ff.

Formula of the Oath to Be Taken by Those Who Are Ordained Under the Title of Mission

I, N., son of N., of the Diocese or Vicariate N., promise and swear that after I shall have been promoted to sacred Orders, I will enter no Religion, Society, or regular Congregation without special license of the Apostolic See or of the Sacred Congregation de Propaganda Fide, nor will I emit profession in any of them.

Likewise I vow and swear that in this Diocese or Vicariate, or, according to this other mode those who have not yet been assigned to any Mission ought to swear, in the Mission to which it shall please the Holy See or the Sacred Congregation de Propaganda Fide to destine me, I will perpetually spend my labor and work in administering divine things under every kind of direction and jurisdiction of the Reverend Father Lord Ordinary for the time being, for the salvation of souls; which I will also perform if, with the license of the aforesaid Apostolic See, I shall have entered a Religion, Society, or regular Congregation and shall have emitted profession in any of them.

Likewise I vow and swear that I understand the aforesaid oath and its obligation, and will observe it. So may God help me, and these holy Gospels of God.

On Testimonial Letters

"Whether Bishop O. can confer first tonsure upon Hyacinth, the consent of the Ordinary of origin acceding, without testimonial letters in the case? Resp. Negatively." S. C. C. 11 June 1881. Cf. *Acta S. Sed.* Vol. 14, p. 397; Vol. 6, p. 498 ff.

On Spiritual Exercises to Be Performed by Those to Be Ordained

Cf. On Particular States, N. 138, 141.

N. 742. - On Ordination Outside the Times

Whether a Bishop to whom a faculty of ordaining on feast days is given can confer major orders on days of Apostles and other abrogated feasts? And also minor orders? Resp. Affirmatively to the first and affirmatively to the second, but in the morning only. S. R. C. 12 Nov. 1831. Gardell. n. 4669. And concerning feast days it was asked: "Whether under the name of feast day in the Ceremonial there comes any Sunday whatever and any Feast of Choir, lesser or greater double? Resp. Affirmatively." S. R. C. 22 Sept. 1703.

N. 716. - On the Three Masses to Be Celebrated by Newly Ordained Priests

"According to the Roman Pontifical, after the Ordination of Presbyters, the Bishop enjoins upon them the obligation of celebrating, after their first Mass, one Mass of the Holy Spirit, another of the B. M. V., and a third for the dead. In order that this obligation may be more easily fulfilled, can the said Masses be celebrated on lesser double days? Resp. Negatively, but on days permitted by the Rubric." S. R. C. 11 Apr. 1840, Barchinonen.

On Matrimony

N. 722. 723. - On Betrothals of Infants and of Those Below Puberty

"Betrothals contracted by infants, or by an older person with an infant, are null by the law itself, and cannot beget the impediment of public honesty.... If it is established that betrothals were entered into while still in infantile age, it must be investigated whether after the seventh year they were renewed, or at least ratified. But if, as sometimes happens, betrothals were contracted by parents.... if they were still in infantile age, namely the children, it is certain that the contract was void; but if they were of age or above puberty, the contract then would be valid only if the children expressly, or at least tacitly, consented, or afterwards ratified the betrothals entered into in their name by their parents." Instruction of the Holy Office, 20 June 1883, nn. 33, 34; Instruction of the S. C. de P. F., 1885, n. 35. Cf. *Acta S. Sed.* Vol. 18, p. 355 ff.

"We have it established especially by Canon Law that betrothals, whether contracted between infants or by an older person with an infant, are to be held as not done, so that they do not produce even the impediment of public honesty. Those betrothals themselves which are celebrated between persons below puberty, although Canon Law has provided that they are valid and induce an obligation, nevertheless by the same Law it has been established, because of weakness of judgment, that after puberty it is lawful to withdraw; nor is he who first reaches puberty bound to wait for the other, but at once can withdraw, indeed ought to, if he is unwilling to approve the betrothals; otherwise he will not be heard afterwards." S. C. S. O. Feb. 1779.

N. 723. - On the Validity of Betrothals

Can a Bishop issue a law which prescribes a norm of entering into betrothals, as regards their validity, alien from common law? Resp. Negatively.

It is established from the response of the S. C. C., 8 July 1865; 23 March 1878. Cf. *Acta S. Sed.* Vol. 1, p. 529; Vol. 7, p. 665; Vol. 11, p. 230. Much less can a Bishop render marriages to be contracted without previous denunciations void, by removing jurisdiction for this effect from the Parish Priest. S. C. C. at Lugo, *Moral Responses*, book 1, doubt 45.

"1. Whether betrothals which are contracted in Spain without a public document are valid? And insofar as negatively, 2. Whether an instrument drawn up in the Curia for a dispensation over some impediments can supply for a public document? Resp. To the 1st and 2nd, negatively." S. C. C. 31 Jan. 1880. Cf. Paul Villada, *Cases of Conscience Accommodated Especially to These Times*, Part 2, Brussels 1885, p. 74 ff.; *Acta S. Sed.* Vol. 13, p. 191.

N. 727. 748. 787. 834. - On Intercourse Had After Betrothals, in Places Where the Council of Trent Has Not Been Promulgated

".... For the solution of the proposed doubt, the S. C. likewise indicated that the prescription of chap. *Is qui*, 30, On betrothals and marriages, received by Gregory IX of happy memory from the pure sources of Pontifical law and promulgated to be observed among all Catholics, is to be observed. For when the Pontiff was asked what needed to be done concerning a man who, after betrothals entered

into with a woman, and intercourse had, afterwards had married and known another in the face of the Church, he gave this response: *He who gave faith to some woman that he wished to take her as wife, and if afterwards he carnally knows her, and marries another in the face of the Church, is bound to return to the first; because, although the first marriage seems presumed, nevertheless proof to the contrary is not to be admitted against such a presumption. Whence it follows that the marriage afterwards contracted in fact is not a true marriage, but null....* Place before your eyes the things which Father Pirhingius, a most approved explicator of the sacred Canons, brings forward in elucidating chap. *Is qui*. For in book 4 of the Decretals, title 1, section 1, section 5, after the remembered rule or prescription of Gregory IX, he adds these things: *The reason is, because from carnal intercourse the Church presumes in the betrothed a conjugal consent for excluding sin, namely that the betrothed man and betrothed woman wished to know each other mutually not with a fornicator's affection, but with marital affection, because offense is not to be presumed; and this is a presumption of law and of law, that is, altogether certain and indubitable, against which proof is not admitted; and consequently a betrothed man asserting that he did not know the betrothed woman with marital affection or with the intention of contracting marriage with her would not be heard* (Covarruvias, in Epitome, book 4, Decretals, part 1, ch. 4, section 1, nn. 1 and 2). *It is confirmed, because carnal intercourse following after betrothal concerning the future is a sufficient sign of consent concerning the present unto marriage; and the betrothed through it are judged to hand themselves over mutually to each other. This presumption has place only in the contentious and judicial forum, but not in the forum of conscience and penitential forum. Whence if the betrothed man truly knew the betrothed woman not with marital affection, but with fornicator's affection, it would not be a true marriage in the penitential forum and before God, because the Pope cannot make it that there be a true marriage without expressed or tacit consent* (Hostiensis here, col. 2 at the end; Fagnanus here, nn. 6 and 7). Thus far Father Pirhingius, who, while presenting this doctrine, affirms that the same is everywhere held among all treaters of the Canons. Stand here, therefore; hold fast here. Namely, even in those regions in which the Tridentine Decree on marriage has not been promulgated, if the betrothed man and betrothed woman had intercourse with each other not with marital affection but with fornicator's affection, their betrothals do not on that account pass into a true marriage before God; and therefore before God, or in the forum of conscience, the faculty has not been taken from them of passing to other vows, if a legitimate occasion offers itself of dissolving the preceding betrothals.

But if the intercourse has been brought into the external and judicial forum, the same persons could be held by the Ecclesiastical Judge as in the manner of legitimate spouses; and therefore, as long as either of them lives, they could be prohibited from any other marriage, because this is a presumption of law and of law, that is, altogether certain and indubitable, against which proof is not admitted; and consequently the betrothed man asserting that he did not know the betrothed woman with marital affection, or with the intention of contracting marriage with her, would not be heard.

Since these things are so, the S. C. judges that response should be made to the seventh doubt in this way, namely: If in the aforesaid regions, where the Decree of the Holy Council of Trent has not been published, two betrothed persons then have carnal intercourse between themselves, but not from marital affection, but from illicit and fornicator's affection, this intercourse of theirs by no means causes their preceding betrothals to pass into a true marriage before God; or in the forum of conscience they remain free, and they will be able, if the aforesaid betrothals of theirs have been dissolved from some legitimate cause, lawfully to enter other nuptials. Nevertheless, if their intercourse is proved in the external and judicial forum, they could from the presumption of law and of law, against which proof is not admitted, be compelled by ecclesiastical power to hold themselves

as true spouses, to whom, while the consort lives, any marriage is interdicted, from chap. 30, On betrothals and marriage.

But a step must be taken to untie the other doubt, which is the eighth in the series of the proposed ones, namely: What counsel is to be given to Missionaries of those regions concerning the mode to be observed, especially in the administration of the sacrament of Penance, with those faithful who, after betrothals and intercourse had with a woman, have publicly contracted nuptials with another, which they themselves in good faith judge just and valid? The Most Eminent Fathers judged that this diligence and caution is to be observed with a penitent of this kind. Let the Confessor peacefully ask him whether he had intercourse with that first woman moved by marital affection, or by illicit and fornicator's affection. If the penitent responds this latter, he will dismiss him in peace, and will raise no doubt concerning the validity of the marriage afterwards contracted. But if the penitent responds that he had intercourse with that first woman with marital affection, he will gravely admonish him that he is not the husband of the other, but of the first, and that he must altogether return to her according to the prescription of chap. *Is qui*, often remembered. But Missionaries should also have another caution before their eyes, namely, if it should happen that a penitent of this kind can by no means prove in the external forum the carnal intercourse had by him with the first woman, and therefore is compelled, by judgment of the Ecclesiastical President, to retain in honor the nuptials contracted in the sight of the Church; if this should happen, he ought patiently to tolerate any penalty, even of excommunication, rather than, certain that he is entangled by the impediment of bond, lie with the other not without grave fault. For the prescription of Innocent III of happy memory is known, expressed in chap. 44, On sentence of excommunication: *If one of the spouses*, thus he says, *knows for certain an impediment of marriage, because of which he cannot exercise carnal commerce without mortal sin, although he cannot prove it before the Church..., he ought rather humbly to sustain the sentence of excommunication than to commit mortal sin through carnal commerce.*

From the things considered thus far the S. C. embraced the response to this second doubt of this kind thus: If any one of the faithful, after betrothals and then intercourse had with one woman, publicly contracts marriage with another woman, and in this state approaches some Missionary in the tribunal of Penance, he must ask him whether he had that intercourse with that first woman from marital affection, or truly from illicit and fornicator's affection. If he responds this latter, he will raise no doubt concerning the validity of his present marriage. But if he responds the first, he will gravely admonish him that he is husband not of the second, but of the first woman, and must altogether return to her. But it is added, for the instruction of the same Missionaries, that if perchance that man, not being able to prove in the external forum the carnal intercourse had by him with that first woman, should hence be compelled by ecclesiastical power to remain with the other woman with whom he publicly contracted marriage, he ought humbly rather to sustain any penalty whatever, even excommunication itself, than to exercise carnal commerce with this other woman not without lethal fault, from chap. 44, On sentence of excommunication...." Instruction of the S. C. de P. F. 17 Jan. 1821, to the Bishops and Apostolic Vicars in the Empire of China and the Kingdoms and Provinces adjacent to it. Pius VII approved it and ordered it to be observed altogether.

".... Common law having been inspected, betrothals concerning the future, intercourse following, pass into true marriage, from chap. *Is qui*, 30, On betrothals and marriages.... Conformable to this Decretal Epistle is another which Pope Alexander III had already issued before, and which is read in

chap. *Veniens*, 15, same title, whose words are these: *Coming to us, he showed us by his report that in his house he received a certain woman, by whom he had offspring, and to whom he pledged faith before many persons that he would take her as wife; meanwhile, however, when he was spending the night at the house of his neighbor, his daughter on that night lay with him; the girl's father, finding them together in his bed, compelled him to betroth her by words concerning the present. And therefore we command that, if you find that after faith pledged he knew the first, you make him remain with her; otherwise you make him adhere to the second as wife, unless he betrothed her compelled by fear which could fall upon a constant man.*

This canonical disposition is indeed founded in presumption, but this presumption is so great that proof is not admitted against it, and therefore it is customarily called a presumption of law and of law. Most learned Emmanuel Gonzalez writes rightly to this matter: *from intercourse following, the Church presumes conjugal consent rather than fornicator's, namely by a benign interpretation, so that the presumption of sin may be avoided.... It is added, because the betrothed, consenting to intercourse, seem first to consent to marriage as the necessary preamble to lawful intercourse.... Nor against this presumption, when intercourse has followed, is any proof admitted, since it is of law and of law.* And Pirhing on this title, section 1, par. 5, n. 27.... Covarruvias, in Epitome, book 4, Decretals, p. 7, ch. 4, part 1, nn. 1 and 2. Schmalzgrueber has similar things there, par. 2, n. 116; Fagnanus there, nn. 2, 3, 4; and all Canonists.

The doctrine is not the same with relation to the internal and penitential forum; for in this forum, if the betrothed man knew the betrothed woman not with marital affection, but with fornicator's affection, through intercourse following the betrothals these would not pass into marriage; for in the internal forum, not presumption, but the truth of the matter must be attended to. It is well to hear the just-praised Fagnanus writing thus: *Nevertheless this presumption has place only in the contentious and judicial forum, but not in the forum of the soul, in which there is not presumption or fiction, but the truth itself. Whence, if the betrothed man truly knew the betrothed woman not with wifely affection, but with fornicator's, there would not be marriage in the penitential forum and as regards God.* Chap. *Tuam*, above, same title. For, as Ioannes Andreae says, here n. 4, after Hostiensis, under n. 3, v. *Thus the Pope*: *If the betrothed man in no way consented to the first, but to the second, even if the Pope is above the law, nevertheless consent cannot be valid, nor can he urge a man against conscience.* In the same place, nn. 5, 6, 7, Pirhing writes equal things...." S. C. de P. F. 23 June 1850.

N. 730. - On Civil Marriage

".... But indeed, in carrying out the mandates of the Holy Father, this Sacred Penitentiary judges it superfluous to recall to the memory of each one what is a most known dogma of our most holy religion, namely that Matrimony is one of the seven Sacraments instituted by Christ the Lord, and therefore that its direction pertains uniquely to the Church herself, to whom the same Christ committed the dispensation of his divine mysteries. Then it also judges it superfluous to recall to the memory of each one the form prescribed by the Holy Synod of Trent, sess. 24, ch. 1, on reform of marriage, without whose observance, in places where it was promulgated, Matrimony could by no means be validly contracted.

3. But from these and other axioms and Catholic doctrines, Pastors of souls ought to compose practical instructions, by which they may persuade the faithful also of that which Our Most Holy Lord proclaimed in secret Consistory on 27 September 1852, that is: *Among the faithful there cannot be Matrimony without its being at one and the same time a Sacrament; and therefore any other*

union between Christians of man and woman, apart from the Sacrament, even one made by force of civil law, is nothing else except a base and deadly concubinage.

And hence they will easily be able to deduce that the civil act before God and his Church can in no way be held not only as a Sacrament, but not even as a contract; and, just as civil power is incapable of binding any one of the faithful in marriage, so also is it incapable of dissolving. Therefore, as this Sacred Penitentiary already at other times declared in some responses to particular doubts, every sentence concerning separation of spouses joined by legitimate Matrimony before the Church, brought by lay power, is of no value; and the spouse who, abusing a sentence of this kind, would dare to join himself to another person, will be a true adulterer; just as he would be a true concubinary who would presume to persist in marriage by force of only a civil act; and each is unworthy of absolution until he repents and, subjecting himself to the prescriptions of the Church, is converted to penance.

But although the true Matrimony of the faithful is contracted only when a man and woman free from impediments make manifest their mutual consent before the Parish Priest and witnesses, according to the cited form of the Holy Council of Trent, and a marriage thus contracted obtains all its value, nor is there need that it be ratified or confirmed by civil power; nevertheless, to avoid vexations and penalties, and because of the good of offspring, which otherwise would by no means be held legitimate by lay power, and also to avert the danger of polygamy, it seems opportune and expedient that the same faithful, after they have legitimately contracted Matrimony before the Church, present themselves, to carry out the act decreed by law, yet with this intention, as Benedict XIV teaches in the Brief of 17 September 1746, *Redditae sunt Nobis*, that by presenting themselves to the Official of the Government they do nothing else than execute the civil ceremony.

For the same reasons, but by no means in order that they cooperate with the execution of the unhappy law, Parish Priests should not so easily and promiscuously admit to the celebration of marriage before the Church those faithful who, because they are kept away by law, would then not be admitted to the civil act and consequently would not be held as legitimate spouses. In this matter they will have to use much caution and prudence, and ask the counsel of the Ordinary; and let him not be easy in assenting, but in graver cases let him consult this sacred Tribunal.

But if it is opportune and expedient that the faithful presenting themselves to perform the civil act prove themselves legitimate spouses before the law, nevertheless they ought by no means to perform this act before they have celebrated the marriage before the Church. And if some coercion or absolute necessity, which is not easily to be admitted, should be the cause of inverting this order, then every diligence will have to be used that the marriage be contracted before the Church as soon as possible, and meanwhile that the contracting parties remain separated. Concerning this matter this Sacred Penitentiary exhorts each one that he follow and hold the doctrine set forth by Benedict XIV in the Brief of which mention was made above, to which both Pius VI in his Brief to the Bishops of France, *Laudabilem Maiorum suorum*, given on 20 September 1791, and Pius VII in his letters given on 11 June 1808 to the Bishops of Picenum, referred those same Bishops for the sake of instruction, who had requested norms by which they might direct the faithful in a similar contingency of a civil act. After all these things it is easy to see that the practice observed thus far concerning Matrimony, and specifically concerning parish books, betrothals, and matrimonial impediments of whatever nature, whether constituted or admitted by the Church, is in no way varied." Instruction of the Sacred Penitentiary, 15 Jan. 1866. Cf. N. 819.

N. 736. - On the Time of Banns

"Whether the Ordinary can, for a cause, dispense that while Vespers are sung, denunciations can be made, yet on feast days? Resp. That he can so dispense for a cause." S. C. C. 25 Oct. 1586.

"Whether on abrogated feast days denunciations of marriages can be made in the case? Resp. Negatively, unless with license of the Bishop under the conditions according to the form Brunen., 5 July 1780, the matter having been discussed with the Most Holy One." In Tudertina, Denunciation of marriage, 19 Apr. 1823. Now the Brunen. form requires, besides a grave cause, that "on those days which are not feast days, a frequent attendance of the people at the Church still perseveres."

"Whether and at what time denunciations and the explanation of the Gospel ought to be made in the case? Resp. Affirmatively, and as regards the explanation of the Gospel in the parochial Mass, and as regards denunciations in the same Mass, or at another hour more frequented by the people." S. C. C. 20 Sept. 1828.

N. 738. - On Proof of Free Status

Cf. Instruction of the S. C. I., 21 Aug. 1670; Lucidi, Vol. 3, 3rd ed., p. 605 ff.

N. 739. - On Secret Marriages

".... An equal, indeed perhaps a greater vigilance must also be employed by you, lest, after the Denunciations have been remitted, Matrimony be celebrated before the Parish Priest, or another Priest deputed by the Parish Priest himself or by you, with two or three trusted witnesses present, lest any notice or rumor of the celebration arise. For in order that this can be done lawfully according to the prescription of the sacred Canons, not just any obvious and common cause is enough, but a grave, urgent, and most urgent one is required.... But after the Matrimony has been celebrated, without delay by the Parish Priest or other priest before whom it was entered into, a written document of it is to be exhibited to the Bishop, with note of place and time, and of the witnesses who were present at the celebration. It will afterwards be yours diligently to see that, for perpetual memory of the thing done, the aforesaid document is faithfully transferred into a book wholly distinct from the other in which publicly contracted Marriages are noted. A book of this kind, suitably bound for secret Marriages, closed and sealed with seals, is to be cautiously kept in your Episcopal Chancery. And you will suffer it to be unsealed and opened, your license acceding, only in that case in which other Marriages of this kind must be written down, or the necessity of administering justice claims this for itself, or finally those having true interest demand some document from it," etc. Benedict XIV, Const. *Satis vobis*, 17 Nov. 1741.

N. 752. - On Marriage Entered into in a Place Where the Universal Custom of Divorce Flourishes, with Ignorance of the Indissolubility of the Same Marriage

"Marriages entered into with only the error of the contracting parties that the bond of consummated marriage can be dissolved in the case of adultery or for other causes are valid. But if they were entered into under this express condition, they are to be held invalid." S. C. S. I. 11 March 1868; 18 Dec. 1872.

N. 759. - On the Necessity of Interpellation of an Unbelieving Spouse

"1. Whether, for the effect of dissolving marriage according to the privilege conceded by Christ the Lord in favor of the faith and promulgated by the Apostle, the interpellation of the party persevering in unbelief is by Divine law and therefore so necessary that, it having been neglected, there is plainly no place for dissolving the marriage? Or whether it belongs only to judicial form, and is not required except so that the dissolution be done licitly, especially when it is otherwise established, by morally certain indications, that the other spouse wishes neither to embrace the faith nor to cohabit without contumely of the Creator?

2. Supposing that the first part is answered affirmatively, it is asked whether the interrogation concerning the Religion to be embraced alone suffices, namely whether the party remaining in unbelief wishes to be converted or not, which some of the Missionaries think, relying on the authority of Thomas Sanchez; or rather whether the interpellation whether at least the party persevering in unbelief consents to cohabit without contumely of the Creator is also essential and absolutely required, so that, it having been omitted, the marriage can be dissolved not only not licitly, but also not validly?

3. Whether the solemn expulsion of a wife made by a husband, namely by giving a bill of repudiation before the chiefs of the village, according to the laws of the Kingdom, can hold the place of interpellation and be reputed for it, since it is most certain concerning the will of that husband, namely that he in no way wishes to have the aforesaid woman as wife for the future; or rather, no account being had of the repudiation, in those circumstances also, the double interpellation prescribed in law is required for the validity of the dissolution of the marriage?

4. It is asked how a Missionary ought to conduct himself toward an unbelieving woman, repudiated without any cause of adultery by her husband, also an unbeliever, who has married another, when she asks to be baptized, and there is suspicion whether she is prepared in soul to return to her husband, if perhaps afterwards he recalls her and consents to cohabit without contumely of the Creator? Ought he first to question her concerning this matter, and meanwhile defer Baptism until she is better disposed, even with danger of dying without Baptism? But what if she consents, but only with this condition, namely when the concubine shall have been expelled?

5. It is asked whether adultery gives occasion to unbelieving spouses, just as to Christians, of celebrating perpetual divorce, so that it is altogether intact for the innocent party, when he or she shall have been washed in the sacred Font, either to send a notice of renunciation to the world, or to pass life in the state of widowhood, although the other party wishes to be reconciled and to cohabit without contumely of the Creator?

6. Since an unbelieving husband permits his wife, already tinged with the waters of holy Baptism, indeed to observe Religion, nor does he formally command anything of mortal sin, but in the use of marriage he entices her very importunately to many grave things against conjugal chastity, so that the woman is always in grave danger of sinning mortally: It is asked, in this case, whether the aforesaid woman can leave him and pass to other vows? But what if the danger does not come from the other spouse, but from others who are in the same house, for

example from a father-in-law who solicits his daughter-in-law to incest, or from a mother-in-law, a most quarrelsome woman and very much addicted to superstitions?

Resp. To the 1st: There is no place for dissolution of a marriage contracted in unbelief, in the case concerning which there is question, unless interpellation has first been made, or unless, for legitimate causes, an apostolic dispensation concerning the interpellation has been obtained.

To the 2nd: The unbelieving spouse is to be interpellated, not only whether he or she wishes to be converted, but also, in the case in which he or she does not wish to be converted, whether he or she wishes to cohabit with the faithful spouse without contumely of the Creator, according to the disposition of Innocent III, chap. *Quanto*, On divorces.

To the 3rd: Interpellation is to be made, even in the case concerning which there is question, if it can be done, or recourse is to be had to the Apostolic See for obtaining dispensation.

To the 4th: Nothing prevents Baptism from being conferred on the woman concerning whom there is question in the case, provided she is otherwise sufficiently instructed.

To the 5th: A spouse converted to the faith and baptized can make divorce, as regards bed, from an unbelieving spouse because of adultery committed by him, although he seeks pardon and wishes to cohabit without contumely of the Creator.

To the 6th: A converted woman can withdraw from an unbelieving man and pass to other vows, in the case in which he draws her to grave sins against conjugal chastity (chap. *Quanto* and chap. *Gaudemus* of Innocent III, On divorces). But if the drawing of the converted woman to mortal sin does not come from her unbelieving husband, but from others who dwell in his house, a father-in-law, for example, or a mother-in-law, the faithful woman, where other means are not at hand, can withdraw herself from that house where she is drawn to grave sinning; but she cannot dissolve the marriage and pass to another." S. C. de P. F. 5 March 1816, to the Provicar General of Western Tongking.

"If the marriage happened with the Catholic party after the reception of baptism, it will have to be inquired whether there had preceded the canonical interpellation of the spouse still unbelieving, or at least whether dispensation concerning that interpellation had been granted by legitimate authority. Insofar as it shall be established that the interpellation was made, or that dispensation from it was granted, the first marriage can no longer constitute a bond invalidating the second union; but insofar as neither the interpellation nor the dispensation from it preceded, the first marriage will indeed obstruct the second, but the Ordinary will have to suspend judgment and refer the case with all its circumstances to the Holy See." Instr. S. O. 20 June 1883, n. 44; Instr. S. C. de P. F. 1883, n. 45.

"What is to be thought concerning the marriage of the said man with a Christian girl, contracted without interpellation and dispensation, and what is now to be done? From the things set forth, the first marriage contracted by the man in gentility with a gentile woman subsists, and therefore R. P. D. the Apostolic Vicar, the Orator, should take care, in the more prudent way in which it can be done, to call the parties to himself for the producing of their rights, and, if he finds nothing to the contrary, should oblige him to return to the first marriage." S. C. S. I. 20 June 1858; S. C. de P. F. March 1816.

"There are gentiles who, for the sake of carrying on commerce, leave their own place for a time, that they may betake themselves to other Provinces at a distance of ten or fifteen days' journey, and sometimes more, and there they take other wives while the first are living. One of these recently was

converted to the faith with his second wife; then, receiving a message that the first wife was grieving over his conversion, and even was urging him not to embrace the faith, he asked for Baptism, promising that he, content with the second, would absolutely abandon this first wife, and that in no way would he cohabit with her when returned to his own places. A certain Chinese Missionary, to whom the faculty of dispensing from the monition had in no way been granted by the Apostolic Vicar, assented to his wishes, and, judging that in this circumstance there was no place for doubt, baptized this Christian together with his second wife, and, having compelled them to a renewal of consent, joined them in solemn marriage. Afterwards that Christian, having returned, found the first wife changed, and in every way disposed to embracing the faith. It is asked whether, in the proposed case, the marriage entered into with the second wife is valid? The reason for doubting for us is, on the one hand, that that Missionary had no faculty of dispensing from the monition; but, on the other hand, several Missionaries protest, indeed admitting that in this case the marriage with the second wife had been celebrated illicitly, but not so certainly invalidly: both because, on 5 January 1777, when the S. C. de P. F. was interrogated by us whether certain marriages of this sort, celebrated through ignorance without dispensation, would be invalid, it answered nothing, although it answered other things; and because, with Benedict XIV of holy memory as witness, book 13, *On the Diocesan Synod*, ch. 21, art. 6, most Theologians assert that judicial interpellation can licitly be omitted as often as it is judged to be of no utility; but the Supreme Pontiff does not reject this opinion as false, and declares it only not sufficiently safe in practice. But in the proposed case the interpellation seemed useless to them, since it was clearly established concerning the will of the prior wife. Resp. With attention to the circumstances concurring in the fact, the spouses of whom there is question are not to be disturbed; but let Missionaries beware of imparting dispensation from the interpellation of the spouse if they lack a faculty of this sort."

"Whether, when marriage has been delayed on the part of the faithful party for a notable time after the interpellation made, or after a dispensation from it has been obtained, a new interpellation, or a new dispensation, is necessary? And insofar as affirmatively, what space of time ought to intervene between the first and the second, either interpellation or dispensation from it? Resp. Negatively, insofar as the interpellation was made; affirmatively, after a year, in the case of dispensation obtained at the beginning." S. C. de P. F. 26 June 1820, D. Escodeca, Missionary Ap. in Sutchuen.

"The interpellation is to be made after Baptism." S. C. S. I. 13 Apr.

1859, 21 Nov. 1883. For a grave cause, and with special faculty obtained from the Apostolic See, it can also be made before Baptism. S. C. S. I. 3 June 1874.

On the Impossibility of Interpellation and the Apostolic Indult

"... We decree that those who before conversion had several wives according to their customs, and do not remember whom they took first, when converted to the faith, should take one of them whom they wish, and with her contract marriage by words de praesenti, as is customary; but those who remember whom they took first, the others having been dismissed, should retain her." Paul III, Const. *Altitudo Divini consilii*, 1537, for the West Indies.

"... Therefore, since, as We have received, among the Indians remaining in their infidelity several wives are permitted, whom they themselves repudiate even for the lightest causes, from this it has happened that, for those receiving Baptism, it has been permitted to remain with that wife who has

been baptized together with the husband; and since it very often happens that she is not the first spouse, whence both Ministers and Bishops are tormented by very grave scruples, thinking that that is not a true marriage; but since it is very harsh to separate them from the wives with whom these Indians have received Baptism, especially because it would be most difficult to find the first spouse: therefore We, wishing kindly to consult with paternal affection for the state of the said Indians, and to free the Bishops and Ministers themselves from scruples of this sort, of Our own motion and from Our certain knowledge, and from the fullness of apostolic power, by the apostolic authority and tenor of the present letters declare that Indians thus baptized, as is premised, and to be baptized in the future, may remain with the wife who has been baptized and will be baptized with them, as with a legitimate wife, the others having been dismissed, and that a marriage of this sort legitimately subsists between them, etc." Pius V, 2 Aug. 1571.

"Since therefore it often happens that many Infidels of either sex, but especially of the male sex, after marriages contracted according to the gentile rite, captured by enemies from Ancola, Ethiopia, Brazil, and other Indian regions, are carried away from their native territories and their own spouses into most remote regions, so that both they themselves, and the captives who remain in the fatherland, if afterwards they are converted to the faith, cannot warn their unbelieving spouses, separated by so long an interval of places, whether they wish to cohabit with them without contumely of the Creator, as is proper, either because sometimes there is no access even for messengers to hostile and barbarous provinces, or because they are wholly ignorant into what regions they have been transported, or because the very length of the journey brings great difficulty: for that reason We, considering that marriages of this sort contracted among Infidels are indeed true, but not to be judged so ratified that, necessity persuading, they cannot be dissolved, having compassion with paternal piety on the weakness of such peoples, grant, to all and singular the local Ordinaries and Parish Priests of the said places, and to Priests of the Society of Jesus approved for hearing confessions by the Superiors of the same Society, and sent for the time to the said regions, or admitted in them, by apostolic authority and the tenor of the present letters, full faculty of dispensing with whatsoever faithful Christians of either sex dwelling in the said regions and later converted to the faith, who before receiving Baptism had contracted marriage, so that each of them, the unbelieving spouse surviving, and his or her consent in no way required, or response not awaited, may licitly contract and solemnize in the face of the Church marriages with any faithful person even of another rite, and may afterwards, when they have been consummated by carnal copula, remain in them as long as they live: provided that it is established, summarily and extrajudicially, that the absent spouse, as is stated above, cannot legitimately be warned, or, having been warned, has not signified his or her will within the time fixed in that same warning; which marriages indeed, even if afterwards it should become known that the prior Infidel spouses, justly impeded, were unable to declare their will, and were converted to the faith even at the time of the second marriage contracted, nevertheless must never be rescinded, but are to be valid and firm, and We decree that the offspring to be received therefrom will be legitimate." Gregory XIII, 25 Jan. 1585. Cf. Const. of Benedict XIV, *In suprema Catholicae Ecclesiae*, 16 Jan. 1745.

"... There are several among the Christians who, in the time of gentility, sold their own wives to Gentiles, afterwards embraced the faith, received sacred Baptism, and in good faith entered into a new marriage with Christian women without any prior monition, either because they were ignorant of its necessity, or because the sold wife was too far distant, or because they did not know where she

was now living, or finally because they feared that on account of the monition they would be ill-treated by the second husband and accused before the Prefects concerning the Christian Religion. It is asked: 1. Whether a marriage made in these circumstances is valid? 2. Whether and when there belongs to the Apostolic Vicars of this part the right of dispensing from the aforesaid monition, especially if the Christian has had children from the second Christian wife? But if it does not belong, it is humbly requested. 3. When these women thus sold have migrated to provinces in which the number of Christians abounds, and they cannot be found nor is there any message concerning them, whether ignorance of the fact, namely whether perhaps they had become Christians before the seller passed to second nuptials, ought to impede the dispensation? 4. Finally, whether, in the hypothesis in which these women can be warned, it suffices once to exhort them, either personally or through another, that they become Christians, saying nothing concerning the marriage, so that if on this occasion the aforesaid women are unwilling to be converted, it is lawful for the faithful party to pass to new nuptials? Resp. To the 1st, 2nd, and 3rd: The Most Holy One is to be supplicated for the concession of an Indult according to the Brief of Gregory XIII of the year 1585, and the Instruction of the Holy Office of the year 1760, which is to be transmitted; once that Indult has been obtained, the Apostolic Vicar can use the faculty of dispensing according to the form of the mentioned Brief of Gregory XIII and of the Instruction. To the 4th: Negatively." S. C. de P. F. 3 Jan. 1777, Missionary of the Province of Sutchuen in China.

"1. Whether under the name of a legitimate impediment, by which the faithful spouse is dispensed from the interpellation of the unbelieving spouse, there comes only the presumption of the shamelessness of the man who, just as the first time he sold his wife, seems to be feared lest, having recovered her, he would dare to sell her a second time also? 2. Whether there comes only the presumption that the unbelieving party is unwilling to return, namely because in the preceding cohabitation, either on account of diversity of temperaments or from other causes, both disagreed among themselves and were agitated by continual dissensions? 3. Whether there comes only the presumption that the unbelieving husband, from the fact that he has already passed to other nuptials, is unwilling to reject the second wife so as to adhere again to the first; or, if perhaps he wishes again to receive the first, nevertheless is unwilling to reject the second, but to retain both together? 4. Whether there comes only the fear of Christians, namely lest the unbelieving party, understanding from the interpellation made to him that there are Christians in such a place, could thence bring trouble upon the Christian Religion? Resp. To the 1st, 2nd, and 3rd: Negatively. To the 4th: In a case of this sort, the Apostolic See is to be consulted." Clement XIV in C. S. O. 23 Nov. 1769, Apostolic Vicar of Shensi and Shansi.

On the Omission of Either Part of the Interpellation

"When Christians make the interpellations of the prior unbelieving spouse, if the unbelieving spouse responds that he wishes to receive his faithful consort, then they ask that person whether he wishes to be converted, and whether at least he consents to cohabit peacefully without contumely of the Creator. But if the unbelieving party immediately responds that he does not wish any longer to receive the prior faithful spouse or to return to that person, then they ask nothing further, because they fear lest the Pagans become more indignant and blaspheme against the Christian Religion. Therefore it is asked whether it can be permitted to the faithful party to contract marriage with another faithful person, even if in the interpellation of the prior unbelieving spouse the question was

omitted whether he wishes to be converted, and whether he at least consents to cohabit together without contumely of the Creator? But if Your Holiness shall have judged that the omission of the said questions, whether the unbelieving spouse wishes to be converted, and whether he wishes at least to cohabit without contumely of the Creator, renders the interpellation null or insufficient, so that by force of an interpellation of this sort, the faithful party cannot validly contract another marriage with some faithful person, then the aforesaid Apostolic Vicar humbly supplicates that Your Holiness sanate in the root the many marriages which in the Vicariate of Sutchuen were contracted after an interpellation made without the said questions. Gregory XVI, the matters set forth having been weighed, benignly sanates and convalidates in the root the marriages contracted as above in the Vicariate of Sutchuen, with the omission of the questions, as is set forth in the suppliant libellus, just as if, in the marriages contracted, the interpellations had been made." 17 Jan. 1836, Apostolic Vicar of Sutchuen.

"Whether the question concerning embracing religion alone suffices, namely whether the party remaining in infidelity wishes to be converted or not, ... or rather whether the interpellation, whether at least the party persevering in infidelity consents to cohabit without contumely of the Creator, is also essential and absolutely required; so that, if it is omitted, not only illicitly but also invalidly can the marriage be dissolved? Resp. The unbelieving spouse must be interpellated not only whether he wishes to be converted, but also, in the case in which he is unwilling to be converted, whether he wishes to cohabit with the faithful spouse without contumely of the Creator, according to the disposition of Innocent III, chap. *Quanto, de divort*." S. C. de P. F. 5 March 1816; S. O. and S. C. de P. F. 25 Jan. 1886. Cf. *The Pastoral Gazette*, Bombay 1886, n. 155, p. 1280.

On the Departure of an Unbelieving Spouse, Impeded, After Long Dwelling Together, Because of Discords and Other Causes, Refusing the Education of the Offspring in the Christian Religion, After Dispensation Obtained, Because of Adultery; On Departure as to Catechumens

"Certain persons recently converted to the faith interpellate the unbelieving spouse, whether she wishes to be converted or at least to dwell peacefully. She responds that she indeed wishes it, but that she is detained by a second husband or by a creditor, who do not allow her to depart. It is asked whether in this case the converted spouse can pass to other nuptials? Resp. Affirmatively: namely that the converted person of whom there is question, if he has not legitimately been dispensed by the Apostolic See, is bound by Divine precept to make, in the present case, one interpellation of the other spouse; but he can make it several times from mere charity. But when this condition divinely enjoined has been fulfilled by the converted person, if the pagan wife has not returned to him within some just and reasonable space of time, the aforesaid converted man can licitly and validly enter into other nuptials, but with a Christian woman, provided that the man is not the cause of the impediment by which the woman is detained." S. C. S. O. 12 June 1850, Apostolic Vicar of Western Cochinchina.

"It often happens that, of two infidels, one is converted to the faith; the other indeed then does not wish to be converted, yet consents to cohabit with the faithful person without contumely of the Creator and without drawing him into mortal sin; indeed he promises that he too will afterwards embrace the faith, which, for some special reason, he judges it necessary to defer for some time.

Wherefore the faithful person does not dismiss the unbeliever, but they go on cohabiting as spouses, and this for a long time and even for some years; but afterwards the unbeliever, with will changed, not only does not wish to be converted, but attempts to draw the faithful person to the worship of idols, or departs and no longer consents to dwell with him, indeed he himself passes to other nuptials. It is asked:

1. Whether in this case also the faithful person who has been deserted can depart, and pass to other nuptials, and whether here there has place the privilege promulgated by the Apostle: *If the unbeliever departs, let him depart*? 2. Whether that has place only when the unbeliever departs out of hatred of the faith, or also when he departs because of discords, or another cause different from the faith? 3. Whether the faithful person can also pass to other nuptials when the unbeliever for whatever cause has departed from him, and it cannot be known whether he is still living or not? 4. Whether a faithful person who from dispensation has validly contracted marriage with an unbeliever can pass to other nuptials if the unbeliever departs, or is unwilling to cohabit, or draws him to mortal sin? 5. Whether, and for how much time, a faithful person after conversion can cohabit with an unbeliever without being deprived of the power of passing to other nuptials?

Resp. To the 1st: In the case of which there is question, affirmatively. To the 2nd: Since the favor of the faith fights on the side of the converted spouse, he can use it from whatever cause, provided it is just, namely if he has not given a just and reasonable motive for the other spouse to depart, e.g. adultery, yet in such a way that the yoke of the matrimonial bond with the unbeliever is then only understood to be dissolved when the converted spouse, the other after interpellation refusing to be converted, passes to other vows with a faithful person. To the 3rd: An interpellation must be premised, by which it is intimated to the unbelieving spouse whether he wishes to be converted; from which interpellation the Apostolic See dispenses for just causes. To the 4th: If the faithful person, with prior dispensation, contracted marriage with an unbeliever, he is judged to have contracted it with an explicit condition, namely provided that the unbeliever is willing to cohabit with him without contumely of the Creator; wherefore, if the unbeliever does not observe the aforesaid condition, the remedies of law are to be applied so that he may observe it; otherwise they must be separated as to bed and cohabitation, but not as to the bond; for which reason in the case of which there is question, while the unbelieving spouse survives, the faithful person cannot pass to other vows. To the 5th: The person converted to the faith, at the very moment of conversion, is not understood to be loosed from the bond of marriage contracted with the unbeliever still surviving, but then only acquires the right of passing to other nuptials, yet with a faithful spouse, and this if the unbelieving spouse after interpellation refuses to be converted. Moreover only then is the bond of marriage dissolved, when the converted spouse passes effectively to other nuptials. If a gentile converted before the reception of Baptism has several wives, and the first refuses to embrace the faith, then he can legitimately retain any one of them, provided that she become faithful; but in this case the contracting parties must renew mutual consent before the Parish Priest and witnesses." Clement XIII in S. C. S. O. 5 Aug. 1759, Bishop of Cochinchina; S. C. de P. F. 30 Jan. 1807, Apostolic Vicar of Sutchuen.

"The refusal of the education of the offspring in the Catholic Religion is equivalent to contumely of the Creator." S. C. S. I. 14 Dec. 1848.

An unbeliever converted to the faith, with the unbelieving spouse departing after interpellation, can marry an unbeliever by apostolic dispensation. Through it, with the impediment of disparity of worship ceasing, the one marrying in this way "must be said to be loosed from the bond of the prior marriage, as if he had married a faithful person." S. C. de P. F. 28 May 1846.

"It is altogether forbidden for Christians to marry a pagan; but if, after dispensation from disparity of worship has first been obtained from the Holy See, marriages of this sort sometimes happen to be made, it is known that that marriage will be indissoluble as to the bond, and can be dissolved only as to bed, if canonical motives are present, to be acknowledged by the Ecclesiastical Judge. Never therefore, while that unbelieving man is living, even if he is living in concubinage, will a Christian woman be able to enter second nuptials. But if the case concerns the pagan wife of some pagan concubinary, who is converted, then, the interpellation having been made as above, if he refuses to be converted or to cohabit without injury of the Creator, and therefore to desist from concubinage, which certainly cannot be had without injury of the Creator, she will be able to use the privilege in favor of the faith. Generally, if the conversion of the spouse preceded the marriage with an unbeliever, entered into with previous Apostolic dispensation, he can in no way enjoy that privilege conceded in favor of the faith; but if the marriage preceded the conversion, then the converted party will be able to use that privilege, with the things to be observed being observed, as has been said...." S. C. S. O. 4 July 1855.

"If a faithful person, having had a dispensation, contracted marriage with an unbeliever, who, with no account taken of the promise made in contracting the marriage, after some time draws the faithful spouse to sin, or is unwilling to live with her except with contumely of the Creator, or even departs, the remedies of law are to be applied for this, that he may observe the promise made, or, if he refuses to observe it, they must be separated as to bed and dwelling; but as long as he lives the faithful party cannot pass to other vows." S. C. S. O. 1 Aug. 1755.

"... if a marriage entered into with an unbeliever was convalidated by dispensation, it must be and be held as indissoluble, nor indeed will there be any power which can dissolve a marriage of this sort, since this is a matter which admits no doubt at all, since it is a dogma of the Christian Religion that the knot of a valid and consummated marriage is indissoluble." S. C. de P. F. 15 Feb. 1781.

"In the case of a marriage to be dissolved from the privilege promulgated by the Apostle in favor of the faith, only these two things are to be considered, concerning which interpellation must be made: 1. Whether the unbelieving party wishes to be converted. 2. Whether at least the party wishes to cohabit without contumely of the Creator, no account besides being taken whether or not either adultery or repudiation preceded." S. C. de P. F. 17 Jan. 1797.

"The Responses or Decrees, one of the Supreme Inquisition on 5 Aug. 1759, the other of this Sacred Congregation on 17 Jan. 1797, are by no means in conflict with each other.... For in the case proposed by the Bishop of Cochinchina in the year 1759 ... it was asked besides whether the privilege of the faith likewise remained intact for the faithful party, even if the unbeliever departed from her for other causes independent of her conversion and faith, and the response was negative, if the faithful party, after a long time of peaceful cohabitation after conversion, furnished to the unbelieving party a just and reasonable cause of departing, for example through adultery; and for that reason there was added: provided that the faithful party has not given a just and reasonable motive for departing.

Conversely, in the Decree of this Sacred Congregation in the year 1797, it was a question of the case in which adultery of the faithful party had been perpetrated before his conversion, with repudiation then following, and it was asked whether the party, already adulterous and repudiated, if afterwards he had embraced the Christian faith and the unbelieving party had refused to cohabit with him, could use the privilege conceded in favor of the faith and pass to other nuptials; and it was justly answered: affirmatively, only the interpellation being premised, and no account besides being taken whether or not either adultery or repudiation had preceded, since the stain of adultery preceding was to be judged taken away through conversion and Baptism, and the unbelieving party irrationally and unjustly persevered in the plan taken up of by no means reconciling himself to the faithful party. Wherefore if in this case the unbeliever, having received the interpellation, refuses to receive the faithful party and to dwell with him without injury of the Creator, it is not just that, because of this irrational conversion, the faithful party remain in the state of voluntary continence, with danger of sinning." S. C. de P. F. 30 Jan. 1807.

"Whether the words of D. Paul, 1 Cor. 7:15, *but if the unbeliever departs, let him depart*, are thus to be understood also of Catechumens, or rather, whether Titius, a Catechumen, can marry Bertha, a Catechumen, and repudiated by her unbelieving husband because of Religion? Resp. Negatively, because marriage is not dissolved except through Baptism." S. C. de P. F. 16 Jan. 1803.

N. 769. - On the Marriage of Those Who Are Notoriously Bound by Censure

Cf. *On the Sacraments in General*, N. 218.

N. 770. - On the Nuptial Blessing

The Nuptial Blessing, which pertains to the solemnity of nuptials and is contained in the Missal, in the Mass for Bridegroom and Bride, is carefully to be distinguished from the rite of celebrating the Sacrament of Matrimony, by which the Priest joins the spouses and blesses the ring, and which is contained in the Roman Ritual.

"The nuptial blessing, which the Missal exhibits in the Mass for bridegroom and bride, is always to be imparted in the marriage of Catholics, yet within the celebration of Mass, according to the rubrics, and outside the closed time, to all those spouses who did not obtain it in contracting marriage, from whatever cause; even if they ask after they have already lived for a long time in marriage, provided that the woman, if a widow, did not receive that blessing in other nuptials. Moreover the same Catholic spouses who did not obtain the blessing of their marriage are to be exhorted that they ask it at the first possible time. But it must be signified to them, especially if they are neophytes, or contracted validly before conversion, that the blessing itself pertains to the rite and solemnity, but not to the substance and validity, of the marriage." S. I. C. 31 Aug. 1881, General Decree; S. R. C. 9 May 1885.

"The Holy See exhorts the faithful to supply the nuptial Blessing of the Parish Priest in marriages celebrated clandestinely. It is asked whether only the solemn Blessing is intended, which is contained in the Missal, or whether also the Blessing of the ring? Resp. Affirmatively in all things." S. C. de P. F. 20 Feb. 1801.

"When the Apostolic Vicar of Sutchuen asked that the response of the Sacred Congregation concerning the Blessing to be supplied in clandestine marriages be more clearly explained, the S. C. de P. F. responded that the Blessing is to be given in all things and through all things according to the form of the Roman Ritual, namely also with the Blessing of the ring." S. C. de P. F. 27 Jan. 1805.

"1. Is the nuptial Blessing which is in the Ritual prohibited from being given in the forbidden time? Or at this time is only the Blessing which is in the Missal prohibited? 3. Can the Blessing which is in the Missal be given to those who, without that Blessing, have already been joined in marriage in first nuptials, when the woman is already pregnant, or has already borne children? Likewise to those who here and now contract marriage de praesenti in first nuptials, when the bride is known to be pregnant, or already before marriage has begotten children from fornication? 4. When the nuptial Blessing is given to those who have already validly been joined in marriage, must the formula be recited: *I join you in matrimony*, without renewal of consent? What when there is doubt, as very often, whether they have already validly contracted or not? Resp. To the 1st: Negatively to the first part, provided that there is not present a custom of not contracting marriage even without solemnity in forbidden time; affirmatively to the second part. To the 3rd: Affirmatively. To the 4th: To the first part, let the Instruction of the year 1806 be given, which is that spouses of this sort are not bound to renew consent where there is no doubt concerning the validity of the marriage already contracted because of some impediment, nor ought the Priest to recite the formula *Ego vos*, etc., but only to perform the remaining things which are handed down in the Roman Ritual concerning the Blessing. To the second part, let him consult approved authors." S. R. C. 5 July 1845; 2 Oct. 1593.

"Whether the votive Mass for bridegroom and bride can be said, and in it the nuptial Blessing be made, even in the case where the Spouses during this Mass would not receive Holy Communion? Resp. Affirmatively; nevertheless let Parish Priests and Rectors of souls take care to exhort the faithful about to marry that they communicate in the Mass in which the nuptial Blessings are imparted." S. R. C. 21 March 1874.

"1. Can a Priest, when marriages are celebrated outside Mass, as frequently happens in the churches of the cities of the Diocese of Monte Albano, impart the Blessing to the spouses and recite the prayers which are contained in the Missal in the Mass for bridegroom and bride, and which are to be said both after the *Pater noster* and before the *Placeat*, when there is not a question of nuptials in which the above-mentioned Blessing is not to be denied? And insofar as affirmatively, is he bound? 2. Is it permitted to defer the Mass for bridegroom and bride and the Blessing to the day immediately following, or to another much more remote, even if the spouses before receiving the Priestly Blessing in the church dwell together in the same house? 3. Whether the prohibition of nuptials in the time of Advent and Lent ought to be understood only of the Mass for spouses, and of the prayers placed in the Missal for the Blessing of those marrying; or whether it also touches the marriage itself, which is celebrated only with the ceremonies and prayers which are found in the Ritual? 4. When license has been given by the Bishop to contract marriage in the times forbidden by the Holy Council of Trent, is the Blessing of the spouses through the prayers and orations contained in the Mass for spouses also judged to be permitted? And insofar as negatively, can the Bishop in the case concede that faculty? Resp. To the 1st: Negatively in all things. To the 2nd: Negatively in the case. To the 3rd: Affirmatively to the first part, negatively to the second, provided that the leave of the Bishop accedes. To the 4th: Negatively in all things." S. R. C. 14 Aug. 1858.

"The S. R. C. ... by command of Our Most Holy Lord Pope Pius IX decreed: that the nuptial Blessing is to be imparted only in Mass, and it did not declare differently in the year just elapsed, 1858, on 14 Aug., when responding to doubts proposed concerning this matter by the Most Reverend Bishop of Monte Albano." 26 March 1859. Cf. Gardell. n. 5289.

"Unless a grave and reasonable cause is present, the Mass for Bridegroom and Bride is to be celebrated, and the prescription of the Rubric is to be observed as to the kind of Mass; yet in such a way that the Celebrant is free in his mind to turn the fruit of the Mass in favor of the one supplying the alms." S. C. de P. F. 7 June 1853; 23 March 1844.

"... the S. R. C. declared ... that the Mass for Bridegroom and Bride is a private votive Mass, and therefore is always to be read without the Angelic hymn and the Nicene symbol, with three orations: 1. namely, the proper one of the same votive Mass, as is contained at the end of the Missal; 2. and 3. those of the current day, as in Rubrics, title VII, num. 3, *On commemorations*; *Benedicamus Domino* at the end, and the last Gospel of St. John." S. R. C. 28 Feb. 1818.

"The Mass in nuptials must always be the votive Mass for Bridegroom and Bride, as in the Missal, except on feasts of precept and doubles of the 1st and 2nd Class, in which a commemoration for Bridegroom and Bride is to be added to the occurring Mass. But the Blessing assigned in it according to the rubrics is not to be imparted except in Mass." S. R. C. 23 June 1853; 7 Jan. 1784.

"1. Whether a Mass of this sort can be said on days excluding doubles, as noted above? 2. Whether the commemoration of the Mass for bridegroom and bride, to be said, according to the said Decree, in Masses of a double of the 1st or 2nd class, ought to be said under one conclusion with the Oration of the feast, or under another conclusion? 3. Whether such commemoration likewise ought to be said, or under another conclusion, as is customary concerning other commemorations occurring on Sundays and feasts of precept? 4. In what place, when other commemorations occur, as in the preceding question, the commemoration of the Mass for bridegroom and bride is to be said under a second conclusion; namely, whether in the last place? Resp. To the 1st: Negatively as to the Octave of Epiphany, the Vigil of Pentecost, and the privileged Octave of Corpus Christi, insofar as the privilege has been granted after the manner of the Octave of Epiphany. To the 2nd: Negatively to the first part, affirmatively to the second. To the 3rd: As in the preceding. To the 4th: It is to be made in the first place after the others of precept." S. R. C. 20 Apr. 1822.

"... because in the times forbidden by the Church the solemn Blessing of nuptials cannot have place, so likewise the commemoration for bridegroom and bride in the occurring Mass is inhibited, nor are the Orations to be resumed outside Mass when the prohibited time has already elapsed." S. R. C. 31 Aug. 1839.

"When several are joined at the same time, the consent of each of them first having been received, and the individual marriages having been duly celebrated, and the form *I join you in matrimony*, etc., having been said for each by the Parish Priest, nothing prevents the blessings of the rings and the remaining Blessings from being made in common by general words." S. C. S. O. 1 Sept. 1841.

"Whether in Nuptials, which are called second, the blessing of the ring is to be omitted? Resp. Negatively." S. R. C. 27 Aug. 1856. Cf. Gardell. n. 4780.

On the Celebration of Marriage in a Private House and Oratory

"1. Whether, outside the case of most grave illness in either of the contracting parties, marriage can be celebrated in a private house before an altar specially erected for this? 2. Whether, outside the said case, in private oratories in which Mass is celebrated? 3. Whether the nuptial Mass can be celebrated in the said oratories? Resp. To the 1st: Provided for in the following. To the 2nd: It is especially fitting that marriage be celebrated in the face of the Church, or in a church. Yet it is not forbidden to local Ordinaries that, if no danger is impending and praiseworthy causes concur, according to their prudence they sometimes permit it to be celebrated in private oratories in which the Sacred [Mystery] can be performed. To the 3rd: Affirmatively, with the Rubrics observed." S. R. C. 31 Aug. 1872.

On the Blessing After Childbirth

"Only women who have borne from legitimate marriage have the right to the Blessing after childbirth." S. C. C. 18 June 1859. *Acta S. Sed.* Vol. 1, p. 349.

N. 771. - On Dispensation from Impediments in the Case of Impossibility of Recurring to the Apostolic See

"A certain Parish Priest had asked from his Ordinariate the faculty of dispensing the bridegroom over a double occult impediment of affinity, in the first degree, from illicit copulas which the same man had had both with the mother and with the sister of his bride, when all things were already prepared for the nuptials, and these could not be deferred without danger of great scandal, so that dispensation might be obtained from the Apostolic See. The Ordinariate conceded the requested dispensation by force of the quinquennial faculties. It is asked whether the dispensation is valid or not? Resp. Affirmatively, that is, the faculty of dispensing, for the forum of conscience only, in marriages to be contracted, over the occult impediment of affinity from illicit copula, when all things are prepared for the nuptials and there is no time to recur to the Apostolic See, is validly and licitly exercised, even if the aforesaid impediment is multiple." S. Poenit. 30 July 1873.

N. 775. - On the Masonic Oath with Respect to Marriage

"Whether a Masonic oath not retracted can or ought to be considered and treated after the manner of an impediment impeding marriage, or even diriment; and what cautions ought to be required, so that the marriage of a Catholic girl with a sworn Freemason can licitly or even validly be blessed by the parish priest? ... Resp. As regards marriage in which one of the contracting parties notoriously adheres to clandestine associations, until the Apostolic See shall have issued a general decree in this matter, it is necessary that Pastors conduct themselves cautiously and prudently; and they ought rather in particular cases to establish those things which they shall have judged more expedient in the Lord, than to decree something by a general rule; but the celebration of the sacrifice of the Mass is altogether to be excluded, unless the circumstances require otherwise." Cf. *Nouvelle Revue Theologique*, Vol. 16, p. 265.

N. 786. - The Church Alone Can Establish Diriment Impediments of Matrimony

"Since marriage is by its own force, by its own nature, by its own impulse sacred, it is fitting that it be ruled and moderated not by the command of princes, but by the divine authority of the Church, which alone has the magisterium of sacred things. Then the dignity of the Sacrament must be considered, by whose accession the marriages of Christians have become by far most noble. But concerning a Sacrament the Church alone can and ought to establish and command, according to the will of Christ, so that it is plainly absurd to wish even the least part of its power to have been transferred to the governors of civil affairs." Leo XIII, Enc. *Arcanum*, 10 Feb. 1880.

N. 797. - On the Profession of Simple Vows as to the Dissolution of Marriage

"... Only by the solemn profession of vows is a ratified and non-consummated Marriage dissolved; but not by the profession of simple vows; and therefore in the case in which the man, according to the law of 19 March 1857 issued by the S. C. sup. St. Reg., must emit simple vows before solemn profession, either he himself or his spouse will be able to recur to the Apostolic See for obtaining the faculty that solemn vows can be emitted immediately." E. S. C. 25 Jan. 1861.

N. 806. - On Spiritual Relationship as to Baptism and Confirmation

"By the words of the Ritual, *the sponsor holding the infant*, absolute taking up is by no means required, since *to hold* is equally understood and it suffices if the Sponsor, as is customary, joins himself with the infant by physical contact, together with the one in whose hands he is held, and accompanies the carrier to the infusion of the water, without there being need that the Sponsor or the Sponsor-woman only, with the carrier removed, receiving the infant into his or her own hands, present him to the Priest to be baptized." S. C. de P. F. 21 Jan. 1856.

Spiritual relationship is not contracted by the procurator but by the mandator. S. C. C. 20 Apr. 1586; 15 March 1631; 15 Sept. 1721; 11 June 1881. Cf. *Acta S. Sed.* Vol. 14, p. 411 ff.

"Whether the disposition of the Council of Trent, sess. 24, ch. 2, *de R. M.*, decreeing that in the Sacrament of Baptism spiritual relationship is contracted between the one receiving and the father and mother of the one received, has place in Baptism performed without solemnities because of necessity? Resp. Affirmatively." S. C. C. 5 March 1678. Cf. Marc, *Inst. Mor. Alph.*, ed. 2, n. 2022.

"Sponsors who are employed in supplying the solemnities of Baptism do not contract the impediment of spiritual relationship." Instr. S. C. de P. F. 11 Sept. 1779; S. C. C. 13 Apr. 1669; 2 Oct. 1687.

"Titius baptized his own son; he did it ignorantly; fearing, but with vain fear, lest he should die; whom he baptized in the presence of some women. The Confessor rebuked the same man, but absolved him. He now asks from the Sacred Penitentiary, with Titius unaware, whom he left in good faith, dispensation from the impediment of spiritual relationship, so that he can ask for and render the debt." Year 1869.

Resp. "The Sacred Penitentiary grants to the Ordinary of the orator the faculty, either by himself or through the proper Parish Priest of the orator, of absolving the orator himself, if it is so, his sacramental Confession having been heard, from ecclesiastical censures and penalties if he has

incurred any on account of the premises, and from the guilt of incest, if perhaps after the contracted spiritual relationship he has not abstained from the use of marriage, by apostolic authority, with salutary penance. And of declaring that the same orator, if no other canonical impediment stands in the way, can remain in his marriage, and can and must render the conjugal debt. And of mercifully dispensing with the same man, over the recounted supervening impediment of spiritual relationship, so that notwithstanding it he can licitly and freely demand the conjugal debt from his wife, by apostolic special and express authority. For the forum of conscience; so that the present grace, if and when there shall be need, may avail the orator and his wife also for the external forum." Cf. Scavini, l. 3, n. 850.

A sponsor in confirmation "if not confirmed does not contract spiritual relationship." S. C. C. 13 June 1654. Lucidi, ch. 2, § 3, n. 142.

N. 810. - On Affinity from Illicit and Licit Copula

Whether dispensations are valid as to affinity from licit or matrimonial copula, in which no mention has been made of illicit or anti-matrimonial copula? Resp. "The dispensations in the cases set forth are valid." S. Poenit. 7 June 1842. And this response was declared general by Letters of the same Penitentiary, 10 Dec. 1874.

N. 813. - On Affinity Contracted in Infidelity

"1. Can an unbelieving man, who while still placed in infidelity knew, either publicly or privately, yet illicitly, a certain woman, whether faithful or unbelieving, after receiving Baptism validly and licitly contract marriage with a blood-relative of the same woman known by him, if that blood-relative received Baptism either before or after the copula of which there is question? 2. And insofar as affirmatively, concerning which there is very much to be doubted, could the same unbeliever converted to the faith, after the death of his legitimate unbelieving wife, contract marriage with a blood-relative, up to the 4th degree inclusively, of the same deceased wife, whether that blood-relative received Baptism before or after the death of the aforesaid unbelieving wife? Resp. To the 1st: Negatively. To the 2nd: Negatively." S. C. de P. F. 23 Aug. 1852.

N. 816. - On the Impediment of Public Honesty in Unbelievers Converted to the Faith

"Whether a ratified, non-consummated marriage of pagans produces public honesty, or is judged a diriment impediment after their conversion? For example, the pagan Titius married the pagan Maevia, but did not consummate; after the death of Maevia, Titius becomes a Christian: can he marry Bertha, the sister or cousin of Maevia, who from a pagan has become a Christian? And is the same true concerning betrothals of pagans as concerning a ratified marriage? Resp. The impediment does not subsist." S. O. 19 Apr. 1837.

N. 818. - On the Impediment from Private Betrothals, and from Invalid Consummated Marriage

"Whether from clandestine betrothals the impediment of public honesty is contracted? Resp. Affirmatively." S. Poenit. 10 Sept. 1834.

If a consummated Marriage was not valid, two distinct impediments are had: of public honesty from the null ratified marriage, and of affinity from fornicatory copula. S. C. C. in Brixien., 5 Dec. 1667. Cf. Scavini, l. 3, n. 791, Milan 1874; Benedict XIV, *de Syn.*, l. 9, ch. 13; De Justis, *de Dispens. Matrimonial.*, l. 1, ch. 8.

N. 819. - On the Impediment of Public Honesty from Civil Marriage

"Whether the act which is commonly called civil marriage gives rise to the impediment of the justice of public honesty? Resp. 'Negatively: and the Most Holy One is to be consulted, that he may deign to declare and establish this.'" S. C. C. 13 March 1879. *Acta S. Sed.* Vol. 12, p. 176. "In the audience of the 17th of the same month His Holiness deigned to approve and confirm the resolution, and ordered that a decree be made." - "... Our Most Holy Lord Leo XIII ... declares and establishes that the prementioned act, which is commonly called Civil Marriage, in places where the Decree of the Council of Trent, sess. 24, ch. 1, *de R. M.*, has been promulgated, whether the faithful completing the act itself intend, as is fitting, when ecclesiastical marriage has already been duly celebrated, or with the intention of celebrating it as soon as possible, to perform a mere civil ceremony; or whether they intend to enter betrothals de futuro; or finally whether from ignorance, or in contempt of ecclesiastical laws, they intend to contract marriage de praesenti, does not produce the impediment of the justice of public honesty...." Cf. *Acta S. Sed.* Vol. 13, p. 126.

N. 820. - On the Impediment of Adultery

"As Pickler explains according to the Sacred Canons, l. 4, Decretals, tit. 7, that adultery may induce a diriment impediment, it is required that there accede to it either a promise of future marriage, or a contract of marriage de praesenti with the adulteress or adulterer while the prior spouse is still living. But to contract, or to attempt, marriage de praesenti is to enter nuptials, certainly invalidly, by words de praesenti, or by some other sign which includes the promise of consent; yet it makes no difference whether the adultery preceded the attempted marriage or followed it.... That the taking of a concubine, or rather of an adulteress, be had in the case as a true attempted marriage, it is necessary that it include a promise of marriage, either de praesenti or de futuro." S. C. de P. F. 14 Jan. 1844.

"Since I., bearer of the present letters, had a legitimate wife by the name A., he perpetrated adultery with M.; and since he had been summoned into court over this, he abjured the adulteress, and afterwards, the oath having been contemned, while the legitimate wife was living, presumed to contract marriage with her and to cohabit with her for a long time. Finally, after the aforesaid A. was taken away from the present light, the mentioned I. lived with the adulteress for ten years, by whom he procreated ten sons. Therefore we give such a response to your consultation, that they be altogether separated, and, penance having been enjoined upon them, perpetual continence be indicated, especially since both have advanced in their days, and, enduring so long publicly in adultery and perjury from certain knowledge, have disturbed the Church in grave scandal. For you know that Pope Leo established that no one should take in marriage her whom he polluted by adultery; and that here there was more process than if faith had merely been pledged to the adulteress, that, when the legitimate wife was dead, he would take her as wife, since even while the first was living, as adulterer with adulteress, he presumed to adhere to the same woman as if matrimonially, and rashly to violate his sacrament; which union indeed, where also no religion of oath intervened, both Pope Gregory and the Synod of Tribur detests, and ordered each person joined

in this way to be subjected to public penance and to remain perpetually without any hope of marriage." etc. Chap. *Cum haberet* 5, *De eo qui duxit in matrim.*, etc.

On the Impediment of Crime as to Infidels

"Can an unbelieving man who before baptism had copula with the unbelieving wife of another, and, with the woman assenting and accepting faith concerning future marriage, inflicted death on him, after the baptism of both enter marriage with the said woman? Resp. Affirmatively." S. C. de P. F. 23 Aug. 1852.

"You asked concerning Saracens who, while they were in captivity, killed the husbands of certain Christian women through their snares and machinations, whether, because afterwards through these women they were converted to the Christian faith, they can by law receive them as wives, or, if they have married them, whether the marriage of the same persons holds. Here we are content with the rule of the Council of Tribur, asserting that if those women maliciously plotted the death of their husbands, although by their zeal the men came to the faith, nevertheless they ought not to adhere to them, nor, if they have adhered, are they even to be tolerated, since the Church does not wish to compensate such loss with such gain. To this, certain Saracens are noted to have killed Christians in war, and Christians likewise Saracens; but afterwards the Saracens, converted to the faith, matrimonially joined to themselves the wives of those whom they killed in the contest of war, and Christians are known to have done the very same with Saracen women converted to the faith, who, after they learned the truth concerning the death of their former husbands, constantly demand divorce. Therefore in these matters we respond that, since such persons did not procure the destruction of the deceased husbands, marriage between persons of this sort can licitly be contracted, and those joined in such a way cannot demand divorce." Chap. *Laudabilem* 1, *De Conversione Infidelium*.

N. 824. - On the Illiceity of Mixed Marriage

"... We judge that from marriages of this sort great ruin will be brought upon the Catholic Church. For if the mother, in whose power is the first education of the offspring, is alien from our Sacred rites, what is not to be feared concerning the Religion of the children? For she, solicitously thinking according to maternal love concerning their eternal salvation, will omit no occasion by which she may imbue them with the doctrine of her sect, which she thinks uniquely true. And if she mocks the husband, either fasting on vigils and abstaining from meats, or washing away the stains of his soul in the sacrament of Penance, or approaching the sacred table of the Eucharist, as pursuing empty things, as will happen very often, this also surely must gradually happen, that contempt of most sacred things slip into the minds of the children. But the things which they seize from tender age are most difficult to tear out from their minds.

And conversely, if the mother indeed worships the Catholic religion, but the father, addicted to some Heretical sect, in the sight of the children playfully mocks the sayings and deeds of the wife which pertain to Religion, will not the childish mind of the children, among whom the authority of the father has very great force, have doubted somewhat concerning the truth of the Religion which the mother follows? What if a serious dispute about Religion arises between husband and wife? Will not the children, whose mind, amid the alternating moments in the dispute of the parents, is driven this way and that, gradually slip into indifference of Religion, than which nothing is more deadly, nothing

more hostile to Religion, since it utterly removes every Religion, true or false? That too is manifest, that by these marriages a more open field is opened to Lutheran heresy, by which it can diffuse itself more widely. For girls imbued with Lutheran error, to whom now it is lawful to establish domicile with their husbands only in certain particular places, if they have married Catholic men, must follow them wherever it has pleased them to dwell. Besides, the new bride will admit several persons of her sect into the family of the husband; nor can Ministers of the false sect, who come to her for the sake of greeting her, be prohibited from his house. These indeed will not be wanting in their ministry, by which they confirm their sheep in error, and they will suggest to the mother the art by which, in the minds of the children, the seeds of good doctrine may dry up from the very time when they begin to spring forth.

Therefore the zeal of Catholics used up to now will have been in vain, by which the errors condemned by the Church are eliminated from these regions which they hold, when in the future it will have been permitted with impunity to profess that same poisonous doctrine in the midst of those Catholics. To this is added that if either of the spouses, who is Catholic, dies and leaves children in first age, it will be free to the other Heretical spouse to infect his or her children with the poisonous sentiments of the sect. You see therefore, Our beloved Son, what the Catholic religion can promise itself concerning the offspring received from these marriages, and whether it is to be greatly feared lest through those unions by which they intend to propagate the Catholic faith, heresy be propagated more widely; and, what is most dreadful of all, that indifference of whatever Religion may take greater forces day by day, by which, for the most part, access is opened to impiety...." Clement XIII, 16 Nov. 1763, to the Bishop of Argerotan.

N. 826. 829. - On the Power of Dispensing in Mixed Marriages, on the Conditions to Be Premised, on Its Sacred Rite

"... And to this altogether pertain the most ancient canons severely forbidding mixed marriages themselves, and the more recent Sanctions of the Supreme Pontiffs, concerning which Benedict XIV of immortal memory speaks in his encyclical Letters to the Bishops of the kingdom of Poland, and in the most celebrated work which is inscribed *On the Diocesan Synod*. Hence moreover it happens that this Apostolic See, to which alone belongs the power of dispensing over an impediment of mixed religion of this sort, if, relaxing something from the severity of the canons, it has sometimes permitted these mixed marriages, did this only for grave causes and very reluctantly, and never except always under the express condition concerning the necessary and opportune cautions to be premised, namely that not only could the Catholic spouse not be perverted by the non-Catholic, but indeed that the Catholic spouse himself should know that he is bound to draw back the non-Catholic from error according to his strength; and also that all the offspring of either sex, to be procreated from these mixed marriages, must altogether be educated in the sanctity of the Catholic religion. These cautions indeed can never be remitted, or dispensed from, since they are founded in the natural and divine law itself, which the Church and this Holy See strive with all zeal to guard safe and intact, and against which, without any doubt, they sin most gravely who, by rashly contracting these promiscuous nuptials, commit themselves and the offspring to be received therefrom to the danger of perversion. Moreover, in granting dispensations of this sort, besides the mentioned cautions, which must always be premised, and over which dispensation can in no way ever be made, conditions were also added that these mixed marriages must be celebrated outside the church and without the blessing of the

parish priest and without any other ecclesiastical rite. These conditions indeed especially look to this, that in the minds of Catholics there never be forgotten the memory both of the canons, which detest mixed Matrimonies of this sort, and of that most constant zeal, by which holy Mother Church has never ceased to avert and deter her children from these same mixed marriages being contracted to their own destruction and that of future offspring.... The same Most Holy Lord of Ours established that in the concession of these dispensations the formula of that Rescript is to be used, in which, even if the aforesaid conditions concerning these mixed marriages being celebrated outside the church and without the blessing of the parish priest and other ecclesiastical rite are not openly declared, nevertheless they are implicitly contained. And His Holiness vehemently admonishes, exhorts, and excites in the Lord all Archbishops, Bishops, and other local Ordinaries, and commands them, that when in the future by the formula of this Rescript they shall have obtained from this Holy See the faculty of dispensing over the impediment of mixed religion, in executing the same faculty they never cease to watch with all care and zeal, that the conditions also be sedulously fulfilled concerning these mixed Matrimonies being celebrated outside the church and without the blessing of the parish priest and other ecclesiastical rite. But if in some places the sacred Prelates shall have known that the same conditions cannot be fulfilled without graver damages and evils arising therefrom, in this case only, in order to avoid greater damages and evils of this sort, His Holiness commits to the prudent judgment of the same sacred Prelates that they themselves, the cautions always being safe and firm and most diligently observed concerning removing the danger of perversion from the Catholic spouse, procuring the conversion of the non-Catholic spouse by the Catholic spouse himself according to his strength, and all the offspring of either sex being altogether educated in the sanctity of the Catholic religion, judge when the commemorated conditions concerning contracting these mixed nuptials outside the church and without the blessing of the parish priest can by no means be fulfilled, and when, in entering these promiscuous marriages, there can be tolerated the custom of employing the rite legitimately prescribed in the diocesan Ritual for contracting Marriages, yet always with the celebration of Mass excluded, and with all circumstances of things, places, and persons most diligently weighed, and the conscience of the Prelates themselves burdened concerning the truth and gravity of all the circumstances. But His Holiness greatly desires that these same sacred Prelates keep this indulgence, or rather toleration, wholly committed to their judgment and conscience, with the greatest silence and secrecy with which it can be done." Instruction of the Secretariat of State to all local Ordinaries, 15 Nov. 1858.

Declaration of the Preceding Instruction

"... Therefore the following matters seemed to you worthy of explanation. And first, you ask what is to be understood by the words by which, in the praised Instruction, the faculty or tolerance of blessing mixed marriages is supported and as it were bound, namely, *to avoid graver evils and damages*. Without doubt graver evils and damages arise therefrom: 1. Whenever, because the blessing is denied to mixed marriages, complaints and hatreds of Heretics against the faithful and against ecclesiastical laws would easily be excited. 2. Whenever, the blessing having been denied by the Catholic Parish Priest, the spouses, before or after the marriage celebrated before him, approach a petty Minister, or even come together in a temple of Heterodox persons, to obtain a sacrilegious blessing, the Catholic Parish Priest being altogether set aside. 3. Whenever besides it would be feared that, the blessing sought by them having been refused, either the necessary cautions concerning removing the danger

of perversion from the Catholic spouse and concerning educating all the offspring in the Catholic Religion would not be observed, or, what would be more detestable, lest the Catholic party pass over to the camp of the Heretics, to the eternal destruction of himself and the future offspring. Evidently these and like things are those grave damages and evils, to avoid which the Supreme Pontiff declared that it could be indulged, or tolerated, that in mixed marriages the nuptial blessing be imparted. Therefore by these things an easy and correct interpretation and practice of the Instruction offers itself to all Apostolic Vicars.

Whence also from the things said the response to the second is clear. For immediately, by attending to the aforesaid matters, anxieties and doubts will vanish concerning a not correct and therefore discrepant interpretation of the Instruction, and its application to practical cases or events. But whenever, because of the notable distance of places, Prelates cannot by themselves know the gravity and truth of the causes and circumstances concerning mixed marriages to be honored with the Priestly blessing, they will be able to fulfill these same things through Missionaries subject to them, who nevertheless are very well instructed concerning the aforesaid causes and the Instruction, endowed with prudence and zeal according to knowledge.

Those things which in the third place made you anxious concerning silence and secrecy, inculcated in the praised Instruction as far as possible, do not seem to be understood so strictly that this indulgence, or rather toleration, of the Holy See in blessing mixed nuptials becomes known to no one. For you should know that His Holiness wished the Prelates to be warned, that the blessing not be imparted indiscriminately and without selection to mixed marriages; nor that they use such a faculty by public instructions, as if also by way of rule, but very prudently and cautiously, so that the most salutary conditions of the Church, which are always understood to be implicitly joined to such dispensations, are not handed over to oblivion. Surely that there is no other mind of the Supreme Pontiff will be clear to A. T. and the other Apostolic Vicars, if you attend to those things which are contained in the apostolic Letters in the form of a Brief given to the Bishop of Trier on 3 October 1853 concerning this matter. The Supreme Pontiff Pius IX, after he indulged to the Ordinary of Trier that, when the causes already commemorated above concur, the blessing could be imparted to mixed marriages, proceeds in this way: *These conditions indeed (outside the church and without the blessing of the Parish Priest) especially look to this, that in the minds of Catholics the memory of the Canons which detest these unions never be forgotten, and of that most constant zeal by which Holy Mother Church has been accustomed to avert her children from the same nuptials being contracted to the destruction of their future offspring.*

Therefore from the things said a certain norm is proposed to you and to the other Apostolic Vicars for correctly interpreting and reducing to practice those things which are handed down in the Instruction of Cardinal Antonelli concerning the blessing to be given to mixed nuptials.

Finally, to the questions which A. T. also proposed to be solved as consectary, the Sacred Congregation judged that response should be made thus: The practice of Missionaries is by no means to be disapproved, by which, in order to detect the fraud of Heretics who, their own wife having been rejected, would presume to be joined with a Catholic woman, among other investigations, their banns are published, yet with no mention made of the religion of those who are about to contract the nuptials.

But as to the doubt: Can the Sacraments be given to the Catholic party prepared in mind to go before a Protestant Minister either before or after the Catholic marriage? It will have to be attended whether

the spouses approach the Protestant Minister so that they may satisfy only civil law, or truly so that they may communicate in sacred rites. If this second, since the Heterodox Minister assists as one devoted to sacred rites, and the Catholic party persists in his depraved intention, he cannot be admitted to the participation of the Sacraments until, by drawing back from the depraved purpose, he truly comes to his senses. Concerning this matter it will be opportune to consult Benedict XIV, *On the Diocesan Synod*, book VI, ch. VII, § 2.

Lastly it was asked: Whether the Catholic party is to be admitted, who contracted marriage with a Heretic and before a petty Minister, yet validly by force of the Benedictine extension for Holland, to the renewal of mutual consent before the Parish Priest or Catholic Missionary, who could also recite the formula: *I join you...*? Moreover, whether spouses converted from heresy, who insistently ask this, can be admitted to the same renewal of consent? In places in which marriages of Heretics among themselves, or between one Catholic party and another Heterodox party, are valid even when the Tridentine form has not been observed, provided that no other Canonical impediment has stood in the way, the spouses cannot be admitted to marriage, already indissoluble in itself, as if to be contracted anew by words expressing mutual consent de praesenti; nor will the formula, *I join you in matrimony*, be recited by the Priest. Nevertheless, if there is question of mixed marriages already contracted before a Heretical Minister, insofar as the cautions necessary by law have been supplied, and the Catholic party, repentant of the fact, asks for the blessing, it will be able to be imparted to that person, with absolution from censures first given, and salutary penances imposed, yet always with the celebration of Mass excluded. Likewise also to spouses converted from heresy, provided that they ask, the nuptial blessing is to be imparted in Mass. But the Parish Priest, in any case whatsoever, should teach the spouses together that a blessing of this sort pertains only to the rite, not to the validity, of the marriage." S. O., S. C. de P. F., 4 Dec. 1862.

On the Faculty of Dispensing over Impediments of Marriage, When There Is Question of Mixed Marriages

Bishop M. proposed these doubts: "1. Whether a faculty expedited through the Sacred Congregation de Propaganda Fide can rightly and validly be employed conjointly with another faculty expedited by the Sacred Congregation of the Holy Office or not, namely when there is question of mixed unions? 2. And if, which would affect me with no small grief, this question must be decided negatively, I further supplicate that Your Holiness deign most graciously to consult for me and to indulge those supports by which what has been done less rightly up to now in this diocese can be better remedied. 3. And for the future, if for this there is need of a special faculty, to concede most mercifully that in mixed marriages by delegated power I also may be able to dispense when there concur impediments of the III and IV degrees only, of simple and mixed consanguinity and affinity, then of public honesty arising from just betrothals, and of crime, with neither spouse, however, plotting, and finally of spiritual relationship except between the one lifting and the lifted. Resp. To the 1st: Negatively. To the 2nd: R. P. D. the Bishop should be silent and leave the spouses in good faith. To the 3rd: The Most Holy One must be supplicated for the grace." S. I. C. 12 Sept. 1866.

"But because it has been reported to the Sacred Congregation that several of the Prelates of the East Indies have up to now used faculties which regard dispensations in diriment impediments of marriage even where it happens that two different impediments are accumulated in the same person, thinking that the faculties granted to them extended to this, which nevertheless cannot be admitted,

it has been provided that, as to past marriages in which, with several impediments concurring, dispensation was given in this way, the Apostolic Vicars should be silent and leave the spouses in good faith; but as to future time, they should recur in individual cases, and, if they foresee that time will with difficulty suffice for recurring to the Holy See, they should ask a faculty for a number of cases, which will be conceded to them by the Supreme Pontiff, if indeed it shall seem opportune. By the same reason, if some diriment impediment has place when the discourse is about mixed marriages, in this case likewise the Apostolic Vicars cannot concede dispensations, although they have a separate faculty of dispensing in mixed marriages. Therefore, as regards dispensations given in past time in this way, the Bishops, as above, should be silent and leave the spouses in good faith. But as regards the future, Our Most Holy Lord, at the petition of the Apostolic Vicars, will likewise concede the faculty for more urgent cases where it is evident that there will not be time for recurring to the Holy See, over which the conscience of the Apostolic Vicars is gravely burdened." Instr. S. C. de P. F. 8 Sept. 1869.

On Dispensation over Mixed Marriages to Be Contracted with Italians

"Most Illustrious and Most Reverend Lord. It has been reported to the Apostolic See that this abuse has not rarely happened, namely that Italians who set out into foreign dioceses and sojourn in them as strangers obtain dispensations over the impediment of mixed religion. Therefore lest a fact of this sort ever be renewed in the future, Our Most Holy Lord Pope Pius IX, by the counsel of the Most Eminent Fathers General Inquisitors, judged that it should be prescribed in the Lord that all and singular Bishops who are furnished with the faculty of dispensing over the said impediment be made certain that in the use of the same Italians are excepted, concerning whom it is not established that they have altogether deserted Italian domicile.... Rome, from the Buildings of the S. C. de P. F., 30 Aug. 1865."

Declaration of the Faculties of Dispensing in Mixed Marriages

The Bishop of Southwark consulted the Holy See concerning these four things which follow. "1. In the second formula it is declared that a Bishop who has been given these faculties by the Pontiff can in no way use the same outside the limits of his diocese. But the same Bishop is accustomed to obtain from the Holy See other faculties, to which this limitation is not attached, for example, that he can dispense in mixed marriages to be contracted. It seems to me that as often as the Roman Pontiff, having been asked, grants to anyone a faculty for some matter, this limitation is implicitly attached; so that I cannot concede by dispensation to two persons subject to the Diocese of Southwark, who perhaps are staying at Plymouth, that they may there enter a mixed marriage. I ask Thee, Holy Father, to explain whether this opinion is true: that is, as often as an indult by no means bears before itself these words, *in no way to use*, etc., these are always to be understood in the same.

2. It frequently happens that either a man or a woman, bound by some diriment or impeding impediment, over which we are endowed with the faculty of dispensing, wishes to go to Liverpool, for example, for the sake of entering marriage with another person staying there. I ask whether I can free this person departing from my diocese from every impediment by dispensing directly, and thus, the impediment having been removed, send that person to Liverpool, where the other of the spouses is staying, for entering marriage there.

3. If two persons from among the subjects of my diocese, consanguineous or affine between themselves, wish, absolved from every impediment, to set out to Liverpool for the sake of entering nuptials there, I ask whether I can use the Apostolic Indult for the marriage which will be entered outside the limits of my diocese, by permitting it?

4. Since in dispensing over mixed marriages the Church is accustomed to permit a Catholic man or woman to enter nuptials with an Anglican woman or man, upon whom the benefits of the Church ought not directly to fall, by which Bishop can the dispensation be conceded, when the Catholic man or Catholic woman comes to enter marriage outside his or her own diocese?

"Resp. To the first clause, *can in no way use outside the limits of his diocese*: that it must be understood thus, that the faculties comprehended under it can be exercised only with his own subjects actually existing in the diocese at the moment in which the grace is granted. Nevertheless, the same clause is not to be understood in faculties which are conceded to Bishops by the Apostolic See, unless it has been expressed, or otherwise is established concerning the mind of the Supreme Pontiff, or unless the subject matter requires it. But the faculty of dispensing over the impediment of mixed religion is conceded with the clause: *he can dispense within the limits of his diocese*; therefore it cannot be exercised except with subjects actually existing within the limits of one's own diocese, with the other things being observed which are handed down in the response to the fourth.

To the second and third: Affirmatively, unless the tenor of the Apostolic concession stands in the way, yet leave for the celebration of the marriage having been obtained from the Bishop of the place where the marriage itself is contracted.

To the fourth: Catholic men or women can be dispensed, when just causes accede, over the impediment of mixed religion by the Bishop having this faculty, whose subjects they are by domicile or quasi-domicile acquired in his diocese, provided that they actually exist in the same diocese when they receive the dispensation; but the dispensation thus obtained can be committed to execution wherever mixed unions are permitted to be contracted, unless something else stands in the way by the judgment of the Ordinary of the place in which the marriage is contracted; otherwise, for the dispensation, recourse must be had to the Apostolic See." S. C. S. I. 22 Nov. 1865.

N. 827. - On the Necessary Conditions for Dispensation in Mixed Marriages

"... What priestly zeal had already suggested to the sacred Prelates of Hungary, now after this law has been passed let it be cared for all the more with all strength, that the faithful be averted from contracting mixed nuptials, and altogether deterred. For as regards the remedy proposed by Your Eminence, namely of obtaining from the Holy Apostolic See a faculty by which it would be lawful for you to dispense with a Catholic bridegroom or bride about to marry in the prohibition of mixed religion, and also to impart the nuptial blessing in at least those cases of mixed marriages to be entered, in which, from the rightly known mind and disposition of will of the Catholic party, indeed of both spouses, it can be hoped that Catholic education, as far as possible, will be bestowed even upon that offspring which by force of civil law would not be educated Catholic, even if by its form, either by baptism imparted with this intention, or by another external act, it would not be received into the bosom of the Church; this seemed such to the Most Eminent Fathers that it can never be

permitted, nor even tolerated, by the same Holy Apostolic See. Indeed Your Eminence knows that the Church can never permit the celebration of mixed nuptials unless grave canonical causes concur, and unless opportune cautions are exhibited, by whose force the danger of perversion is removed from the Catholic spouse, and provision is made for the Catholic instruction and education of all the offspring. This Catholic doctrine indeed has very often been announced and declared by the Supreme Pontiffs even in those concessions in which they professed that their indulgence had touched those limits which it is altogether unlawful to transgress. That other Pontiffs be passed over, Pius VIII of holy memory, in Apostolic letters given to the Archbishop of Cologne and his suffragans on 25 March 1830, most gravely inculcates: 'But you know, Venerable brothers, that all these cautions look to this, that in this matter the natural and divine laws be held safe and intact; since it is established that Catholic persons, whether men or women, who contract nuptials with non-Catholics in such a way that they rashly commit themselves or their future offspring to the danger of perversion, not only violate canonical sanctions, but also directly and most gravely sin against the natural and divine law. And hence you already understand that we too would be guilty before God and the Church of a most grave crime, if concerning nuptials of this sort to be contracted in those regions we consented that those things be done by you or by the parish priests of your dioceses, by which, if not in words, nevertheless by the facts themselves they would be approved indiscriminately.' Indeed Gregory XVI of holy memory also, to those same Bishops of Hungary, your predecessors, in the letters by which he extended to that Kingdom a like indulgence of the extreme limits, asserted entirely the same divine law concerning cautions founded in the divine and natural law itself, against which without doubt he sins most gravely, whoever rashly commits himself or his future offspring to the danger of perversion. And finally, by order of Pius IX of holy memory, to all Archbishops, Bishops, and Ordinaries on 15 Nov. of the year 1858 it was declared in express words: 'These cautions indeed can never be remitted or dispensed from, since they are founded in the natural and divine law itself, which the Church and this Holy See strive with every zeal to guard safe and intact, and against which without any doubt they sin most gravely who, by rashly contracting these promiscuous nuptials, commit themselves and the offspring to be received therefrom to the danger of perversion.' According to this doctrine the Holy Apostolic See has always constantly held and holds that in no way is it lawful to dispense in the prohibition of mixed religion, unless in individual cases, besides canonical causes, the three following conditions concur at the same time, namely: 1. That the parties, and especially the heretical party, have supplied true cautions, by which they bind themselves before the Church to those things which the same Church requires from them; among which the Catholic education of absolutely all the offspring without any exception or restriction holds the chief place. 2. That the ecclesiastical superior have moral certainty both concerning the sincerity of the cautions for the present, and concerning their fulfillment for the future. 3. That the exhibition of the caution be notorious, or at least capable of being such for removing every scandal.

Since these things are so, it can in no way be done that that hope, which is founded solely in the good disposition of will of the contracting parties, can hold the place of true cautions, both because in reality the contracting parties would assume no obligation before the Church, and because this hope, in the present condition of affairs, as it has been described by Your Eminence, does not exclude, indeed supposes, that offspring to be born, which follows the sex of the heretical parent, is to be baptized by a minister of the sect and enrolled by instruction in the same sect; which thing would not only overturn the whole reason of cautions for the Church, but would constitute a caution

for heresy. From these things it necessarily follows that it is not lawful in the exposed circumstances of affairs to impart the nuptial blessing. For if without the customary cautions it is never lawful to dispense over the prohibition of mixed religion, much less will it be lawful to honor with the sacred rite of blessing such marriages which, according to the unshaken doctrine of the Church, are altogether opposed not only to ecclesiastical law, but to the natural and divine law...." S. O. 21 July 1880, to the Cardinal Primate and Archbishop of Esztergom. *Nouv. Revue Theol.* Vol. 18, p. 5 ff.

N. 829. - On the Absence of Every Blessing, Prayer, and Sacred Vestment in Mixed Marriages; on Conditions to Be Required in Writing; on Banns

"... Passing now to another point concerning the commanded assistance of parish priests in mixed marriages, we say that if, the above-named admonition having been premised for calling back the Catholic party from the illicit marriage, the party nevertheless persists in the will of contracting it, and the marriage is foreseen as infallibly about to follow, then the Catholic parish priest will be able to exhibit his material presence, yet in such a way that he is bound to observe the following cautions: 1st, that he not assist at such a marriage in a sacred place, nor vested in any vestment bearing the sacred rite, nor will he recite over the contracting parties any ecclesiastical prayers, and in no way will he bless them. 2nd, that he require and receive from the heretical contracting party a declaration in writing, by which with an oath, in the presence of two witnesses, who also must subscribe, he binds himself to permitting to the co-party the free use of the Catholic religion and to educating in the same all children to be born, without any distinction of sex.... 3rd, that the Catholic contracting party himself also put forth a declaration subscribed by himself and two witnesses, in which with an oath he promises not only that he will never apostatize from his Catholic religion, but that he will educate in it all offspring to be born, and that he will efficaciously procure the conversion of the other non-Catholic contracting party. 4th, as regards the proclamations commanded by the Caesarean decree, which the Bishops reprehend as being acts civil rather than sacred, we respond: since they are preordained to the future celebration of marriage, and consequently contain positive cooperation with the same, which certainly exceeds the limits of simple tolerance, we cannot consent that these be made...." Rescript of Pius VI to Cardinal de Frankenberg, Archbishop of Mechlin, and the Bishops of Belgium, 13 July 1792.

"The required cautions formerly had to be confirmed in writing or even by oath; but today there suffices such a promise which, reduced into an agreement, supplies a moral foundation concerning the truth of execution, so that an execution of this sort can prudently be expected; from the decision of the Holy Office, 30 June 1842." Marc, *Instit. Moral. Alphons.*, ed. 2, n. 1987.

"As to the first article of banns or proclamations, it can be tolerated that they be made not only outside the Church, as is permitted in the aforesaid royal letters, but also in every way outside a sacred place. And this will be the first public sign of disapproval of these marriages; but, that the disapproval itself may become more manifest, and may indicate on the part of the parish priest that his cooperation will be a purely material and compelled concurrence, it is preferable to add to the customary formula of banns some expression indicating that marriages of this kind are execrable." Rescript of Pius VI, 31 May 1783, to the Archbishop of Mechlin. Cf. Rescript of Pius VI to Cardinal de Frankenberg, Archbishop of Mechlin, and the Bishops of Belgium, 13 July 1792.

"... Let them beware besides, lest in publishing mixed marriages they express the religion of the non-Catholic contracting party, but let them announce only the names and surnames of the contracting parties...." Pius VI, Extension of the declaration of Benedict XIV to the Duchy of Cleves, 19 June 1793.

N. 830. - On the Nuptial Blessing Not to Be Tolerated in Mixed Marriages

"... And indeed as regards the blessing, as you know very well, this Apostolic See has been accustomed to prohibit it also in those marriages which are entered between Catholics and non-Catholics, with leave of the same See having been obtained, and with the cautions prescribed by it having been applied. And if afterwards it could be tolerated that a custom introduced in some regions be observed of blessing mixed marriages entered with the leave of the Church and the aforesaid cautions, nevertheless the same blessing is never to be tolerated in those cases in which, with no leave of the Church acceding and without the necessary cautions premised, a manifest and most grave crime is admitted in the very entering of the marriage covenant.... And these things are consonant with the precepts and admonitions which, whether in Our letters or those of Our predecessor Pius VIII to various Archbishops and Bishops, or in instructions published either by his order or by Ours, you know to have been recorded, Venerable brother. Nor indeed does it matter if those instructions were given only to some prelates who had consulted this Apostolic See, as if it were free for others not to follow their opinion.... Even if those letters and instructions, in that part in which they indulge or tolerate something new, are referred only to those places for which they were given, nevertheless the reason of them is circumscribed by no limits, insofar as they announce the unchangeable doctrine of the Church, inculcate the opinion of the canons, and proscribe depraved usages which are growing strong anywhere...." Gregory XVI, Letter of 23 May 1846 to the Archbishop of Freiburg.

What Ought Those Who Contracted Mixed Marriages Without the Consent of the Church Do?

"... It is necessary that satisfaction be made by the aforesaid spouses to the Church, whose most holy law has been violated, and that cautions concerning removing from themselves and from their offspring the danger of eternal salvation be supplied to the same, even in the external forum, and to this end recourse to the Bishop is to be required." S. I. C. 12 March 1881, to Apostolic Vicar B. *Acta S. Sed.* Vol. 16, p. 235.

Whether It Is Lawful to Contract Marriage Before a Heretical Minister

"It is not hidden that in certain places the heretical minister acts the part of a merely civil magistrate, before whom spouses are accustomed to present themselves, or even must because of a political end, namely that they may be held civilly as honorable spouses and that the offspring may be judged legitimate. But then, when heretics are urging, or by civil law or by the command of civil law, it is not disapproved that the Catholic party together with the heretical party present himself before or after the marriage contracted according to the Tridentine form, even before a minister addicted to heresy, only for fulfilling the civil act. For to a doubt once expressed thus: Whether a Catholic contracting

before his own Catholic parish priest with a heretic can licitly, when heretics urge it, ratify this marriage before a heretical minister, if from this no profession of a heretical rite is had or inferred, and whatever the heretical minister in the case does is, and is judged, a merely civil and political demand, this Sacred Congregation responded affirmatively.

But indeed, as often as the heretical minister is judged as devoted to sacred rites and as functioning, as it were, in the office of Parish Priest, it is not lawful for the Catholic party together with the heretical party to give matrimonial consent before such a petty minister, because he would be employed for completing a certain religious ceremony, and the Catholic party would associate himself with the heretical rite; whence there would arise a certain implicit adhesion to heresy, and therefore altogether illicit communication with heretics in divine things would be had. For that reason, even if this pernicious custom has grown up, so that it cannot easily be corrected by the Clergy, nevertheless it will have to be torn out with all zeal and diligence employed. And indeed Benedict XIV openly teaches that it is not lawful for contracting parties to present themselves before a heretical minister insofar as he assists as a minister devoted to sacred rites, and that the contracting parties sin mortally and are to be warned.

Therefore Parish Priests and Missionaries, opportunely instructed and admonished by you, should teach the faithful, both in public Catecheses in Churches and in private instructions, concerning the constant doctrine and practice of the Church, so that they may be salutarily averted, as far as can be done, from contracting mixed nuptials; but if not, that they utterly abhor celebrating marriage before a heretical minister devoted to sacred rites, which is in every way illicit and sacrilegious. Thus response was made to the Ordinary of Trier under Wednesday, 21 April 1847.

Let Parish Priests know besides, if they are questioned by the contracting parties, or if they certainly know that they are about to approach a heretical minister devoted to sacred rites for giving matrimonial consent, that they cannot be silent, but must warn the same spouses concerning the most grave sin which they commit, and concerning the censures into which they incur. Nevertheless, to prevent grave evils, if in some particular case the Parish Priest has not been questioned by the Spouses whether it is lawful or not to approach the heretical minister, and no explicit declaration is made by the same spouses concerning approaching the heretical minister, but nevertheless he foresees that they are perhaps about to approach for renewing matrimonial consent, and besides from the circumstances concurring in the case he foresees that the warning certainly will not be profitable, indeed will be harmful, and that thence material sin is to be turned into formal fault, then let him be silent, scandal however being removed, and provided that the other conditions and cautions required by the Church have been duly placed, especially concerning granting free exercise of religion to the Catholic party, and concerning all the offspring being educated in the Catholic religion. But if finally they wish consent before the parish priest to be renewed, after it has already been given before the heretical minister, and this is publicly known, or is notified by them to the parish priest, the parish priest will not be present at this Matrimony unless, the other things to be observed being observed as is supposed, the Catholic party, repentant of the fact, with salutary penances first imposed, has duly first obtained absolution from the contracted censures. Therefore the Sacred Congregation greatly trusts in the Lord that you, prudently and firmly adhering to the premises, will effect that the safe and intact deposit of inviolable doctrine be preserved, that the morals of Catholics answer to the faith, that apprehended damages be warded off, and that the faithful, strengthened by doctrine and

example, walk through the paths of justice." Decree S. C. I. 17 Feb. 1864, to the Bishops of the kingdom of Hanover; 29 Nov. 1672, D. Luc. Wadingus, Vicar General in Ireland.

N. 831. - On Doubtful Baptism in Order to Matrimony

"The Most Holy One (Gregory XVI), in an audience held on 20 Dec. 1831 ... ordered that there be added in the third case of the aforesaid decree (17 Sept. 1830), regarding certain nullity of Baptism in the heretical party: recourse is to be had in particular cases." Cf. Franc. Sentis, Decree of Clement VIII, Freiburg im Breisgau 1870, p. 135.

"The marriage of those concerning whom it is certainly established that they have not been validly baptized is to be held as the marriage of two infidels; but the marriage of those of whom one party only is recognized as validly baptized, and the other invalidly, is to be held as a marriage affected by the diriment impediment of disparity of worship, and therefore null; finally, if after diligent and accurate examination, doubt concerning Baptism validly received cannot be removed, and the fact of Baptism received is established, Baptism of this sort is to be judged valid in order to the validity of marriage according to the decree of 17 Nov. 1830. But if it is certainly known that there is no Baptism from the actual custom of that sect, the marriage is null." S. I. C. 3 Apr. 1878.

On Unknown Conferral of Baptism with Respect to Matrimony

"... 1. I ask whether in order to the validity or nullity of a contracted marriage, the conferral or non-conferral of Baptism, while it is unknown, is to be determined from the principle of presumption? ... 2. Whether, while the conferral of Baptism is unknown, the principle of presumption is rightly applied in order to the value of a contracted marriage in the following articles:

1. If the non-Catholic party or parties have had parents belonging to a sect which rejects Baptism, Baptism is not to be presumed here.

2. The same must be resolved if they had parents belonging to a sect which does not admit infant Baptism, or in which it is not conferred except on adults, for example those who have already attained the thirtieth year of age, as the matter stands in the sect of the Baptists.

3. The same must likewise be resolved if they had parents who, while they were living, professed that they did not wish to belong to any sect, and that they honored the Supreme Being rather by honest morals, as they say, than by any special worship.

4. If they had parents belonging to a sect which holds the same Baptism as necessary, or in which at least it is ordinarily administered, and those same parents were zealous in their sect, Baptism is to be presumed. But what if the parents were sluggish in the sect, or belonged to a sect which indeed does not reject Baptism, but does not hold it as necessary and in which it is not ordinarily administered? In both or in either case is Baptism to be presumed or not?

5. If according to the sect of only one parent and a zealous disposition of soul as above, the presumption favors Baptism, and in the education of the offspring that parent in fact and indubitably had the first parts, Baptism is to be presumed.

Resolve the same if, inquiry having been made, it is unknown or is not sufficiently established whether that parent had the first parts; for Baptism in order to marriage is to be presumed, since a union once entered is to be judged valid so long as an obstacle does not reveal itself. But what if it is certainly established that the sect and disposition of soul of the parent who in fact and indubitably had the first parts in education do not favor Baptism, while the sect and disposition of soul of the other parent favor the same?

6. In the case in which no presumption militates for Baptism, the rule is to be applied: a fact is not presumed, but must be proved. The application of this rule in these United States, where among non-Catholics there are very many who care nothing or little about conferring Baptism on their infants, perhaps ought to have place with the stronger right than in many other regions.

The aforesaid questions are proposed chiefly for this reason, that from their solution there may be had a norm according to which one can proceed safely especially in these cases. 1st. When, of two non-Catholic parties separated from each other as above, one asks to be received into the bosom of the Church, and desires to fly to other nuptials. 2nd. When a Catholic party separated from a non-Catholic as above asks to be joined with another spouse, or, already joined with another, desires to be admitted to the sacraments.

Resp. To the 1st: Affirmatively, yet investigation having been carried out in individual cases.

To the 2nd, namely: Whether, while the conferral of Baptism is unknown, the principle of presumption in order to the value of a contracted marriage is rightly applied in the following articles? They responded: Affirmatively as to the first, second, and third article, and as to the first part of the fourth and the first part of the fifth number; but in this last article, after the words "had the parts," let there be added: "nor is the other spouse known to be positively contrary to the conferral of Baptism," Baptism is to be presumed. In the remaining cases, which are noted in the second part of the fifth number, recourse must be had to the Holy See, with all circumstances of things, places, and persons, and other things bearing on the matter, set forth.

To the 6th: Provided for in the preceding." S. I. C. 1 Aug. 1883, Bishop of Savannah.

N. 832. - On the Impediment of Force and Fear

"No one is admitted by law to impugn marriage from this head, force and fear, except the one who is said to have suffered violence and coercion; but he is to be rejected who has lived for a long time in marriage, provided that liberty and opportunity of protesting were not lacking to him; so that if, already free from fear, he of his own accord has persisted in the conjugal house and has not refused matrimonial offices, he ought no longer to be heard." Instr. S. I. C. 20 June 1883, n. 35; Instr. S. C. de P. F. 1883, n. 36.

N. 833. - On the Certain or Doubtful Death of a Prior Spouse

"If all the circumstances have conspired to establish the death of the prior spouse before the second nuptials, concerning whose value there is question, the judge will not be able to pronounce sentence against the second marriage; for its nullity would not be established. But if there is question of a

marriage to be contracted, this can never be permitted until the death of the prior spouse has been certainly established." Instr. S. O. 20 June 1883, n. 42; Instr. S. C. de P. F. 1883, n. 43. Cf. *Acta S. Sed.* Vol. 18, p. 363 ff.

"... Wherefore, if any have already contracted new marriages, and indeed in good faith, thinking themselves freed from the bond of the prior marriage through the death of the spouse, they are to be left in good faith, because the possessor of good faith must not be disturbed from possession. If one of them is doubtful and wavering, he can indeed render the debt, but not ask it. If finally both contracted in bad faith, they are now altogether to be separated. Besides, this too must be guarded against: that if perhaps it happens that the prior spouse whom they thought dead still exists among humans, then the second nuptials are altogether to be invalidated, and, the later spouse having been dismissed, each one is bound to return to the prior." Instr. S. C. de P. F. 1792, to the Pro-Vicar of Western Tonkin.

"Moreover in this matter let the judge know that marriage is in itself a certain solemn and public fact, which must always be judged valid unless evident reasons have demonstrated its nullity. Therefore it is indeed to be cared for with all zeal and diligence that those reasons be gathered, but judgment against marriage must never be pronounced unless the complex of them excludes every prudent doubt concerning the existence of the impediment." Instr. S. C. de P. F. 1883, n. 40. Cf. *Acta S. Sed.* Vol. 18, p. 381.

On Doubtful Marriage

"... Moreover the Most Eminent Fathers observed that Missionaries, as to the marriages of infidels of that region, seem to have fallen into this opinion also, that in doubt one must stand for the invalidity of marriage; and this to such an extent that the party who seeks Baptism must be repelled from Baptism unless either he separates from the other party, or renews the marriage with the same, even if she who seeks Baptism is in good faith, and it does not stand through her that the marriage cannot be renewed: which things indeed cannot easily be approved. For you know that in marriages the contrary principle flourishes, that is: in doubt one must stand for the validity of marriage. But although it is sometimes equitable to recede from this principle, namely when, as for the most part happens in the marriages of infidels, the question concerns the fact, whether indeed marriage was ever contracted or not; nevertheless even in this case one must not immediately hasten to the contrary principle. For first it must be seen whether the marriage concerning whose existence the Missionary doubts can deservedly put forward possession for itself. For if this happens, the Missionary would wrongly judge that he must stand for its invalidity, since the rights of possession are to be observed until the contrary is clearly established. But the Most Eminent Fathers wished this to be noticed all the more because from those things which you narrate it appears that cases of this sort are very frequent. For you say that it often happens that the woman who seeks Baptism is in good faith, and therefore judges herself to be a true and legitimate wife; and likewise that the others suffer no scandal from her union with her man, and therefore they also judge that she is in a just marriage; but the unbelieving man, although he says nothing openly, nevertheless does not contradict either the opinion of the woman or that of the people, and deals with her as with a true wife: and these things moreover are of such a kind that they seem to vindicate for their union the name and possession of marriage." Instr. S. O. 18 Dec. 1877. Zitelli, *De Dispens. Matrim.*, Rome 1884, p. 112.

By What Indications the Death of Some Spouse Is Proved

"That only two can be coupled and joined by the bond of marriage, Christ so teaching, and that when either spouse has died, second, indeed even further, nuptials are licit, is dogmatic doctrine of the Catholic Church.

But as regards second and further nuptials, since the matter concerns a thing which is not rarely subject to difficulties and frauds, hence the Holy See has carefully provided, sometimes by general Constitutions, but more often by responses given in particular cases, that liberty of entering new nuptials be so safe for each person that the aforesaid unity of marriage not be brought into danger.

Hence the statutes of the sacred Canons, by which, that someone may licitly pass to other vows, it is required that the death of the spouse be certainly established, as in chap. *Dominus, de secundis nuptiis*, or that certain news concerning that death be received, as in chap. *In praesentia, de sponsalibus et matrimoniis*. Hence also those things which are handed down more fully in the Instruction *Cum alias*, 21 August 1670, sanctioned by Clement X and inserted in the Roman Bullarium, concerning the examination of witnesses for marriages to be contracted in the Curia of the Most Eminent Vicar of the City and of other Ordinaries. Especially indeed those things are contained there, n. 12 and 13, which more closely bear on the matter.

And these indeed would abundantly suffice, if in conducting causes of this sort an all-around and absolute certitude concerning the death of the other spouse could always be had; but since the almost infinite turns of cases do not allow this, which was wisely observed in the praised Instruction in these words: *If, however, testimonies of this sort cannot be had, the Sacred Congregation does not intend to exclude other proofs which by common law can be admitted, provided they are legitimate and sufficient*, it follows that, although the established general principles stand, cases not rarely happen in which the judgments of ecclesiastical Presidents are accustomed to hesitate in discerning and establishing true and just proof; indeed, since, on account of that greatest ease which has been brought about in our age of going to the most remote regions, men wander into almost all parts of the world, the multitude of cases of this sort has so increased that very frequent recourses are had concerning this matter to this Supreme Congregation, not without the inconvenience of the parties, for whom, amid the informations and instructions which, as they say, must be sought and sent according to the matter born, much time flows away before they can fly to the desired vows.

Wherefore the same Sacred Congregation, desiring to meet necessities of this sort, and at the same time considering that, especially in distant places of Missions, ecclesiastical Presidents may be destitute of suitable helps by which they can extricate themselves from grave difficulties, judged that it was useful to issue a fuller Instruction, in which, the things which have already been handed down being in no way abrogated, rules may be indicated which this same Sacred Congregation is accustomed to follow in cases of this sort, so that by their help judgments can be rendered even without the necessity of recourse to the Holy See, or certainly, if recourse must be made, the state of the question may be so clearly set forth that the sentence ought not to be impeded by a longer delay. Therefore:

1. When a question is instituted concerning the death of a spouse, it must be noted in the first place that an argument from that person's absence alone, however great, although it is admitted almost everywhere by civil laws, is by no means held by the sacred Canons as

sufficient for just proof. Whence Pius VI of holy memory rescripted to the Archbishop of Prague on 11 July 1789 that the mere absence of the spouse, and every kind of silence of the same, is not a sufficient argument for proving death, not even when the absent spouse, called by a royal edict, and the same must further be said if this has been done through public newspapers, gave no indication of himself. For that he did not appear, the Pontiff says, his contumacy could no less have been the cause than death.

2. Hence according to the prescription of the same sacred Canons, an authentic document of death must altogether be sought with diligent zeal; namely one drawn up from the registers of the Parish, or Hospital, or military service, or even, if it cannot be had from ecclesiastical authority, from the civil government of the place in which, as is supposed, the person died.

3. Moreover, sometimes this document cannot be had; in which case it will have to be supplied by depositions of witnesses. But the witnesses must be at least two, sworn, worthy of faith, and such as depose from their own fact, knew the deceased, and are concordant among themselves as to the place and cause of death and other substantial circumstances. Besides, if they are relatives of the deceased, or companions of the journey, industry, or even military service, their testimony will have to be made the more of.

4. Sometimes only one witness is found to be examined; and although by every law the testimony of one is not admitted for full proof, nevertheless, lest the spouse greatly desiring to enter other nuptials be compelled to live a celibate life, the Supreme Congregation in deciding cases of this sort does not absolutely reject even the testimony of one, provided that that witness is endowed with the recounted conditions, subject to no exception, and besides that his deposition is supported by other and grave aids; and if other extrinsic aids can in no way be gathered, nevertheless this at least is certain, that nothing is found in his testimony which is not congruent and altogether very likely.

5. It also happens that witnesses worthy of all faith testify that at a time not suspect they heard of the spouse's death from the attestation of others, but these, either because absent, or because they have died, or for any other reasonable cause, cannot be examined; then things said from the mouth of another, insofar as they answer to all the other circumstances concurring in the case, or at least to urgent ones, are judged sufficient for a prudent judgment concerning the death that followed.

6. But more than once it is found by experience that not even one witness is found, such as is established above. In this case proof of death from conjectures, presumptions, indications, and whatsoever circumstances will certainly have to be cared for by diligent and very cautious investigation, namely that, several things having been gathered from here and there, and their nature having been weighed, according as they are more urgent or lighter, or are joined by a closer or more remote nexus with the truth of the death, thence the judgment of a prudent man may be moved to affirm the same death by greatest probability, or moral certainty. Wherefore when in individual cases just proof from conjectures of this sort is had, this must be left to the prudent judgment of the judge; here, however, it will not be beside the matter to

indicate several sources from which those conjectures, whether more urgent or even lighter, can be gathered and had.

7. Therefore first those presumptions will have to be investigated which regard the person of the asserted deceased himself, and which indeed can easily be had from relatives, friends, neighbors, and persons known in any way to either spouse. In their examination let it be asked, for example:

Whether the one concerning whose death there is question was imbued with good morals, lived piously and religiously, and loved his wife; whether he had no cause of hiding himself; whether he possessed stable goods, or could hope for other things from his relatives or from elsewhere.

Whether he departed with the wife and relatives assenting; what then his age and health were.

Whether at any time, and from what place, he wrote, and whether he opened his will of returning as soon as possible, and other indications of this kind are gathered.

Other indications from the circumstances of things, according to the various cause of absence, can be gathered thus:

If he died because of military service, let it be asked from the commander of the soldiers what he knows about him; whether he was present at some battle; whether he was captured by enemies; whether he deserted the camp, or had dangerous assignments, etc.

If he undertook a journey for the sake of business, let it be inquired whether during the time of the journey grave dangers had to be overcome by him; whether he set out alone or accompanied by several; whether in the region to which he betook himself there supervened seditions, wars, famines, and pestilences, etc., etc.

If he entered upon a maritime journey, let diligent investigation be made from what port he departed; who were companions of the journey; whither he betook himself; what was the name of the ship which he boarded; who was the governor of the same ship; whether it suffered shipwreck; whether the society which perhaps gave security for the ship paid its price; and other circumstances, if there are any, should be diligently weighed.

8. Fame also, helped by other aids, constitutes an argument concerning death, yet under these conditions, namely: that it be proved by at least two trustworthy and sworn witnesses, who depose concerning the reasonable cause of the fame itself; whether they received it from the greater and sounder part of the people, and whether they themselves think rightly concerning the same fame; nor is there doubt that it was stirred up by those for whose advantage inquiry is made.

9. Finally, if there shall be need, investigation through public newspapers is not to be passed over, all necessary indications of the person having been given to the Director, unless because of special circumstances it is judged otherwise by sounder and more prudent counsel.

10. All these things, according to the opportunity of the cases, this Sacred Congregation is accustomed diligently to weigh; and since the matter concerns a most grave thing, all things having been balanced with equal scale, and besides the votes of several Theologians and

jurisprudents having been heard, it finally pronounces its judgment, whether such death is sufficiently established, and nothing stands in the way by which passage to other nuptials can be conceded to the petitioner.

11. From all these things ecclesiastical Presidents can take a certain norm which they may follow in judgments of this sort. But if, notwithstanding the rules noted thus far, the matter still seems uncertain and entangled to them, they must recur to the Holy See, all the acts having been transmitted with the recourse itself, or at least diligently set forth." Instr. S. C. S. O. 1868.

N. 835. - Marriages Contracted by Those Below Puberty in Infidelity

"When spouses left in infidelity, the marriage not yet having been consummated, do not wish to embrace the faith, can their marriages contracted in impuberty be held as mere betrothals de futuro, while their spouse has not yet been converted to the faith? Resp. Provided that it is established that no impediment of natural or divine law was present, and especially that the contracting parties furnished their consent, they are not betrothals but true marriages." S. O., S. C. de P. F. 25 Jan. 1886. Cf. *The Pastoral Gazette*, Bombay 1886, n. 153, p. 1280.

N. 838. 841. - On the Declaration of Benedict XIV as to the Marriages of Heretics in Belgium

This Declaration was made for special reasons; not because the marriages were of heretics. Cf. Benedict XIV, *On the Diocesan Synod*, l. 6, ch. 6; Cavalchini, Archbishop of Philippi, *On Marriages among Heretics*, Rome 1741; *Canons and Decrees of the Council of Trent. There Accede the Declarations and Resolutions of the S. C. of Cardinals Interpreters of the Council of Trent*, Leipzig 1853, p. 290 ff.; Naples edition, Joseph Pelella 1859, p. 305 ff. Hence when the Capitular Vicars of Poitiers in 1818 had asked: "Whether clandestine marriages of Protestants in France are valid, since today they have civil status there, and form a religious society distinct from Catholic Society, which has its ministers and its usages." S. I. C. responded: "The Decree of Benedict XIV issued in the year 1741 concerning the marriages of Holland is judged to regard only marriages contracted or to be contracted in those provinces, but not other marriages entered or to be entered in other places, to which therefore it cannot be applied without a new and special Declaration of the Apostolic See." And S. Poenit., 28 March 1838, to the Bishop of Grenoble, asking: "Whether marriages entered by heretics among themselves, or with Catholics, according to civil laws alone, or before a heretical minister, without the presence of the Catholic Parish Priest, are valid in France and in other regions where Protestants and all heretics have their ministers, temples, and a legal status approved by the Government?" responded: "Negatively, excepting the regions of which Benedict XIV speaks in the Declaration of 4 Nov. 1741, and to which that same Declaration has been extended by his successors." By the Benedictine Declaration are comprehended "1. Those who, baptized Catholic, are educated from childhood not yet seven years old in heresy and profess heresy. 2. Those who are educated not so much in heresy as by heretics, that is, having received no, or scarcely any, instruction in heretical doctrine, and with worship not frequented, though participated in sometimes. 3. Those who, still children, falling into the hands of heretics, are joined to a heretical sect. 4. Apostates passing over from the Catholic Church to a heretical sect. 5. Those who, born and baptized by heretics, grew up without having emitted any solemn profession of heresy, and as if of no religion," etc. S. O. 6 Apr. 1859.

N. 839. - On Those Passing from a Place Where the Council of Trent Has Been Promulgated into a Place Where It Has Not Been Promulgated

"... While Urban VIII, Pontifex Maximus of happy memory, was sitting, the Archbishop Elector of Cologne proposed these three doubts before the Congregation of the Council. It is humbly asked from the Sacred Congregation whether inhabitants, both males and females, of a place in which the Council of Trent in the point of marriage has been promulgated and accepted, passing through a place in which the said Council has not been promulgated, while retaining the same domicile, can validly contract marriage in that place without the Parish Priest and witnesses? 2. What if the aforesaid inhabitants, both males and females, transfer themselves there with the sole intention of contracting without the Parish Priest and witnesses, while not changing their dwelling? 3. What if the same inhabitants, both males and females, transfer their dwelling there, with that sole intention of contracting without the Parish Priest and witnesses? But this Congregation gave the Response: on 5 Sept. 1626 the S. C. of Cardinals Interpreters of the Council of Trent responded: To the 1st and 2nd, that there is not legitimate marriage between those so transferring themselves and passing over with fraud. To the 3rd it responded that, unless domicile is truly transferred, the marriage is not valid....

The context well weighed, it is easily understood that the marriages set forth in the 1st and 2nd places are decreed by the same Congregation to be void and null because fraud intervened; but the marriage placed in the 3rd place is judged valid, in which, although fraud intervened, nevertheless he who contracts marriage, before he entered it, had acquired domicile or quasi-domicile in that place where he entered the marriage: *Unless domicile is truly transferred*. For it is neither new nor unusual that someone have domicile in one place and acquire quasi-domicile in another: in which state of affairs if he is situated, then he will be free to contract marriage before that Parish Priest within whose parish boundaries he then dwells, when he is joined in marriage, according to the common opinion reported by Us and sanctioned in Our above-mentioned Ecclesiastical Institution 33 of the Latin edition....

The same Congregation judged valid the marriage contracted by one who had departed from the place of his proper domicile in order to flee the difficulties into which he would have fallen if he had wished to enter marriage before the Parish Priest of the same place, and had entered it before the Parish Priest of another place, after however he had acquired legitimate quasi-domicile there, and had remained in the same place for some time even after the marriage had been contracted...." Benedict XIV to the Archbishop of Goa, *Paucis abhinc*, 19 March 1758.

The Tridentine law on the clandestinity of Matrimony is at once local and personal. S. O. 14 Dec. 1859.

N. 840-844. - On the Promulgation of the Decree of Trent, and on Clandestine Marriages of Heretics in Places of Infidels; on the Common Impossibility of Approaching the Parish Priest and of Asking Dispensation

"The Bishop of St. Hyacinth in the Canadian region sets forth to the Congregation of the Holy Inquisition that doubts now arise concerning the validity of certain marriages contracted without the solemnity required by the Decree *Tametsi* of the Council of Trent in the missions or quasi-parishes of this diocese. For before the year 1872, many places of the Diocese of St. Hyacinth, commonly now called Cantons or Townships, were not yet canonically divided into parishes. In these places there

were: 1. Missions properly so called, namely without a resident priest, but visited through the year by a missionary delegated for this purpose at times both fixed and unequal; 2. quasi-parishes, by which must be understood a territory which as to external appearance approached more or less to the likeness of a parish, as having a church, near which a priest ordinarily or at least principally resided, and boundaries designated by the Bishop.

Nevertheless, in these missions and quasi-parishes, as also in parishes properly so called, the Decree *Tametsi* of the Council of Trent had been published annually by the priests placed over their care.

... Whether the promulgation of the Decree *Tametsi* of the Council of Trent was valid in the aforesaid missions and quasi-parishes? ...

Resp. According to the things set forth, affirmatively, and according to the mind. The mind is that in places where a parish priest cannot be had, marriage celebrated before witnesses is valid; but the contracting parties are bound to receive the nuptial blessing as soon as they conveniently can, and to take care that their marriage be inscribed in the sacramental register of the Mission, or of the nearest church on which they depend." S. I. C. 5 Dec. 1883.

"In those places in which the Apostolic Vicars, mature counsel having been employed, shall have judged it expedient, let them take care that in those places the Decree of the Council of Trent, ch. 1, sess. 24, on Matrimony, be duly promulgated; and therefore, that marriages which henceforth shall happen to be celebrated in the same places, that they may be named and be valid, must be entered before the Parish Priest or Missionary, or any Priest legitimately designated, and two or three witnesses, and these, if they can be had, Christians; but in those places in which the decree cannot be observed whole, because the Parish Priest or another designated for that office is absent, and easy approaches to the same are not open, marriages must indeed be entered before at least two witnesses, and these, so far as is permitted, Christians; yet the contracting parties are to be bound by law, lest the dignity of the Sacrament grow cheap, to present themselves before the Parish Priest or Missionary whenever he returns, that they may duly receive the blessing from him. But the Missionary or Parish Priest when returned, when it has been established to him concerning the consent of the spouses, should teach the spouses that a blessing of this sort pertains only to the rite, not to the validity, of the marriage.... Since after the recent Instruction concerning clandestine marriages, transmitted also to the Siamese at the beginning of the year 1821, the Decree of the Council of Trent perhaps was already duly promulgated through some places, either it is to be observed whole, or almost whole according to the condition of places and persons, as was explained a little before; in this case, if any Catholic women, contemning the decree which they were bound to observe, attempted to enter a nefarious union with heretical men before a petty Minister, the Sacred Congregation judges that such concubinages are to be declared invalid and to have no force in the sight of the Church. But if finally it is doubted whether the Tridentine Decree has thus far been duly promulgated through some places, and meanwhile similar nuptials have been contracted, and some prudent doubt arises concerning their validity, in this case the Most Eminent Fathers judge marriages of this sort to be sanated, insofar as there is need, in the root." Instr. S. C. de P. F. to the Apostolic Vicar of Siam, 9 Dec. 1822.

"... even if that Tridentine law had been promulgated, nevertheless marriages in the presence of only two witnesses are valid as often as in the place where the marriage is contracted, or in a neighboring place to which access can be had without danger, there does not exist a Parish Priest or other secular

or regular Priest deputed by the Bishop; this Apostolic See, when likewise interrogated several times, responded. Moreover, lest the dignity of the Sacrament grow cheap, His Holiness wished the faithful to be exhorted that they present themselves to the Missionary when he returns and ask the Blessing from him, yet with a declaration first made by the Missionary that a Blessing of this sort in no way pertains to the validity of the marriage." S. C. S. O. 15 Feb. 1779, Apostolic Vicar of Sutchuen.

"Marriages contracted before a secular magistrate or before an extraneous priest, when the contracting parties can in no way, or only most difficultly or most dangerously, recur to the Parish Priest or legitimate superior, are valid as often as at least two witnesses were present, according to the resolutions of the S. C. of the Council in the cause of Belgium, 27 March 1832, in another, 30 March 1669, and according to the resolution of the Congregation of the Holy Office in the cause of the Malabar Province, 8 May 1669, to which this particular Congregation adhered in the resolution of 2 June of this year in the response to the Bishop of Lucon. Nevertheless the contracting parties are to be warned to consult their conscience, because marriages contracted before schismatics or adherents of schism, although in the aforesaid circumstances they are valid, are nevertheless illicit; and also the spouses are to be exhorted that they receive the blessing from the legitimate Parish Priest insofar as it can be done without danger. But as often as at least two witnesses were by no means present, the marriages are invalid, and, insofar as it can be done, are to be revalidated; yet in such a way that if some impediment of ecclesiastical law stands in the way, dispensation be given by the Bishop as often as he has power of dispensing from concession of the Apostolic See; recourse must be had to it if the matter concerns impediments in which he does not have the faculty of dispensing from apostolic delegation of the same See. But marriages contracted before a secular magistrate or before an extraneous priest, when the contracting parties can approach no one other than a Parish Priest guilty of the oath or schismatic communion, are likewise valid as often as at least two witnesses were present, and the proper Parish Priest has adhered to schism either on account of the oath or from any other cause; nevertheless the spouses are to be warned and exhorted, as above." Response of Pius VI, Letter *Intelleximus*, 5 Oct. 1793, to the Bishop of Geneva, to be communicated to the Bishops of Savoy as to civil marriages.

"When access is difficult and not safe, and it is unknown when the Parish Priest can be had, and he is foreseen to be going to be absent from the place for the space of at least one month, and there is no other who may supply the place of the Parish Priest, marriage is valid without the presence of the Parish Priest, with the form of the Council preserved in that in which it can be, namely with at least two witnesses employed." S. O. 1 July 1863; 15 May 1861.

"In these most difficult and distant regions there often occur Christians who, either for the sake of avoiding persecution, or because of the necessity of money, or even because of another cause, sufficiently incautious as the Chinese generally are, set out from the places of Christians where they themselves dwell or were born, to faraway places, to 40 or 50 and more days' journey, together with wife and children; in which places there are no Christians, nor can they be found, nor was there ever any report concerning the Christian religion around. The sons and daughters, when they have become older, marry Pagans without possible dispensation. According to the customs of the people, especially the daughters, and very often also the sons, are in absolute impossibility of migrating to the places of Christians, and thus they must altogether either marry Pagans, or remain unmarried or celibate. What is the law in this case? Are they held by the impediment of disparity of worship? What

is the law where their faith is safe, as sometimes happens, and where they are in good faith, as occurs for the most part? Resp. In the proposed circumstances they are not to be disturbed, the word having been had with the Most Holy One. The Most Holy One approved." S. C. S. O. 4 June 1851, Apostolic Vicar of Manchuria.

N. 841. - Whether Heretics Generally Are Subject to Diriment Impediments of Ecclesiastical Law?

"... We must not therefore recede from the uniform opinion of our predecessors and from ecclesiastical discipline, which do not approve marriages between parties both heretical, or between one Catholic and the other heretical, and this much less in the case in which there is need of dispensation in some degree.... From the words of the letter of Benedict XIV cited above you will certainly have understood that the discourse is about dispensations which have place no less when there is question of simple marriages between a Catholic party and a heretical party, than about degrees of kinship in which the contracting parties would be to each other. And in reality that case of which the Pontiff in the year 1750 was speaking with the Bishop of Wroclaw concerned dispensations in degrees, concerning which he expounded his mind, as we have reported, in terms of mere tolerance, consequent from the things previously known to him; but this very thing is what we cannot do, because in the hypothesis then existing the practice of dispensing in degrees for mixed marriages was inveterate in that place, which is opposed by the rule adopted in other more recent cases by our predecessors and by us ourselves, namely, since dispensation is a grace, this is reserved to the faithful living under obedience of the Church; whence it ought not to be extended to heretics, who, by not acknowledging its authority, by this render themselves unworthy of a similar indulgence; or at most a dispensation in degrees can be conceded by Bishops in some particular case, which is not stricter than those which are comprehended in the formula, and in which an urgent and public cause concurs, but not some private convenience or unbridled impulse of mind of the contracting parties...." Rescript of Pius VI to Cardinal de Frankenberg, Archbishop of Mechlin, and the Bishops of Belgium, 13 July 1792.

"... But indeed, you say, because heretics in Hungary would contract marriages among themselves even in prohibited degrees by force of royal concession alone, it seems to me that it can be asked rightly and deservedly: what must be pronounced concerning the value of marriages of this sort? But unless a legitimate dispensation of impediments by the authority of the Church, by whose authority they were introduced, has intervened, in the same Declaration of Benedict XIV it is sufficiently openly decreed that they are invalid. For he established that even in the very Provinces of Federated Belgium, marriages between heretics, even if the form prescribed by Trent has not been observed in celebrating them, be held as valid, provided that no other canonical impediment stands in the way; by which exception he manifestly shows that, if some other canonical impediment underlies, such as that which arises from prohibited degrees, marriages of this sort do not have force...." Response of S. C. C. to the Bishop of Roznava, 20 Aug. 1780. Cf. Benedict XIV, Const. *Magnae nobis*, 29 June 1748; Const. *Ad tuas manus*, 8 Aug. 1748; Const. *Singulari nobis*, 9 Feb. 1750.

Whether Marriages of Heretics, Not Contracted According to the Norm of the Tridentine, Where the Decree Tametsi Has Been Published, Are Valid?

From the Decisions of the Holy See and the Sacred Congregations, marriages of this sort have been declared now valid, now invalid. "Therefore just as those would err who would judge universally that marriages of heretics not contracted before a Catholic Parish Priest are null, so likewise those would err who would affirm universally that the same are valid: if therefore either cannot be affirmed in a general way, the cause of distinction must be drawn from the circumstances of places; and in reality Pius VII drew it from the circumstances of places, in the Letter of 8 Oct. 1803 to the Archbishop of Mainz; for he indicated the causes why unions of heretics can be valid, either because in their places the Decree was not published, or because it was not observed as a Decree of the Council of Trent, or because in the same places, from whatever cause finally, it had gone into desuetude. Therefore heretics are not exempt from that Decree because they are heretics; for if that were true, heretics would always contract validly, wherever they stayed, without the presence of a Catholic Parish Priest and witnesses." *Acta S. Sed.* Vol. 7, p. 64; Vol. 2, p. 637; Joseph Mansella, *De Impedim. Matr. Dirim.*, Rome 1881, p. 264 ff.

N. 846. - On Quasi-Domicile in Order to Matrimony

"... It is indeed certain that those marriages of which there is question here would be very rare, if the canonical prescriptions concerning quasi-domicile were to happen to be diligently and accurately observed by those who, having set out from a place where the Tridentine law on clandestinity is in force, go to a place where it is not in force. For it is clear and established to you that what was long ago defined by the S. C. C. and confirmed by the authority of the Supreme Pontiff Urban VIII in the Brief which begins *Exponi nobis*, and which was issued at the request of the Archbishop of Cologne on 14 Aug. 1627. According to those things which are sanctioned in this decree, those who have and retain domicile in a place where the Tridentine law is in force cannot validly enter marriage in a place where it is not in force, unless there they have fixed not only habitation but also true domicile, by which they must altogether purge fraud, if any intervened. But to constitute quasi-domicile, which in these cases must necessarily be acquired, these two things are required at the same time, namely habitation in that place where the marriage is contracted, and the intention of remaining there for the greater part of the year. Wherefore if it is legitimately established that either both or one of the spouses has the intention of remaining for the greater part of the year, from that first day on which these two things concur together, namely both an intention of this sort and actual habitation, it must be judged that quasi-domicile was acquired, and that the marriage which therefore is contracted is valid. Nevertheless, if the aforesaid intention is not established, recourse must be had to the indications which are at hand and which produce moral certainty. But in an occult and internal matter it is difficult to have indications of this sort which make the judge secure: thence it is that the rule confirmed by the Supreme Pontiff Benedict XIV, Const. *Paucis*, 12 March 1758, must especially be applied, that it be inspected whether before marriage, for a space of at least one month, either both or one of them lived in the place of the marriage. But if this is found to have been done, it must be judged from presumption of law that the intention of remaining for the greater part of the year existed, and that quasi-domicile was acquired, and therefore that the marriage is valid. But if this presumption of law, which arises from a month's habitation, is destroyed by contrary proofs, by

which it is certainly and clearly established that the aforesaid intention in no way existed, then it is manifest that a contrary judgment must indeed be brought forth, because presumption must yield to truth. Besides, it is also manifest that actual habitation is inept for producing quasi-domicile if someone stays in that region after the manner of a vagabond and traveler, but not of one truly and properly inhabiting, namely as the others are accustomed to do who have true and properly so called domicile in the same place...." S. I. C. I, 7 June 1867. Cf. *Acta S. Sed.* Vol. 14, p. 320 ff.; Benedict XIV, Instruction 33.

On Quasi-Domicile in the United States of America

"S. U. I. F. V., in place IV, on 6 May 1886, decreed, at the request of the Council of Baltimore, that the Most Holy One should be supplicated that he deign to decree that, in the United States of America, those transferring themselves from a place where the Chapter *Tametsi* is in force into another place, provided that there they have stayed continuously for the space of at least one whole month, and have proved the freedom of their state as is of law, are to be judged to have quasi-domicile there in order to marriage, without inquiry having to be made concerning the intention of remaining there for the greater part of the year. But the Most Holy One, on Wednesday, 12 Dec., deigned by his supreme authority to ratify and confirm the aforesaid decree of the Most Eminent Fathers, all things whatsoever to the contrary notwithstanding." Zitelli, *Appar. Iur. Eccles.*, Rome 1886, p. 387.

N. 853. - Whether in Every Case the Blessing Can or Ought to Be Given to the Spouses?

Cf. N. 770, 840.

N. 854. - Whether the Prohibition Which the Sacred Congregation Makes to an Impotent Party in Causes of Impotence, of Contracting Other Nuptials Unless License Has Been Obtained from the Same Sacred Congregation, Induces a Diriment Impediment?

Resp. Negatively. Cf. *Acta S. Sed.* Vol. 6, p. 518; Vol. 11, p. 595.

N. 861. - On the Power of Bishops in Public Diriment Impediments

"The proposition asserting that Bishops can dispense in a public impediment diriment of marriage, of consanguinity for a marriage to be contracted, whether in the article of death or in another most urgent necessity in which the contracting parties cannot wait for dispensation of the Apostolic See, is false, rash, scandalous, pernicious, and seditious." S. I. C. 19 Jan. 1661. Cf. *Acta S. Sed.* Vol. 14, p. 155 ff.

N. 862. - On Dispensation to Be Obtained from Each Ordinary, When the Parties Are of Diverse Jurisdiction

"We shall respond to this question according to that reasoning by which the Sacred Congregation, consulted several times about this matter, responded, namely: if this question were to be considered speculatively, as they say, the indivisibility of marriage and other arguments could sufficiently show that it is enough to ask dispensation from one of the two Bishops or Ordinaries. But, since this controversy is instituted perpetually so that it may be understood what is to be done in practice, the

response several times has been that in practice dispensation is to be required from each Bishop. For in these cases the validity of the Sacraments is concerned, in which matter the safer opinion is to be held in practice. But the safer opinion is that concerning dispensation to be asked from each Bishop; for the greater part of Theologians is opposed to the opinion by which it is established that it is enough to ask dispensation from one Bishop only." S. C. de P. F. 21 June 1828, Apostolic Vicar of Pondicherry. But cf. N. 826, Resp. S. O. 22 Nov. 1865.

N. 862. 863. - On Dispensations over Cumulative Impediments

"... With attention to the declarations of the Tribunal of the Holy Inquisition, it has been seen that faculties conceded for dispensing over individual impediments cannot be extended to the case in which these same impediments concur together and are accumulated." S. C. de P. F. 16 June 1868.

"Bishop N. ... up to now thought that the faculty belonged to him, by force of the indult of 15 November, of dispensing in marriages to be contracted over the impediment either of consanguinity or of affinity in the third and fourth degree, not only single, but also double and more, and also in consanguinity and affinity joined together. But since the said Bishop recently discovered that some today doubt concerning the aforesaid opinion, hence he proposes the following doubts to the Sacred Penitentiary:

1. Whether by force of the indult of 15 November the Bishop can dispense in consanguinity or affinity in the degrees determined there, even when the same degrees are multiplied? 2. Whether in consanguinity and affinity joined together? 3. Insofar as negatively, he asks sanation as to the past and faculty as to the future.

Resp. To the 1st: Affirmatively. To the 2nd: Provision will be made in the following. To the 3rd: The Sacred Penitentiary, by special and express apostolic authority, sanates and convalidates in the root all and singular marriages which up to now, on account of the cumulative faculty of dispensing together over consanguinity and affinity, were contracted nullly, and decrees and respectively declares the offspring either received or to be received therefrom legitimate. But the present letters are to be diligently kept in the episcopal Chancery, so that for whatever future event it may be established concerning the validity of the marriages and the legitimacy of offspring.

But as regards the future, faculty is granted to the same Bishop that he himself, or through his vicar general, can dispense over consanguinity and affinity joined together, in the degrees determined in the second article of the indult of 15 November, for ten cases only." S. Poenit. 18 Jan. 1883. Cf. *Acta S. Sed.* Vol. 7, p. 290 ff. Cf. Declaration N. 826.

On Anticipative and Common Dispensation

"... Some among us do not hesitate to give an anticipative and common dispensation for this effect, of marrying. Their reason is that it does not seem probable that the Holy See requires that they undertake a journey of ten and sometimes more days so that, when the case occurs, they may ask dispensation. Besides, they observed that, of a hundred pagan women who marry faithful men, ninety become Christians; whence generally and anticipatively, with consideration had of the number of Christians of some determined place, they dispense a determined number of these, the persons not named, from the impediment of disparity of worship. Whether these Missionaries exceed in the use

of the aforesaid faculty, I do not dare to determine. Resp. The Missionaries have exceeded and do exceed in conceding anticipative and common dispensations without naming the person, and it must be enjoined upon them that henceforth they abstain from conceding these dispensations, under penalty of nullity; for it is altogether alien from the custom and mind of this Holy See to wish to delegate faculties which are to be entrusted to execution before the cause has been diligently seen, and before the conditions which are attached have been placed in safety by the same executor. Therefore it will belong to the office of the Apostolic Vicar to subdelegate the faculty which is supposed to be present to him and to continue, of dispensing over disparity of worship, only to those prudent and pious Priests laboring in his Mission who permit none of the faithful to contract marriage with an infidel unless they have seen beforehand that those grave causes concur which are plainly to be required in individual cases, which the Apostolic See commands to be carefully inspected; and especially unless they have guarded that the infidel party, if he or she has not furnished hope of conversion, at least is going to cohabit with the faithful party without contumely of the Creator and injury to the Christian name, and in no way is going to impede the education of offspring of either sex in the holy Religion. But lest the Apostolic Vicar be anxious over dispensations hitherto unduly conceded, His Holiness most mercifully indulged that those who contracted should not be disturbed, their marriages being sanated in the root, as it is said, and the spouses absolved from the obligation of new consent." S. C. S. O. 15 Feb. 1780.

What Is to Be Observed in Constructing the Process of Matrimonial Causes?

Resp. The process is to be constructed according to the Constitution of Benedict XIV, *Dei miseratione*, the third day before the Nones of November 1741, and the Instructions issued by the Holy Office, by the S. C. C., and by the S. C. de P. F. Cf. *Acta S. Sed.* Vol. 1, p. 439 ff.; Vol. 18, p. 344 ff.; Zitelli, *De Dispens. Matrim.*, Rome 1884, p. 126 ff.

N. 866. 867. - On the Causes for Obtaining Matrimonial Dispensations, and on Those Things Which Must Be Expressed in Obtaining the Dispensation Itself

"Since dispensation is a relaxation of common law, made with knowledge of the cause by him who has power, it is evident to all that dispensations from matrimonial impediments are not to be indulged unless a legitimate and grave cause intervenes. Indeed everyone easily understands that a cause so much the graver is required as the impediment which is opposed to celebrating the nuptials is graver. But not rarely suppliant letters reach the Holy See for obtaining some dispensation of this sort which are supported by no canonical reason. It also sometimes happens that in supplications of this sort those things are omitted which must necessarily be expressed, lest the dispensation labor under the defect of nullity. Therefore it seemed opportune in the present Instruction briefly to touch upon those principal causes which, according to canonical sanctions and the prudent judgment of ecclesiastical provision, have been accustomed to be held sufficient for obtaining matrimonial dispensations; then to indicate those things which must be expressed in asking for the dispensation itself.

And, to begin from the causes of dispensations, it will first be worthwhile to observe that sometimes one cause taken separately is insufficient, but joined to another is judged sufficient; for many things

help which individually do not profit. Arg. l. 5, C. *De probat*. But causes of this sort are the following:

1. Narrowness of place, whether absolute or relative, only by reason of the Oratrix, namely when in the place of origin, or even of domicile, the kinship of the woman has been so propagated that she cannot find another of equal condition to whom she may marry except a blood-relative or affine; but to leave her fatherland is hard for her.

2. Over-adult age of the woman, namely if, having already passed the 24th year of age, she has up to now not found a man of equal condition to whom she can marry. But this cause does not support a widow who desires to fly to other nuptials.

3. Deficiency or incompetence of dowry, namely if the woman does not actually have so great a dowry that she can marry a stranger of equal condition, who is neither blood-relative nor affine, in her own place in which she lives. This cause urges more if the woman exists wholly undowered, and a blood-relative or affine is prepared to take her as wife, or even conveniently to endow her entirely.

4. Lawsuits over succession of goods already arisen, or grave or imminent danger of them. If the woman sustains a grave lawsuit over succession of goods of great moment, and there is no other who will take a lawsuit of this sort upon himself and prosecute it at his own expense except the one who desires to take her as wife, dispensation is customarily conceded; for it concerns the Commonwealth that lawsuits be extinguished. Another cause comes very close to this, namely, a Dowry involved in lawsuits, when the woman is destitute of another man by whose help she could recover her goods. But a cause of this sort suffices only for more remote degrees.

5. Poverty of a widow who is burdened by numerous offspring, and a man promises to support her. But sometimes a widow is assisted by the remedy of dispensation for this cause alone, that she is younger and is situated in danger of incontinence.

6. The good of peace, under which name come not only treaties among Kingdoms and Princes, but also the extinction of grave enmities, quarrels, and civil hatreds. This cause is adduced either for extinguishing grave enmities which have arisen among the blood-relatives or affines of the contracting parties, and which would be altogether settled by the celebration of marriage; or when grave enmities have flourished among the blood-relatives and affines of the contracting parties, and, although peace has already been entered among them, nevertheless the celebration of the marriage would greatly conduce to the confirmation of that peace.

7. Excessive, suspect, dangerous familiarity, and also cohabitation under the same roof, which cannot easily be impeded.

8. Copula previously had with a blood-relative, or affine, or another person laboring under an impediment, and Pregnancy and therefore legitimation of offspring, namely that provision may be made for the good of the offspring itself and the honor of the woman, who otherwise would remain unmarried. This indeed is one of the more urgent causes, on account of which dispensation is customarily given even to commoners, provided that the copula was not

perpetrated under the hope of an easier dispensation: which circumstance would have to be expressed in the supplication.

9. Infamy of the woman arisen from suspicion that she, being too familiar with her blood-relative or affine, was known by him, although the suspicion is false, namely when, unless marriage is contracted, the woman would remain gravely defamed or unmarried, or would have to marry a man of unequal condition, or grave damages would arise.

10. Revalidation of marriage which in good faith and publicly, with the Tridentine form observed, was contracted: because its dissolution can scarcely happen without public scandal and grave damage, especially of the woman (chap. 7, *De consanguin.*). But if the spouses entered the nuptials in bad faith, they by no means merit the grace of dispensation, the Council of Trent so disposing, sess. 24, ch. 5, *De reform. matrim.*

11. Danger of mixed marriage, or of celebrating before a non-Catholic Minister. When there is danger that those wishing to contract marriage in some degree even of the greater degrees, from the denial of dispensation, will approach a non-Catholic Minister for celebrating the nuptials, with the authority of the Church spurned, a just cause of dispensing is found, because there is present not only most grave scandal of the faithful, but also fear of perversion and defection from the faith of those so acting and contemning the impediments of marriage, especially in regions where heresies rage with impunity. This Sacred Congregation taught this in the Instruction given on 17 Apr. 1820 to the Archbishop of Quebec. Likewise when the Apostolic Vicar of Bosnia had asked whether he could grant dispensation to those Catholics who allege no other motive than mad love, and at the same time it is foreseen that, dispensation being denied, they are going to enter marriage before an infidel Judge, the S. C. of the Holy Office, on Wednesday, 14 Aug. 1822, decreed: Response is to be made to the Orator that in the case set forth he should use the faculties committed to him in form II, as he shall have judged expedient in the Lord. The same must be said concerning the danger that the Catholic party may dare to celebrate marriage with a non-Catholic.

12. Danger of incestuous concubinage. From the above-mentioned Instruction of the year 1822 it is clear that the remedy of dispensation must be applied lest someone grow filthy in concubinage with public scandal and evident danger of eternal salvation.

13. Danger of civil marriage. From the things said it follows that a probable danger that those who seek dispensation, not obtaining it, will celebrate only civil marriage, as they say, is a legitimate cause of dispensing.

14. Removal of grave scandals.

15. Cessation of public concubinage.

16. Excellence of merits, when someone has deserved very well of religion, either by fighting against the enemies of the Catholic faith, or by liberality toward the Church, or by doctrine, virtue, or in another way.

These are the more common and stronger causes which are customarily adduced for obtaining matrimonial dispensations; concerning these Theologians and interpreters of the sacred Canons treat copiously. Among the others to be consulted are Pyrrhus Corradus, *Praxis dispensationum apostolicarum*, books 7 and 8, and Vincentius De Iustis, *De dispensationibus matrimonialibus*, book III.

But now the Instruction turns itself to those things which, besides the causes, in suppliant letters for obtaining a dispensation must be expressed by law or custom, or the style of the Curia, so that if even ignorantly the truth is kept silent, or falsehood is narrated, the dispensation is rendered null. These are:

1. The Name and Surname of the Orators, each to be written distinctly and clearly, and without any abbreviation of letters.

2. The Diocese of origin or actual domicile. When the Orators have domicile outside the Diocese of origin, they can, if they wish, ask that the dispensation be sent to the Ordinary of the Diocese in which they now live.

3. The species, even the lowest, of the impediment: whether it is consanguinity, or affinity arisen from licit or illicit copula; public honesty deriving origin from betrothals or from ratified marriage; in the impediment of crime, whether it came from killing of the spouse with promise of marriage, or from killing of the spouse with adultery, or from adultery alone with promise of marriage; in spiritual relationship, whether it is between the one lifting and the one lifted, or between the one lifting and the parent of the one lifted.

4. The degree of consanguinity, or affinity, or honesty from ratified marriage, and whether it is simple or mixed, not only the more remote but also the nearer; and also the line, whether it is direct or transverse; likewise whether the Orators are joined by a double bond of consanguinity, both on the side of the father and on the side of the mother.

5. The number of impediments, for example, if there is double or multiple consanguinity or affinity, or if besides kinship there is also affinity, or any other impediment whatsoever, whether diriment or impeding.

6. Various circumstances, namely whether the marriage is to be contracted or has been contracted; if already contracted, it must be opened whether in good faith, at least on the part of one, or with knowledge of the impediment; likewise, whether with denunciations premised and according to the Tridentine form; or whether under the hope of more easily obtaining dispensation; finally, whether it has been consummated; if in bad faith, at least of one party, or with knowledge of the impediment.

7. Incestuous copula, etc. Cf. N. 867.

These things must be kept before the eyes not only by those who recur to the Holy See for obtaining some matrimonial dispensation, but also by those who, from Pontifical delegation, can dispense by themselves, so that they may duly use, as is fitting, the faculties which they possess." Instr. S. C. de P. F. 9 May 1877.

When is narrowness of place such that it can be adduced as a legitimate cause for obtaining matrimonial dispensation?

Resp. A norm is handed down by Pius IX through the circular letter of the Most Eminent Pro-Datary Cardinal Spinola sent to the Archbishops on 30 Aug. 1847. Moreover in it those places are declared narrow in which the number of hearths does not exceed three hundred, or the inhabitants are not beyond one thousand five hundred. S. C. C. on 16 Dec. 1876 gave this response: "Narrowness of place is not to be taken from the number of hearths of each parish, but from the number of hearths of each place or even of several places, if they are not distant from each other beyond a mile." But the Apostolic Datary has these things: "Narrowness of place is verified when its households do not exceed the number three hundred; nor is it an obstacle that the narrow place exists a little distant from another, provided that those two places are distinct and diverse among themselves and have their own name. But some distance is required in Suburbs, which, although they constitute part of the city, nevertheless Narrowness is admitted in them when they are distant from the city by a mile or a little less. Thus think Pyrrhus Corrado in *Praxis dispens. apost.*, l. 7, ch. 5, and De Iustis, *de dispens. matrim.*, l. 3, ch. 2. Moreover the practice of this Apostolic Datary conforms exactly to doctrine of this sort." Cf. *Acta S. Sed.* Vol. 9, p. 631; Vol. 16, p. 544.

N. 867. - On the Validity of Matrimonial Dispensation When Incestuous Copula Has Been Kept Silent

"The holy Church of God has always pursued the unspeakable crime of incest with special hatred, and the Supreme Roman Pontiffs established that those who did not blush to defile themselves with it, if they fled to the Apostolic See for the sake of seeking dispensation over impediments diriment of marriage, unless mention of the admitted crime had been made in their prayers, these prayers would be held infected by the defect of obreption and subreption, and therefore the dispensation would be invalid; and this was provided for that most holy cause, that the Christian faithful be kept away from this most grave crime.

The mind of this Holy See is witnessed both by other documents and by the decree which most recently the supreme council of the holy Roman and universal Inquisition, with the Roman Pontiff himself approving, issued on Wednesday, 1 August 1866, which is of this sort: 'that dispensations are subreptitious and nowhere and in no way valid, whether they are conceded directly by the Apostolic See or from pontifical delegation over whatsoever prohibited degrees of consanguinity, affinity, spiritual relationship, and also public honesty, if the spouses before the execution of the same dispensations, whether before or after their impetration, committed the guilt of incest; and, whether questioned or even not questioned, maliciously or even ignorantly kept silent the incestuous copula entered between them, whether it is publicly known or even occult, or kept silent the counsel and intention by which they entered the same copula so that they might more easily obtain dispensation.' The Sacred Penitentiary, insisting on the footsteps of the supreme Inquisition, established the same thing on 20 July 1879.

But since very many sacred Prelates, either individually and separately or jointly, reported to the Holy See that very great inconveniences arise from that cause when one proceeds to the execution of matrimonial dispensations, and especially in these miserable times what had been wisely introduced for the salvation of the faithful not rarely tends to their ruin, Our Most Holy Lord Leo XIII, Pope by

divine providence, moved by their petitions, the matter having long and maturely been weighed, and adhering to the vote of the Most Eminent Cardinals of the Holy Roman Church, Inquisitors General along with me in the universal Christian republic, ordered these letters to be given to all local Ordinaries, by which it might be made known to them that the decree reported above of the holy Roman and universal Inquisition and of the Sacred Penitentiary, and whatever else in the same sense shall have been declared, established, or introduced by the style of the Curia, is revoked and abrogated by him and decreed to be of no force hereafter; and at the same time it is established and declared that matrimonial dispensations to be conceded hereafter, even if incestuous copula or the counsel and intention of more easily obtaining dispensation through it shall have been kept silent, will be valid: all things whatsoever to the contrary, even those worthy of special mention, by no means standing in the way.

Yet while, on account of most grave moments of reasons, the Most Holy Father judges that there must benignly be a receding from the former rigor concerning this matter, His mind is that nothing be taken away from the minds of the faithful concerning the horror which the crime of incest must inject; indeed he wishes curators of souls and others to whom the care of fostering honesty of morals among the Christian faithful has been entrusted to be excited with the greatest zeal, so that, prudently indeed, as the nature of the matter demands, yet efficaciously, they labor in pursuing this crime and deterring the faithful from it, with the penalties to which they become subject set forth." Circular Letter of the Holy Office, 25 June 1885.

N. 879. - Whether a Dispensation Asked for the Poor Is Valid If the Orators Are Not Poor?

Cf. *Acta S. Sed.* Vol. 7, p. 290 ff., 423 ff.; St. Alph., *Ho. Ap.*, tr. 18, n. 87; Paul Villada, *Cas. Consc. his praes. temp. accommod.*, Brussels 1887, Part 3, Case 5.

N. 880. - On the Mode of Verifying Causes in the Execution of Matrimonial Dispensations by the Official to Whom That Execution Is Committed

"1. The Official must always have exact information about the business of which there is question, received through a person worthy of faith. It is enough that the Official have moral conviction, and it makes no difference if he acquired it in one or another way. 2. If the Official has true and undoubted confidence, which arises from moral conviction, concerning the person of the Parish Priest, the report of this Parish Priest suffices for establishing the truth and certainty of the prayers. 3. When the Official has undoubted faith concerning the Parish Priest and the integrity of his soul, then the report and testimony of that man, and also the examination performed by him and diligently set forth at the episcopal Curia, is always sufficient. 4. An oath is furnished by the person to be examined only in that case in which the same oath is prescribed by the Holy See through Apostolic matrimonial Letters; otherwise not: for what the law wished, it expressed; what it did not express, it did not wish. 5. When it is established concerning the faith and integrity of the parish priest, his testimony concerning poverty suffices, unless it is otherwise established; for in this case the Official will diligently seek information concerning poverty. 6. An oath is to be furnished only in that case in which the Holy See prescribed it in the Apostolic Letters of matrimonial dispensations." The mandatary of the Bishop of Mainz, by mandate of the sacred Apostolic Datary, with commonly

retained practice as guide, 10 Oct. 1867. Cf. Franc. Sentis, *Clem. Pap. VIII. Decretal.*, Freiburg im Breisgau 1870, pp. 4-5. You have a brief and ordered exposition of Impediments of Matrimony in the *Synopsis* of G. Allegre, 2nd ed.

N. 881. - Whether Various Clauses Must Be Expressed in the Dispensation?

Resp. The prescribed clauses, for example, the notation of the Apostolic Indult, are altogether to be observed, yet not under penalty of nullity, unless this is clearly expressed in the Indult, for example by the words "otherwise they are null." Thus from the Resp. S. O. 15 June 1875. Cf. Marc, *Instit. Moral. Alph.*, ed. 2, n. 2047; *Collectan. Constit.*, etc., for the use of Apostolic Workers, Paris 1880, nn. 1019, 1021.

N. 882. - Whether an Absolution Sacrilegiously Received Harms the Validity of the Dispensation?

Resp. Negatively. Thus several times S. Poenit. and S. C. de P. F. 16 Jan. 1797. *Collectan. Const.*, etc., for the use of Apostolic Workers, Paris 1880, n. 858.

N. 913. - Whether the Use of Marriage Is Licit Only on Those Days on Which Conception Is More Difficult?

Resp. "Spouses using marriage in the aforesaid manner are not to be disturbed, and the confessor can, cautiously however, insinuate the opinion of which there is question to those spouses whom he has tried in vain to lead away by another reason from the detestable crime of onanism." S. Poenit. 16 June 1880.

N. 927 ff. - On Questions to Be Asked by Confessors Concerning Onanism

Whether those Confessors satisfy their office who, with a penitent accusing the sin of onanism, keep deep silence, and when the confession of sins is finished, excite him by general words to contrition, and to him asserting that he detests every lethal sin, impart holy absolution? Resp. Negatively." S. Poenit. 14 Dec. 1874.

"1. When there is founded suspicion that a penitent who is altogether silent about Onanism is addicted to this crime, is it lawful for the Confessor to abstain from prudent and discreet questioning because he foresees that several are to be driven out of good faith, and that many are going to desert the Sacraments? Or rather is the Confessor bound to question prudently and discreetly? 2. Is a Confessor who, either from spontaneous confession or from prudent questioning, knows that the penitent is an Onanist bound to warn him concerning the gravity of this sin, equally as of other mortal sins, and, as the Roman Ritual says, to rebuke him with paternal charity, and to impart absolution to him only then when it is established by sufficient signs that the same person grieves concerning the past and has a purpose of no longer acting onanistically? Resp. with attention to ... the unspeakable vice of which there is question in the case having spread widely ... to the 1st, regularly negatively to the 1st part, affirmatively to the 2nd; to the 2nd, affirmatively, according to the doctrines of approved Authors." S. Poenit. 10 March 1886.

On Censures

N. 982. - On the Printing of Books as to Missionaries

"To no apostolic Missionary of whatever grade, condition, preeminence, religion, or state is it to be lawful in the future to commit to type any work of his own or of another, under any pretext whatsoever, by himself or through another or others, without the express license in writing of the S. C. itself, in the accustomed form, under penalty of privation of office, of active and passive voice, suppression of the same work, excommunication latae sententiae to be incurred by the very fact and reserved to Our Most Holy Lord alone, commanding the above-mentioned and each of them that, in the case in which they obtain the said license, they are bound to print the same at the beginning of the work itself, under the same penalties, notwithstanding whatsoever privileges, faculties, licenses, even orally, otherwise given or conceded, all and singular of which by the present Decree are to be judged revoked in every way." S. C. de P. F. 6 Dec. 1655.

"Therefore since, as we have received, although at another time the Congregation of Our Venerable Brothers the Cardinals of the Holy Roman Church for just causes had forbidden anyone without its license to publish by type books and writings in which Missions were treated in any way, nevertheless many, either ignorant of what the same Congregation had decreed, or rashly transgressing its decree, publish writings and books often containing false and inept things, not without offense of pious and learned men: We, moved by these and other grave causes, by the counsel of the mentioned Cardinals, by apostolic authority and the tenor of the present letters, again prohibit that anyone of whatever state, grade, and condition, even a regular of any Order, Congregation, Institute, and Society, even of Jesus, although he were one of whom specific and individual mention would have to be made, without license in writing of the Congregation of the same Cardinals, which he is bound to print at the beginning of the work, publish by himself or through another books and writings in which Missions or matters pertaining to Missions are treated, under the penalties of excommunication latae sententiae, from which no one can be absolved by anyone except by Us, or the Roman Pontiff existing for the time, unless constituted in the article of death, and of privation of office and of active and passive voice, and also of suppression of the works, to be incurred by the very fact." Clement X, Brief *Creditae nobis*, 6 Apr. 1673.

"It is in no way expedient that in the Empire of China and the Kingdom of Tonkin any writings or books be published, whether treating of Religion directly or indirectly, or discussing ecclesiastical matters, unless by prior examination and approval of the Sacred Congregation itself. Yet it declared small doctrines, catechisms, instructions, and prayers which serve the daily use of the faithful to be excepted from this law; nevertheless under this condition, that they cannot be scattered among the people unless the respective Bishops of the places, or Apostolic Vicars, shall first have seen them and permitted them to be emitted into the light." S. C. de P. F. 28 Dec. 1770; 31 March 1856 to the Apostolic Vicar of Cochinchina; 31 Aug. 1840 to the Apostolic Vicar of Siam; 30 Sept. 1848 to the Apostolic Vicar of Western Cochinchina.

"And since it has been discovered that in several Vicariates there are published books and booklets in which discourse is instituted concerning the morals and usages of the Gentiles, and which refer more or less directly to the interpretation of the Apostolic Constitution of Benedict XIV of holy memory

which begins *Omnium sollicitudinum*, the Most Eminent Fathers judged that Apostolic Vicars and Missionaries are to be warned that an exemplar of whatsoever instructions and booklets must altogether be sent to this Sacred Congregation, in which there is question of matters pertaining in any way to the interpretation of the remembered Bull." Instr. S. C. de P. F. to the Apostolic Vicars of India, 8 Dec. 1868.

On the Printing of Missals, Breviaries, Etc.

"Since from the year 1788 up to this day Breviaries, Diurnal Hours, Missals, Little Offices of the B. M. V., Offices of Holy Week, Rituals, and other things of that kind, which are newly committed to the press, no longer bear the attestations of the Reverend Ordinaries, by which it is declared that these exemplars agree with those which are printed at Rome according to the tracks of the Bulls of St. Pius V, Clement VIII, and Urban VIII, Supreme Pontiffs, which are found at the front of the Roman Breviary, the S. R. C. was supplicated that it be declared whether the recounted Pontifical Constitutions ought still to be observed, and whether transgressors incurred the penalties inflicted there. And the same Sacred Congregation, all things maturely weighed and accurately considered, judged that it must be rescripted and declared: the Pontifical Constitutions remain in their force, and the abuse is not to be tolerated." S. R. C. 26 Apr. 1834.

N. 1010. - On the Cremation of Corpses

"1. Is it lawful to give one's name to societies whose proposal is to promote the use of burning human corpses? 2. Is it lawful to command that one's own or others' corpses be burned? Resp. To the 1st: Negatively, and if there is question of societies affiliated to the Masonic sect, the penalties laid against this are incurred. To the 2nd: Negatively. And when a report concerning these things had been made to Our Most Holy Pope Leo XIII, His Holiness approved and confirmed the resolutions of the Most Eminent Fathers, and ordered them to be communicated to the local Ordinaries, that they may take care opportunely to instruct the Christian faithful concerning the detestable abuse of burning human bodies, and that with all their strength they deter from it the flock entrusted to them." S. I. C. 19 May 1886.

On Indulgences

N. 1044. - On the Time of Indulgences

"Whether, unless something else is expressly had in indults, Indulgences to be gained begin from midnight, or rather from first Vespers?" Resp. "From midnight to midnight." S. Ind. C. 14 Dec. 1877. Cf. *Acta S. Sed.* Vol. 10, p. 563; *Decreta Authent.*, nn. 201, 434.

N. 1048. - On the Heroic Act of Charity Toward Souls Detained in Purgatory

"The heroic act of charity toward souls detained in Purgatory consists in this, that a Christian faithful person, whether with some formula employed or even only mentally, offers to God Almighty, for the souls of Purgatory, all satisfactory works which he himself, as long as he lives, will perform; and also all suffrages which after death in whatever way can come to him. Many Christian faithful most devoted to the Blessed Virgin Mary, with Father Gaspar Oliden of blessed memory, of the Order of Clerics Regular Theatines, as author or adviser, have been accustomed to deposit works of satisfaction and suffrages of this sort in the hands, in a certain way, of the Blessed Virgin, to be distributed by Her according to Her merciful good pleasure in favor of the souls of Purgatory.

This heroic Act of charity has more than once been approved by the Apostolic See; indeed, that it might become more useful to the dead, it was enriched with Indulgences, and those who emitted it were increased with privileges. These things Pius IX, Pope of holy memory, confirmed, increased, and extended to all the Christian faithful by Decree of the Sacred Congregation placed over Indulgences and Sacred Relics, given on 20 November 1854.

But now concerning the object of this oblation, concerning the essential conditions of the same act, and concerning the indulgences and Privileges annexed to the same, doubts have arisen from time to time. For it has been doubted whether among satisfactory works there should be comprehended also the Indulgences which a Christian faithful person, while he lives, can gain; and whether one who has elicited the heroic Act satisfies it, although he reserves for himself and applies to himself those Indulgences which are conceded for the living. Moreover a dispute has been raised with regard to the pious practice of making the oblation of satisfactions and suffrages into the hands of the B. Virgin Mary, some maintaining the necessity of this oblation into the hands of the Blessed Virgin for the obtaining of Indulgences and the use of privileges, others opposing it. Finally, some doubts have prevailed concerning the manner in which Plenary Indulgences can or ought to be applied to the souls of Purgatory by those who have emitted the heroic act of charity.

Wherefore, that those things which seemed obscure in this matter might become clear, and those which were uncertain might become certain, the following doubts were proposed to be decided by the Cardinal Fathers of the Sacred Congregation of Indulgences:

1. Whether among the satisfactory works which in the heroic Act of charity are offered for the souls of Purgatory there are comprehended also Indulgences which have been declared by the Supreme Pontiffs applicable to departed Christian faithful?

2. Whether that oblation is satisfied by those who wish to reserve to themselves the Indulgences which are conceded for the living; or whether these Indulgences, in order to satisfy the pious purpose, must be applied to the Dead, according to the Indult conceded by the Supreme Pontiff to those emitting the heroic Act of charity?

3. Whether, 1st, it is an integral part of the heroic Act of charity, or a condition prescribed for participation in the privileges, that all one's own satisfactions and Indulgences be offered not only for the souls of Purgatory, but also be left to the Most Blessed Virgin to be distributed as it shall please Her? or, 2nd, whether this consignment, as it were, into the hands of the Virgin is to be held merely as a pious devotion accessory to the Act, to be commended to the Christian faithful?

4. Whether the Plenary Indulgences which Christian faithful emitting the heroic Act of charity gain, both on account of sacred Communion and on account of hearing Mass on Monday, must be applied to the souls which the B. V. Mary desires to free from Purgatory before others, or can be applied to any soul of Purgatory?

5. Whether the Plenary Indulgence of a personal privileged Altar, 1st, must be applied by the priest who has emitted the heroic Act of charity to the soul for which he celebrates Mass? or, 2nd, can be applied at will to any Deceased person? or, 3rd, must be applied to the souls which the B. V. Mary desires to free from Purgatory?

Resp. To the 1st: Affirmatively. To the 2nd: Negatively to the first part; Affirmatively to the second. To the 3rd: Negatively to the first part; Affirmatively to the second. To the 4th: Provision has been made in the foregoing. To the 5th: To the first part, Affirmatively; for in this manner the privilege of the Altar is conceded by the Supreme Pontiff; to the second and third part, Provision has been made in the response to the first part." S. Indulg. C. 19 Dec. 1885.

N. 1051. - On Confession and Communion on the Eve of a Feast

Whether Confession can avail if it is fulfilled even on the eve of the feast for which the indulgence has been conceded; whether likewise Communion can be performed on the vigil of the feast? Resp. Affirmatively. Indeed, both Confession alone, and Confession and Communion, can be performed on the day which immediately precedes the following day for which any Indulgence has been conceded, not only by reason of an occurring feast, but also from whatever other cause, or of a pious exercise, or of a solemnity, etc.; nevertheless the manner and time prescribed in fulfilling the other enjoined works being observed. Thus S. C. Ind. 19 May 1759, 12 June 1822, 6 Oct. 1870, 12 Jan. 1878; S. C. de P. F. 5 Jan. 1777. Cf. *Acta S. Sed.* Vol. 6, p. 157; Vol. 10, p. 563; *Decreta Authent.*, nn. 201, 426, 434.

The clause *with contrite heart* signifies the mere disposition of the state of grace, which, if perchance it has been lost, must previously be acquired again by at least an act of perfect contrition; which is not to be elicited by those who are already in the state of grace as though it were a part of the enjoined work. S. C. Ind. 17 Dec. 1870. *Acta S. Sed.* Vol. 6, p. 388.

N. 1052. 1078. - On Weekly Confession for Gaining Indulgences, for Those Who Are Accustomed to Confess Once in the Week

"Since the S. C. Indulg., on the day 31 of the month of March, in the year 1759, was of the opinion that sacramental confession, when it is appended in Briefs for the obtaining of an Indulgence, must by all means be performed even by those who are not conscious to themselves of mortal sin, and also that the aforesaid Confession could avail even if it were fulfilled on the vigil of the feast... very many supplicant petitions, both of religious Communities and especially of Nuns, and also of Parish Priests and of some Bishops for their Dioceses, have been presented, in which there was set forth the very great difficulty which sometimes, indeed very often, occurs for sacramental confession to be performed either on the feast, or at least on the vigil. Wherefore, that so profitable a treasure of Indulgences might be rendered conveniently obtainable by the faithful, they earnestly supplicated that he deign, from apostolic benignity, to provide by some opportune remedy. These prayers having been referred to the aforesaid S. C., the doubt was proposed in it: Whether and how counsel is to be given to the Most Holy One concerning the execution or declaration of the aforesaid Decree in the case? And the response was: Counsel is to be given to Our Most Holy Lord, that he deign to concede an Indult to all the Christian faithful who, striving to cleanse their soul by frequent Confession of sins, have been accustomed to approach the sacrament of Penance at least once in the week, unless they are legitimately impeded, and are not conscious to themselves of any mortal fault committed by them after the aforesaid last Confession, so that they can obtain all and whatsoever Indulgences, even without actual Confession, which otherwise, according to the definition of the aforesaid Decree, would be necessary for gaining them. Nevertheless nothing is innovated concerning Indulgences of the Jubilee, both ordinary and extraordinary, and others conceded after the manner of a Jubilee, for obtaining which, just as also the other enjoined works, so also sacramental confession is to be performed at the time prescribed in their concession. The Most Holy One, greatly desiring to satisfy the pious desires and wishes of the good, and to bestow the graces of Indulgences especially on those who, by living piously and holily, are made more worthy of the gifts of Divine mercy, benignly assented, and commanded the aforesaid Indult to be expedited and published in the form subscribed." S. C. Ind. 9 Dec. 1763.

"Whether the aforesaid privilege avails also for those who are not accustomed to confess at least once in the week, but more rarely: yet they have confessed within the week before the feast to which the Indulgence is annexed? Resp. Negatively." S. C. Indulg. 12 March 1855.

On Confession Performed within the Week for Gaining Indulgences in Places Where There Is a Lack of Confessors

"The Decree of 9 Dec. 1763 remaining firm for those faithful who approach confession at least once in the week, but for the other faithful, in places in which, on account of a scarcity of Confessors, the faithful cannot frequently be cleansed by sacramental confession, let the said Decree be communicated to those asking, and, a word having been had with the Most Holy One, let it be extended to all Christian faithful of either sex: whence Confession performed within the week before the feast can avail for gaining the Indulgence, the other enjoined conditions having been fulfilled, and provided that they are conscious of no mortal fault committed after the Confession performed; nothing being innovated concerning Indulgences conceded in the form of a Jubilee, as in the cited

Decree of 9 Dec. 1763. The Most Holy One benignly approved the opinion of the S. C. and commanded it to be published." S. C. Ind. 12 June 1822.

Interpretation of the Indult concerning Weekly and Fortnightly Confession for Gaining Indulgences

"Lotharius Kubel, Bishop of Leuce and Capitular Vicar of the Archdiocese of Freiburg, on 14 Jan. 1877, when he had asked from this S. C. placed over Indulgences and Sacred Relics, that there, on account of the scarcity of Priests, confession made twice in a month, the things to be observed being observed, could avail for gaining the Indulgences occurring within the aforesaid time, just as also other Dioceses rejoice in such a concession by apostolic Indult, the grace was conceded; but in that manner and form in which it is customary, namely by rescripting: The Most Holy One, yielding to the prayers, benignly assented for the Indult sought, so that Presbyters and the other faithful of the Archdiocese of Freiburg, who are accustomed to perform sacramental Confession within one or two weeks of each month, can gain all and singular plenary Indulgences conceded in that interval of time, without sacramental Confession, provided, etc. But the aforesaid Bishop, doubting whether under the word week seven days or eight are to be understood, and whether the words within two weeks ought to be taken so that a twofold Confession within the month suffices, or rather that Confession is to be performed in every course of fourteen days, approached the S. C. as a suppliant, asking that it deign to resolve these doubts:

1. Whether the prescribed Confession for each several week ought to be performed within seven, or rather within eight, days? 2. Whether the words within two weeks are to be strictly interpreted, so that confession must be performed within fourteen days, or rather whether a twofold confession in the month suffices? Resp. To the 1st: Affirmatively to the first part, that is, the prescribed Confession must be performed in each running space of seven days; Negatively to the second part. To the 2nd: Affirmatively to the first part, that is, the prescribed Confession must be performed in each running space of fourteen days. Negatively to the second." S. C. Indulg. 15 Nov. 1878.

"For a greater declaration of this matter, it is now asked: 1. Whether a Christian faithful person who is accustomed to perform Confession every week and on a fixed day, e.g., Saturday, satisfies the burden of the prescribed confession? 2. Whether a Christian faithful person satisfies the burden of the prescribed Confession who, in those places for which the Indult is in force, is accustomed to perform Confession on alternate weeks and on a fixed day, e.g., Saturday. Resp. To the 1st: Affirmatively. To the 2nd: Affirmatively." S. C. Indulg. 25 Feb. 1886.

N. 1055. - On Several Indulgences Annexed to the Same Pious Work

"Whether, if to the same pious work, which cannot be repeated by the faithful, Indulgences are annexed under various titles, all can be gained?" Resp. Affirmatively, provided the enjoined works truly cannot, or are not accustomed to, be repeated, such as confession, unless it is necessary from elsewhere," namely in the case of relapse. S. Indulg. C. 14 Dec. 1877; *Acta S. Sed.* Vol. 10, p. 563.

N. 1054. - On Several Plenary Indulgences to Be Gained on the Same Day

Someone can gain several Plenary Indulgences on the same day, the conditions, namely, having been fulfilled, whether the indulgences occur on one day because of a feast, or whether someone through his own devotion has affixed them to such a day of the week or month. But one is bound to visit the Church or public Oratory, when such visitation is required, as many times as there are Indulgences to be gained. Nor indeed does it suffice that in one and the same Church as many prayers or visitations be repeated as there are Indulgences to be gained, unless after each visitation one exits from the Church and enters it again. S. C. Ind. 29 Feb. 1864. *Acta S. Sed.* Vol. 1, p. 116.

N. 1055. - On the Intention Required for Some Determined End

"When, for gaining Indulgences, prayer is prescribed for a determined end, e.g., for the extirpation of heresies, etc., is an explicit intention, expressed each time, required? Resp. Negatively." S. C. Indulg. 22 Feb. 1847.

N. 1057. - General Indult for the Sick as to Communion and Visitation of Churches

"It is established in custom that the Sacrament of the Most Holy Eucharist is solemnly carried by pastors of souls, only on some principal feasts within the year, to the faithful who are habitually infirm chronics, unable to go out from the house because of some permanent physical impediment; and therefore faithful of this sort are deprived of so many plenary Indulgences which they would obtain if, the enjoined conditions having been fulfilled, they could more frequently approach the sacred Eucharistic table. And so very many curates of souls and very many other ecclesiastical men offered most humble prayers to Our Most Holy Lord Pius Pope IX, that he deign from apostolic benignity to provide concerning this; and, a faithful report concerning all these things having been made by me, the undersigned Substitute of the Secretariat of the S. C. Indulg., to the same Most Holy One, in the audience held on the day 18 Sept. 1862, the Most Holy One, looking to the spiritual utility of the flock entrusted to him, clemently indulged that the aforesaid Christian faithful, excepting nevertheless those who dwell in community, can acquire all and singular plenary Indulgences already conceded or to be conceded in the future, and which otherwise they could acquire in the places in which they live, if they were not in that physical state, for whose acquisition sacred Communion and the visitation of some church or public oratory in the same places is prescribed, provided that, truly penitent, confessed, and all other conditions, if any have been enjoined, having been fulfilled, in place of Holy Communion and visitation they faithfully fulfill other pious works to be enjoined by the respective Confessor." S. C. Indulg. 18 Sept. 1862.

N. 1065. - On the Works Enjoined for Gaining Indulgences

"1. Can the prayers prescribed by the Supreme Pontiff for gaining a plenary Indulgence be satisfied by prayers already obligatory, e.g., by the Canonical Hours? 2. Are five *Pater* and *Ave*, which are customarily recited, sufficient for fulfilling the intention of the Supreme Pontiff, when it has been prescribed that a church or altar be visited, and prayers there be poured forth, as, for example, for gaining a plenary Indulgence it has been prescribed for those associated to the Work of the Propagation of the Faith? Resp. To the 1st: Negatively. To the 2nd: The prayers required in

concessions of Indulgences for fulfilling the intention of the Supreme Pontiff are at the choice of each faithful person, unless they are particularly assigned." S. C. Indulg. 29 May 1841.

Those performing Confession and receiving the Most Holy Eucharist in Paschal time can, by this Confession and Holy Communion, gain a plenary Indulgence for gaining which, among other things, Confession and Communion is prescribed; "provided that the Indulgence to be gained is not in the form of a Jubilee, for which alone a particular Confession and Communion is required." S. I. C. 1 May 1844, 19 March 1841. Cf. N. 1068.

On the Jubilee

N. 1064. - On the Rules Handed Down by Benedict XIV

"Whether in a Jubilee, both ordinary and extraordinary, all the rules handed down by the Holy Father Benedict XIV are to be observed, to which the Bull of the Jubilee is not opposed? Resp. Affirmatively." S. C. Ind. 6 Feb. 1852. This general Decree was confirmed by Pius IX on 15 March of the same year. Cf. Benedict XIV, Constitutions *Cum Nos nuper*, *Convocatis*, *Inter praeteritos*, *Celebrationem*; *Decr. Auth.*, Append. XVIII.

N. 1065. - On the Strict-Law Fast Prescribed

"The fast prescribed for obtaining the Jubilee cannot be fulfilled on days reserved for a fast of strict law, nor on the Ember days through the year, and unless fasting foods are employed, the use, as regards the quality of foods, of any Indult or Privilege, even of the B. Crusade, is forbidden. But in those places where it is difficult to use fasting foods, Ordinaries can indulge that eggs and milk-products be used, the form of ecclesiastical fast being observed in other things." S. Poenit. 15 Jan. 1886, 26 Feb. 1879, 25 March 1881.

"Whether for the fast required for the Jubilee the use of eggs and milk-products is lawful at least in those regions in which, by custom or dispensation, it is permitted in fasts enjoined by precept of the Church... Resp.... Let it stand by the declarations of the same S. Poen., which are transmitted here annexed.... Fasting foods are to be used, the use, as regards the quality of foods, of any Indult or Privilege, even of the B. Crusade, being forbidden...." S. Poenit. 4 March 1879.

Fasting foods exclude meats, eggs, milk-products. From the cited Responses and another Response of the same S. Poen. 2 Apr. 1881.

N. 1066. - On the Commutation of Enjoined Works

"Whether, when a just cause occurs for commuting the enjoined works prescribed in the Bull of the present Jubilee (8 Dec. 1864), a commutation of this sort can be made outside the act of sacramental confession? Resp. From the declaration made by the Most Holy Lord Pope Pius IX: Affirmatively." S. Poenit. 16 March 1865.

"He supplicates that he, the confessor, may be able to commute them, the enjoined works, and to dispense concerning communion with children not yet capable of communion, even outside the act of sacramental confession. Resp. It is not expedient." S. Poenit. 30 Jan. 1886.

"He supplicates that the Confessor can commute the works enjoined for the Jubilee, or some of them, not once only, but several times, toward one wishing to gain the Jubilee several times. Resp. Confessors do not lack this faculty." S. Poenit. 30 Jan. 1886.

"Whether in favor of those who intend to repeat the Holy Jubilee, the works enjoined by the Most Holy Father can be commuted, just as from just and reasonable motives they can be commuted the first time in which someone gains the Jubilee? Resp. Affirmatively." S. Poenit. 18 March 1886.

N. 1068. - On Confession and Communion

Whether by one single Confession and Communion, generally speaking, satisfaction can be made for the precept of annual confession and Paschal communion, and at the same time the Jubilee acquired? Resp. Negatively. S. Poenit. 25 Jan. 1875, 26 Feb. 1879, 25 March 1881, 15 Jan. 1886. Cf. On Indulgences N. 1065.

N. 1069. - On Alms

"The quantity of alms ought so far to correspond to the faculty of individuals, inasmuch as that which suffices for the poor does not suffice for the rich." S. Poenit. 30 Jan. 1886.

N. 1071. - On Visitations of Churches

"Whether public Oratories can be reckoned among the Churches to be visited? Resp. Affirmatively, provided that the Oratories themselves are devoted to public worship, and in them Mass is customarily celebrated." S. Poenit. 1875, 1879, 25 March 1881, 15 Jan. 1886. Cf. *Decreta Authent.*, n. 310.

"Whether, for distinguishing the visitations by number, it is necessary and sufficient that the faithful go out and again enter the same appointed Church? Resp. Affirmatively." S. Poenit. 1875.

"Insofar as four visitations prescribed in the day must be performed in the same Church, it is asked whether, for distinguishing visitations of this sort from one another, it is necessary after each one to go out from the Church; or whether it suffices, while remaining in the same Church, to pass from one place to another, or even merely to rise, as commonly happens for the Stations of the Holy Way of the Cross? Resp. That it is necessary to go out from the Church." S. Poenit. 25 Jan. 1875.

"Visitations appointed for gaining the Jubilee, provided that they are made in the prescribed number, can be instituted at the choice of the Faithful, whether on one day or on different days." S. Poenit. 1879, 25 March 1881, 15 Jan. 1886. They can be placed before or after Confession and Communion. S. C. EE. et RR. 27 Aug. 1776. Cf. Bizzarri, ed. 1885, p. 392. But generally with regard to Indulgences, although in the Indult it is said: "who, having confessed and been refreshed by Holy Communion, shall visit this or that church on this or that day," etc., nevertheless the visitation "can be fulfilled either before or after the fulfillment of the other pious works." S. C. Indulg. 19 May 1759.

"Whether Religious can gain the Jubilee by performing in their own Church the visitations prescribed for it? Resp. Negatively." S. Poenit. 1875.

"Whether Abbots and Regular Prelates, since they have quasi-episcopal jurisdiction over subjects within the enclosures of their respective Monastery, can designate the Church or Oratory of their own Monastery for their subjects to visit, in order to gain the Indulgence of the Jubilee? Resp. Negatively." S. Poenit. 15 Dec. 1886. Cf. N. 1083.

"Whether the visitations which he, the Ordinary, performs together with the Chapter and Seminary in vestments not choral, but black, chanting in a subdued voice, can be regarded as processions to the four Churches designated for gaining the Jubilee; and consequently whether it is within the judgment of the same Ordinary to diminish the number of visitations, just as it is within his faculty to diminish

those which are made processionally? Resp. Insofar as processions cannot be made in the usual manner, affirmatively." S. Poenit. 1875, 30 Jan. 1886.

"The faithful remaining in processions outside the doors of the Church or Oratory because of its narrowness, and praying with the others, form morally one body, and therefore satisfy the visitation for gaining the jubilee." S. Poenit. 1875.

On the Place and Time of the Enjoined Works

"Those can gain the Jubilee who fulfill or complete the prescribed conditions partly in one diocese, partly in another, from whatever cause, if they observe the ordinances of the Ordinaries of the places." S. Poenit. 15 Jan. 1886, 1875.

"When in the Apostolic Letters by which the Jubilee of this year is proclaimed, two fasts are prescribed, nothing is expressly established whether they must be made in one and the same week. Therefore it is asked, must these two fasts be made on two days of one and the same week? Resp. Negatively." S. Poenit. 11 March 1886.

N. 1072. - On Travelers

"The Indult (*Gravibus Ecclesiae*, 24 Dec. 1874) for those navigating and making a journey, who are impeded, so that, during the running year of the Jubilee, they cannot execute the works enjoined for gaining the Jubilee, is to be extended even beyond the year." S. Poenit. 1875.

The same S. Poen. on 30 Jan. 1886, responding to questions concerning the prorogation of the Jubilee of the same year for travelers, says: "In the present Jubilee nothing is proposed concerning prorogation."

N. 1073. - On Acquiring the Jubilee Several Times

"Whether he who has already gained the Indulgence of the Jubilee the first time can gain it again, if he repeats the enjoined works? Resp. Affirmatively." S. Poenit. 1 June 1869, 26 Feb. 1879, 25 March 1881, 15 Jan. 1886. Yet the same S. Poenit. on 25 Jan. 1875 declared: "by force of the present Jubilee... the Indulgence of the Jubilee itself can be acquired once only." In the Encyclical Epistle of Pius IX, *Gravibus Ecclesiae*, 24 Dec. 1874, by which the great Jubilee was proclaimed, these things are had: "let them obtain the most plenary... Indulgence... once."

"Once, i.e., only the first time, the Jubilee can be acquired as regards the other favors joined to the same Jubilee, namely absolutions from censures and from reserved cases, commutations or dispensations." S. Poenit. 15 Jan. 1886, 1 June 1869, 25 Jan. 1875, 26 Feb. 1879, 25 March 1881.

"Whether Confessors can absolve a penitent who, having already been absolved from reserved cases and from censures, has fallen into them again, before he has fulfilled the works prescribed for acquiring the Jubilee? Resp. By virtue of the Jubilee he can be absolved from reserved cases and from censures one time only, or negatively." S. Poenit. 1875. Cf. Lehmkuhl, *Theol. Mor.*, ed. 1884, n. 555.

N. 1074. - On Absolution from Reserved Cases

"1. Whether someone can be absolved by his own Confessor on the ground that he had never been bound by any reserved case in previous Confessions, and therefore has never used this jubilee

privilege? 2. If affirmatively, whether he ought again to perform the works which are enjoined for obtaining the jubilee? 3. Whether the solution which Your Eminence will deign to pronounce is to be held as a general rule to be kept also in other Jubilees? Resp. To the 1st and 2nd: Affirmatively. To the 3rd: One must stand by the Apostolic Letters." S. Poenit. 1873.

On the Extraordinary Use of the Faculties of the Jubilee

"Whether Confessors can use the extraordinary faculties toward him who indeed asks to be absolved and dispensed, but does not have the will of performing the enjoined works and of gaining the Jubilee? Resp. Negatively." S. Poenit. 1 June 1869, 15 Jan. 1886.

N. 1075. - On the Choice of a Confessor

"As to the choice of Confessor, whether he ought to have been approved by the Ordinary of the place or by the Ordinary of the Order with respect to Regulars? Resp. Regulars, according to the Apostolic Letters *Gravibus Ecclesiae*, for gaining the Jubilee can choose for themselves any confessor, who nevertheless has been approved by the Ordinaries of Places for hearing the confessions of secular persons." S. Poenit. 1875.

"Since the Bull of the indiction of the Jubilee concedes that a confessor may be chosen from those actually approved, and does not add, by the Ordinaries of places, can a regular choose a regular priest approved by the regular superior alone, and not by the Ordinary of the place, and receive from him the application of the privileges or faculties of the Jubilee? Resp. Affirmatively." S. Poenit. 30 Jan. 1886.

N. 1076. - On Absolution from Heresy

"Whether, as regards the faculties of absolving, other limitations are had besides those which were made in the Brief which begins *Arcano*, and whether one can be absolved from heresy externally brought forth, and the obligation ceases of denouncing heretics and their favorers? Resp.... From heresy one can indeed be absolved, but heretics and favorers and others are to be denounced, as of law." S. Poenit. 16 March 1865.

"Whether among the faculties conceded for the Jubilee there is contained the faculty of absolving penitents from heresy? Resp. Affirmatively, errors having first been abjured and retracted, as of law." S. Poenit. 1 June 1869.

"The same His Holiness indulges besides that, during the Jubilee, the faithful rightly disposed can be absolved also from the crime of heresy, nevertheless the obligation remaining firm of abjuring errors, or heresy, of repairing scandals, etc., as of law." S. Poenit. 25 Jan. 1875. Cf. *Acta S. Sed.* Vol. 4, p. 617.

On Absolution from the Guilt of Invasion of the Temporal Dominion of the Supreme Pontiff and of Ecclesiastical Goods

Whether by force of the Jubilee those guilty of rebellion against the Pontifical civil Government, and those who in Italy have illegitimately acquired ecclesiastical goods, can be absolved? Resp. Affirmatively, under the conditions expressed in the Letter of the S. Poen. 2 June 1869. S. Poen. on the same day and year, and 25 Jan. 1875, 26 Feb. 1879, 25 March 1881.

N. 1077. - On the Commutation of Vows

"In other Jubilees the faculty is usually conceded of commuting vows by dispensing; but in the present one only the faculty of commuting them is conceded; can it be understood that also in this case the faculty of commuting vows by dispensing was conceded? Resp. Negatively." S. Poenit. 1875.

On Indulgences in Particular

N. 1079. 1080. - On the Stations of the Way of the Cross

"Whether in erections of this sort, which are made outside the ambit of Convents of the Friars of the Order of St. Francis, as much of the Observance as of the Reformed and Recollect, there is required the license of Ordinaries, and also the consent in writing of parish priests and other Superiors? Resp. Affirmatively." S. C. Indulg. 28 Aug. 1752.

"1. Whether erections of the Stations of the Way of the Cross are null, which were made without the consent in writing of the Parish Priest in hospitals, churches, chapels, and houses of Congregations of Sisters, by law not exempt from parochial jurisdiction, but in fact, according to the custom prevailing in France, administered independently from the parish priest by a chaplain nominated by the Bishop. 3. Whether the consent of the Ordinary in writing is required under penalty of nullity in individual cases for each erection of stations, or whether it suffices that it be given generically for stations to be erected in a certain number of churches or oratories without specific designation of place? Resp. To the 1st: Negatively. To the 3rd: Affirmatively to the first part, Negatively to the second. S. C. Indulg. 21 June 1879.

"The S. C.... judged that it must be prescribed that, in erecting Stations of this sort in the future, both the deputation of the priest erecting and the consent of the local Superior, as well as the deputation, consent, and license of the respective Ordinary, or Prelate, and Parish Priest, and also of the Superiors of the church, monastery, hospital, and pious place where an erection of this sort shall happen to be made, as aforesaid, must be expedited in writing and not otherwise, and must be shown whenever there shall be need, under penalty of the nullity of the erection itself to be incurred by the very fact." S. C. Indulg. 3 Aug. 1748.

"Concerning the erection of the Way of the Cross, the necessary and opportune faculties having first been obtained from the Apostolic See, all and singular things which regard such erection are to be done in writing, namely both the petition and the concession of the same erection; the instrument of these is to remain in the codices, or in the acts of the Episcopate, and at least a testimony is to be inserted in the codices of the parish, or of the place, where the aforesaid stations have been erected." S. C. Indulg. 23 Sept. 1841.

"There is no determined time for drawing up the document of erection, but the reason is plain of itself, that this be done as quickly as possible, lest doubt arise in the future concerning the aforesaid canonical erection." S. C. Indulg. 10 Feb. 1844.

"Whether the indulgences annexed to the exercise of the Way of the Cross can be gained as many times in the day as that exercise is repeated? Resp. It is not established." S. C. Indulg. 10 Sept. 1885.

Note: By force of special faculties, the S. C. Indulg. on 31 July 1881 convalidated all Stations of the Way of the Cross hitherto invalidly erected.

Indult for the Way of the Cross

"Most Blessed Father, Fr. Bernardinus of Portu Romatino, Minister General of the whole Order of Friars Minor of St. Francis, prostrate at the feet of Your Holiness, humbly sets forth that very often the faithful who are prohibited by a legitimate impediment from performing the exercise of the Holy Way of the Cross are also impeded from gaining the indulgences annexed to the exercise of the Way of the Cross by using a Crucifix blessed for this effect, because they do not possess one, as happens in poor families, in hospitals, and in other pious places of this kind.

Hence, that devotion toward the Passion of Our Lord Jesus Christ may be increased more and more, and lest the faithful, especially souls detained in purgatory, because of the exposed lack of a Crucifix, be shut out from participation in the aforesaid indulgences, the Orator supplicates with earnest prayers that Your Holiness deign benignly to extend to the Crucifixes commonly called of the Way of the Cross the indult conceded by Pius Pope IX of holy memory with respect to the Rosary, on the day 22 Jan. 1858 (*Decret. authent.*, n. 384), so that all Christian faithful of either sex, reciting in common the prescribed twenty *Pater*, *Ave*, and *Gloria*, may be able to gain the indulgences annexed to the exercise of the Way of the Cross, although they do not hold in the hand the blessed Crucifix, and that it suffice that only one person, whoever that person may be from the community, hold it in the hand, and that all the rest, all other cares being put aside, compose themselves for making prayer, together with the person who holds the Crucifix. Which grace, etc.

Our Most Holy Lord Pope Leo XIII, in the audience held on the day 19 Jan. 1884 by the undersigned Secretary of the Sacred Congregation placed over Indulgences and Sacred Relics, benignly assented for the grace according to the things sought, according to the tenor of the Indult already conceded for the recitation of the Most Holy Rosary, namely that the Christian faithful of whom in the prayers should so compose themselves for performing the pious exercise of the Way of the Cross together with the person who holds the Crucifix, that they can gain the indulgences of the Way of the Cross. The present is to be valid in perpetuity without any expedition of a Brief. All things whatsoever to the contrary notwithstanding."

N. 1082. - On the Institution and Aggregation of Congregations

What things are to be observed by Orders of Regulars, Archconfraternities, and Congregations in instituting or erecting and aggregating Confraternities or Congregations? Resp. Cf. Decree of the S. C. Ind. 8 Jan. 1861. Ordinaries of places can freely designate Parish Priests as Rectors or Moderators of pious Confraternities, and other pious unions canonically erected. S. C. Ind. 8 Jan. 1861; *Decreta Authent.*, nn. 388, 389; *Acta S. Sed.* Vol. 2, p. 57 ff., 362; Wolfgang Muehlbauer, *Decr. Authent.*, s.v. *Confraternitas*.

"Whether valid is the enrollment of the faithful in the Confraternity of Carmel, which is made by Priests indeed having the faculty, but without the form prescribed in the Ritual and Breviary of the Order of Carmelites having been observed? Resp. Affirmatively, provided that the priests having the faculty do not fail in substantials, namely in the Blessing and Imposition of the habit and in the reception into the Confraternity." S. C. Ind. 24 Aug. 1844. The same holds also for the other scapulars. S. Indulg. C. 27 Apr. 1887. Cf. *Acta S. Sed.* Vol. 1, p. 241 ff., 367 ff.; Vol. 4, p. 219 ff., 237 ff.; Vol. 6, p. 330 ff.; Vol. 19, p. 558.

Whether the imposition of a Scapular made upon a little child, not yet having the use of reason, is valid? Resp. Affirmatively. S. C. Ind. 29 Aug. 1864.

Whether Scapulars are valid if the parts of each Scapular are so arranged that one depends from the shoulders, another from the breast, although all are connected by one cord? Resp. Affirmatively. S. C. Ind. 29 Aug. 1864. But the Scapulars must be distinct, "not indeed one single scapular, on which small pieces of cloth of diverse color are sewn." S. Indulg. C. 27 Apr. 1887. The Scapular of the B. V. M. of Mount Carmel, for the sake of honor and devotion, is to be blessed and imposed separately and distinctly, and not cumulatively and commingled with the other four or more scapulars. The contrary Indult, previously given in perpetuity, has been revoked and restricted to a decade. S. C. Indulg. 27 Apr. 1887. Cf. *Acta S. Sed.* Vol. 19, p. 554 ff.

"From the Indult of Gregory XVI of holy memory, 30 Apr. 1838, it is no longer necessary for acquiring indulgences that the names of the faithful who receive scapulars of the B. M. V. of Mount Carmel be inscribed in the book of the Confraternity: it is asked whether the same must be said of other Scapulars approved by the Holy See? Resp. Negatively." S. Indulg. C. 18 Aug. 1868. This Gregorian Indult was revoked by the Holy Father Leo XIII on 27 Apr. 1887. *Acta S. Sed.* Vol. 19, p. 556. Those receiving and wearing the blue scapular of the B. M. V. Immaculate, or the red one of the Passion of Our Lord Jesus Christ, do not constitute a Confraternity. S. Indulg. C. 27 Apr. 1887.

It was sought that the Supreme Pontiff "deign to heal all invalid receptions to the Sodality or Union of any Scapular whatsoever, nevertheless performed in good faith." "On the day 20 July 1884, Leo XIII deigned benignly to concede that those enrolled with some defect, as in the prayers, henceforth can gain the indulgences proper to the individual Scapulars."

Formula of Blessing with Plenary Indulgence for Secular Tertiaries of St. Francis and of Other Orders

"If this Indulgence is imparted immediately after sacramental absolution, the rest being omitted, the Priest is to say absolutely:

May Our Lord Jesus Christ, who gave to blessed Peter the Apostle the power of binding and loosing, absolve you from every bond of offenses, that you may have eternal life and live forever and ever. Amen.

By the most sacred Passion and Death of Our Lord Jesus Christ, by the prayers and merits of the Most Blessed ever Virgin Mary, of the Blessed Apostles Peter and Paul, of our Blessed Father N., and of all the Saints, by the authority committed to me by the Supreme Pontiffs, I impart to you a plenary indulgence of all your sins. In the name of the Father + and of the Son and of the Holy Spirit. Amen." *Decr. Authent.*, n. 444.

N. 1083. - On the Sick in Communities, on Priests Celebrating Their First Mass, on the Angelus Domini

Petitions: "1. That the condition of visiting a Church, often prescribed generically for gaining Indulgences, can be fulfilled by persons of either sex living in community and under rule, by visiting the domestic Oratory. 2. That the infirm or those worn out by old age, living in community and under rule, who cannot visit Churches or Oratories or execute other things prescribed for Indulgences,

nevertheless may be able to gain Indulgences by fulfilling other pious works to be prescribed at the judgment of the Confessor. 3. That in the case in which some moral impediment is present, to be judged by the prudent judgment of the Confessor, of visiting some Church, for example of Regulars or a Parochial Church, which by law would have to be visited for gaining some indulgence, this visitation of the designated Church can, at the judgment of the Confessor, be commuted into another pious work, for example into the visitation of another Church. 4. That, 1st, some Indulgence be conceded to the Christian faithful piously and devoutly receiving a blessing from Priests, especially neomysts; and, 2nd, that likewise some Indulgence be conceded to those piously and devoutly assisting at the first Mass of newly ordained priests.

Resp. To the 1st: It is not expedient. To the 2nd: Affirmatively. To the 3rd: Negatively. To the 4th: To the first part, Negatively; to the second part he deigned to concede, the things to be observed by law being observed, a Plenary Indulgence to the Priest celebrating his first Mass and to his blood-relatives up to the third degree inclusive, who shall have been present at that first Mass; but to the other Christian faithful standing by, an Indulgence of seven years and as many quarantines.

What is required that someone acquire indulgences in the recitation of the prayer *Angelus Domini*, or *Regina Coeli*? Resp. It is necessary to recite them when the bell gives the signal, and with knees bent, except on Sundays from the vespers of each Saturday, and in Paschal time, on which they must be said standing. But Leo XIII "benignly deigned to indulge that all Christian faithful who, detained by a legitimate impediment, not with knees bent nor at the signal of the bell, have recited the versicles *Angelus Domini*, etc., with three angelic salutations, the other versicle *Ora pro nobis*, etc., and the prayer *Gratiam tuam*, etc., but in Paschal time the Antiphon *Regina coeli*, etc., with the versicle and proper prayer; or if they do not know how to say from memory or read the aforesaid versicles, Antiphon, and Prayers, have worthily, attentively, and devoutly recited five times the Angelic Salutation either about midday or toward evening, can gain the Indulgences mentioned above." S. C. Indulg. 3 Apr. 1884.

N. 1084. - Indulgence of 500 Days of a Rosary Blessed by the Crucigers

"1. Whether the Indulgence of five hundred days, as often as the Lord's prayer or the angelic salutation is devoutly said on Rosaries blessed by the Crucigers, is to be revoked: a) either as apocryphal, or by reason of doubtful authenticity? b) Or as indiscreet, or by reason of indiscreet concession? c) Or on account of other extrinsic reasons? And insofar as negatively to all parts of the 1st doubt: 2. Whether the same Indulgence is to be held ratified and confirmed, or rather should be said not to need ratification and confirmation? 3. Whether, for acquiring the same Indulgence, it is necessary to recite the entire Rosary devoutly? 4. Whether it is expedient that the privilege of blessing Rosaries with application of the Indulgence, which the Members of the Crucigers enjoy, be conceded also to other Priests? Resp. To the 1st: Negatively in all things. To the 2nd: It does not need it. To the 3rd and 4th: Negatively."

N. 1088. - On the Plenary Indulgence in the Article of Death

"... Therefore, consulting in this manner for the salvation of souls, as far as it was permitted to Us in the Lord, We have taken care to enlarge and render easier the pious custom of applying the plenary Pontifical Indulgence to the children of the Church constituted in the article of death; and, the faculty having been permitted to Venerable and Beloved Sons, Bishops and Prelates of Churches, of

subdelegating other Priests for this effect, both in Cities and in Dioceses, We think that no small alleviation has been brought by Us to their anxieties and solicitudes. Nevertheless We wish it declared to them that it was not Our purpose to exempt them altogether from this office of paternal charity, of approaching by themselves miserable sick persons desiring to obtain plenary absolution in the final article, but to aid their piety opportunely, lest, while they themselves are detained by other pastoral cares, they must grieve that the faithful committed to them migrate from this life destitute of so great a spiritual benefit. But those who rejoice to exercise a pious work of this sort by themselves - which indeed We trust all will do as often as they shall not have been legitimately impeded - should remember that this must be furnished not merely toward the more noble and powerful of this age, but also toward the poor and men of lowly lot. Concerning this matter, the 28th homily of Our predecessor St. Gregory the Great on the Gospels, at chapter IV of John, *There was a certain ruler, whose son was sick at Capharnaum*, can usefully be read; in it he observes the wonderful and heavenly manner of acting of Our most loving Redeemer Jesus Christ, who, invited to visit the sick son of the ruler, refuses to go, but declares that He will go to the servant of the Centurion even not invited. What is this, that the ruler asks that He come to his son, and yet He refuses to come; but He is not invited to the servant of the Centurion, and yet He promises that He will go bodily? He does not deign to be present by bodily presence to the son of the ruler; He does not disdain to meet the servant of the Centurion.

And since the Roman Ritual enjoins upon Priests, who piously aid the faithful laboring in their final agony, or minister to them the Sacraments of the Church, that if the sick person can obtain a plenary Indulgence conceded by legitimate authority, they recall it to his mind and propose what things he ought to do to obtain it; but of those who have been reduced to a state of this sort, some indeed with full cognition retain the entire use of speech, while others have lost the faculty of speaking, although previously they had given indications of sincere contrition and, while still using reason, do not cease repeatedly to give it: therefore, that all the aforesaid more certainly may be able to obtain the fruit of the Indulgence, We command the aforesaid Priests that by every means they strive to excite dying faithful persons to elicit new acts of sorrow for sins committed, and to conceive most fervent affections of charity toward God; but especially to receive death itself from the hand of the Lord with an even and willing soul. For this work We especially impose and enjoin upon those constituted in an article of this sort, by which they may prepare and dispose themselves for obtaining the fruit of the plenary Indulgence." Constitution of Benedict XIV, *Pia Mater*. Cf. *Acta S. Sed.* Vol. 11, p. 405 ff.

"Lest, for the Christian faithful living in places of the Missions in whatever part of the World, and constituted in the final crisis of life, there be lacking those spiritual helps which the Catholic pious Mother Church is accustomed mercifully to impart to her children departing from this world, Our Most Holy Lord Clement XIV, Pope by divine providence, on account of the eminent charity by which he paternally embraces them, most lovingly concedes to all and singular Reverend Fathers and Lords, Patriarchs, Archbishops, Bishops, Apostolic Vicars, and also Reverend Prefects or Superiors of Missions, both of the secular clergy and of the regular, now existing in places of Missions, as above, or existing at whatever time, permanently, the faculty of imparting the Blessing with plenary Indulgence to the aforesaid faithful reduced to the final agony, with this extension also, that they can and may communicate a faculty of this sort to Priests and respectively to Missionaries subject to their jurisdiction, nevertheless only for the places of their Dioceses or for the districts of the Missions,

provided that in imparting this Blessing the formula prescribed by Benedict XIV of holy memory in the Constitution given 9 Apr. 1747, which begins *Pia Mater*, to be registered below, is observed.

But since it will easily happen that some of the aforesaid Christian faithful depart from this life without having been fortified by the Sacraments of the Church, and without the assistance of any Priest, therefore His Holiness, from the rich fountain of apostolic benignity, bestows also upon them a plenary Indulgence, if, contrite, they shall have invoked the name of Jesus at least in the heart, and shall have received death from the hand of the Lord with that Christian submission of soul and humility of spirit which is fitting, and shall have commended their soul into the hands of their Creator. That this last part of the Decree may become known to all the Christian faithful, let the aforementioned Prelates and Superiors take care and strive to publish it repeatedly in their Dioceses and Missions, and especially at the time of holy visitation." S. C. de P. F. 5 Apr. 1772.

"According to the Indult conceded by the Holy See, all Missionaries have by communication the faculty of bestowing the plenary Indulgence upon those constituted in the article of death. But since they rarely find faithful persons constituted precisely in the article of death, it comes about that some bestow the said Indulgence where there is only danger of death, although it does not seem to be very nearly imminent; but others, according to the strictness of the words, do not apply it except at the time when the agony seems near; and then, when they do not observe so near a danger of death, either by means of medals to which, by authority of the Holy See, Indulgences of this sort are annexed, which they give to the faithful, or by invocation of the Most Holy Name of Jesus, as has been conceded by several Supreme Pontiffs, they warn the faithful to place the conditions by which they may merit to obtain so great a benefit. If the S. C. judges that it should determine which course should rather be adhered to, all of us, as many as we are, will stand ready for the judgment of the Holy See. Resp. To that which is controverted among the Missionaries concerning the time of imparting the plenary Indulgence to those constituted in the article of death, the S. C. judged that circumstance of time sufficient for it to be rightly conferred which suffices for conferring Extreme Unction itself, namely when the infirm person, by force of disease, is seen to verge toward death. Nor is a nearer time of agony to be awaited, in which the sick person, scarcely master of himself, is plainly unequal to bringing forth those motions of soul which the Roman Ritual demands, so that the fruit of so great a benefit, as also of Extreme Unction, may be more richly received. Wherefore it will be the duty of Missionaries, after sacramental Unction has been applied to the infirm person, to excite the same to conceive in soul those things which are read in the same Ritual book, and soon after to fortify the same with so notable a benefit of plenary remission; and to furnish this especially then, when they foresee that they will not return." S. O. Jan. 1780.

"Whether the Apostolic Blessing with Plenary Indulgence in the article of death can be given after the last Sacraments have been conferred, when indeed danger of death is present, but not imminent? Resp. Affirmatively." S. Indulg. C. 19 Dec. 1885. *Acta S. Sed.* Vol. 18, p. 414.

"Whether the Blessing with plenary Indulgence according to the Constitution of Benedict XIV, *Pia Mater*, 5 Apr. 1747, is to be imparted to children who, because of defect of age, have not yet made first Communion? Resp. Affirmatively." S. R. C. 16 Dec. 1826.

"Whether the plenary Indulgence in the article of death can be conceded to those condemned to death, while they are being led to undergo it, or on the same day on which they are to undergo it? Resp. Affirmatively, when it can be done." S. C. de P. F. 10 Aug. 1841.

"Whether the apostolic Blessing can be imparted several times when a new danger of death returns? Resp. Negatively, while the infirmity remains, although prolonged; but affirmatively if the infirm person has recovered, and afterward from whatever cause returns into a new danger of death." S. Indulg. C. 24 Sept. 1838.

"1. Whether by force of the preceding resolution (Valentinen., 5 Feb. 1841, by which an infirm person cannot in the same article of death gain the plenary Indulgence to be imparted by several Priests having the faculty) it is prohibited that, to an infirm person remaining in the same danger of death, the plenary Indulgence in the article of death, which is commonly called the Papal Blessing, be imparted several times by the same or by several Priests having this faculty? 2. Whether by force of the same resolution it is likewise prohibited that, to an infirm person placed in the same circumstances as above, the plenary indulgence in the article of death be imparted several times by several Priests having this faculty under a diverse title, by reason of aggregation to the Confraternity of the Most Holy Rosary, of the Holy Scapular of Mount Carmel, of the Most Holy Trinity, etc.? Resp. Affirmatively to both, the Valentinen. resolution remaining firm under the day 5 February 1841." S. Indulg. C. 12 March 1855, 12 June 1884.

"1. Whether the plenary Indulgence in the article of death, which is usually conceded without another declaration added, is to be taken in the true article of death, or in the presumed, or finally in both? 2. Whether the plenary Indulgence in the article of death is to be conceded to all asking? 3. Whether the contrite, but neither confessed nor refreshed by Most Holy Communion, obtain the plenary Indulgence which the Roman Pontiffs everywhere bestow upon suppliants for the article of death? Resp. To the 1st: It is to be taken in the true article only. To the 2nd: It is to be conceded to all asking. To the 3rd: Contrite persons of this sort gain the Indulgence, if the Pontiff in his concession does not require Confession or another similar thing." S. C. Ind. 23 Apr. 1675.

N. 1089. - On the Privileged Altar

For gaining the Indulgence of a privileged Altar, the application of the Mass is not necessary. S. R. C. 31 Jan. 1848. The soul to be liberated from Purgatory by it, according to the mind of the one conceding, is only one, namely that which either has been designated, or is remitted to divine compassion to be chosen, or, if no soul at all has been thought of, whichever has pleased God. S. R. C. 29 Feb. 1864, 19 June 1880.

Appendix

First Commentary: On the Response of the Holy Office concerning Craniotomy. Cf. n. 402

1. To all moral theologians the question concerning craniotomy is known, and known is the response which concerning it came forth from the Congregation of the Eminent Fathers of the S. R. and U. I. As soon as a response of this sort was published, doubt began to arise concerning its value, namely whether it really settled the controversy, and truly condemned the opinion concerning the lawfulness of that surgical operation. For there were not lacking, nor are there lacking, grave theologians who thought and still think that that decree has no other value except a merely disciplinary one, and that it does not render improbable the opposite opinion concerning the lawfulness of craniotomy. Therefore it will not be unpleasant to students of moral matters briefly to weigh the force of the aforesaid decree.

2. The preceding Response can be explained by a twofold consideration, extrinsic and intrinsic. Let us begin from the first. A similar question was proposed to the S. R. U. I. concerning Ontologism, namely: "whether the following propositions can safely be handed down:" there follow the seven known propositions concerning Ontologism. The Sacred Congregation, Feria IV, on the day 18 Sept. 1861, rescripted: "The Most Eminent and Most Reverend Lords, the vote of the Consultors having first been had, and all and singular of the propositions above enunciated having been maturely weighed, responded to the proposed doubt: Negatively," namely: that they cannot safely be handed down.

3. By this decree theologians and the Philosophers themselves understood a true condemnation and proscription of the doctrine. Wherefore those who were defending Ontologism attempted to show that in those seven condemned propositions there was not contained the doctrine of Ontologism which they themselves were maintaining, but another doctrine quite different. Cf. the little work of the most learned philosopher and theologian Joseph Kleutgen, *L'Ontologismo e le sette tesi censurate dalla Sacra Inquisizione*, Rome, with the types of *La Civilta Cattolica*, 1867, p. 10 ff.

4. Nor did private and public Professors alone interpret that decree in this way; but also the Roman Congregations themselves understood that decree in this sense, namely of true condemnation and proscription. These things are read in the Decree transmitted through the Most Eminent Card. Patrizi to the Most Eminent Cardinal Archbishop of Mechlin concerning the philosophical books of G. C. Ubaghs, decurial doctor in the University of Louvain. "Moreover, what already, as from my letters given to the individual Bishops in Belgium on the day 11 Oct. of the year 1864 they had reserved to themselves to be done, the aforesaid Cardinals undertook to examine other doctrines which are contained in the more recent editions of the works of the same author. And indeed they had to perceive that in those books are handed down doctrines plainly similar to some of the seven propositions... which the Supreme Congregation of the Holy Office on the day 18 Sept. of the year 1861 judged could not safely be handed down; ... hence it will be altogether necessary that not only those books

and those similar to them be kept away from the Catholic University and from all Schools; but also," etc. Rome, 2 March 1866. Cf. the cited little work, p. 84 ff.

5. After the decree related in the preceding number, new doubts arose on the part of the defenders of Traditionalism and Ontologism. For they said that the decisions given were disciplinary, not doctrinal; that those things which had previously been handed down could not be taught, but could be kept in the heart; and that they were still probable and lawful. When these things had been denounced to the Supreme Pontiff by the Most Eminent Cardinal Archbishop of Mechlin and other Bishops of Belgium, by letters given 1 Aug. 1866, the Most Eminent Patrizi in the name of the Most Holy Father rescripted these things to them: "In the letters... given to Most Holy Pius IX, a judgment is sought from the Apostolic See concerning certain doubts stirred up... concerning the responses of the sacred Congregations of the Holy Office and of the Index, both in the year 1864 and in this year 1866, sanctioned by the authority of the Supreme Pontiff. But those doubts are not of such a sort as to require a new interpretation and declaration of a matter already defined: for to dissolve them utterly, through the very responses of the Sacred Congregations, more than enough is done. Indeed it has been heard not without admiration that doubts of this sort have been proposed.... Moreover, Catholic men, much more indeed ecclesiastics, have this duty, that they subject themselves fully, perfectly, and absolutely to the decrees of the Holy See, contentions being removed from the midst which would obstruct the sincerity of assent." Rome, on the day 30 Aug. 1866. Cf. the cited little work, p. 86-89.

6. The preceding letter having been received, the Most Eminent Cardinal Archbishop of Mechlin and other Bishops of Belgium, on the day 17 Dec. of the year 1866, gave letters to the Rector and Professors of the University of Louvain, in which, speaking of the resolution of both Congregations, of the Holy Office and of the Index, on the day 2 March of the year 1866, cf. above n. 5, they assert these things: "These decisions are so clear that the cause must be held as definitively decided. But we know that the most firm will of the Most Holy Lord is that, errors having been removed, all think the same. And so, that all dissensions may remain extinguished forever, and that in a question long agitated and now defined there may remain nothing to be wished for or expected, we send the formula of letters to be subscribed by all who either handed down the reprobated doctrines or adhered to the same in any way." But in the formula it is said: "To the decisions of the Holy Apostolic See of the day 2 March and 30 August of this year, 1866, cf. above nn. 4, 5, I submit myself fully, perfectly, and absolutely, and from the soul I acquiesce. And therefore from the heart I reprobate and reject whatsoever doctrine opposed," etc. Cf. cited little work, p. 90, 91.

7. The retractation of Ontologism, by force of the condemnation pronounced by the Holy Office, was required from Rev. Dr. Ugonin when he was proposed for the Episcopate. This was the formula of retractation: "Since I, the undersigned, have received from the Most Eminent and Most Reverend Lord Archbishop of Myra, Apostolic Nuncio in France, that the doctrine which I set forth in my philosophical work on Ontologism (*Etudes philosophiques-Ontologie*) is disapproved by the Holy Apostolic See, as especially either explicitly or implicitly favoring those propositions which the S. R. and U. I. C. in the year 1861 decreed could not safely be

handed down; I myself, no delay having been interposed, freely and spontaneously declare that I hold and disapprove the aforesaid doctrine in precisely the same way as the Holy See has judged, as wandering more or less from sound principles of philosophy; and at the same time I promise that, as far as will be in me, I will take care in the future that it be no longer handed down in the schools. Given at Paris on the day 13 Oct. 1866." Cited little work, p. 15.

8. Therefore, if craniotomy has been condemned by the Holy Office in the same manner in which Ontologism was condemned, if parity stands for each condemnation, it plainly appears how great is the force of that juridical censure concerning craniotomy, it cannot safely be taught. Nor indeed should it be objected that not once but several times proscriptions and decisions intervened against Ontologism on the part of the Most Holy Congregations and of the Holy See itself, which has not yet been had against craniotomy. For those repeated proscriptions and decisions do nothing else than inculcate and confirm that first condemnation of the Holy Office on the day 18 Sept. 1861, by force of which the Most Eminent Card. Patrizi, in his Letter and Decree on the day 2 March 1866, pronounces books infected with that doctrine to be kept away from the University of Louvain and from all Schools, and the Most Reverend Bishops of Belgium hold the cause as definitively decided; and the cause also concerned Ontologism; and, errors having been removed, they exhort all to subscribe to sound doctrines.

9. We now make a step to the intrinsic consideration of the matter. That is called safe which is without danger. Therefore an opinion which cannot safely be taught is an opinion which cannot be taught without danger. And thus in the cited Decree of 2 March 1866, given through the Most Eminent Patrizi, after it had been affirmed that in the philosophical books of G. C. Ubaghs "doctrines plainly similar to some of the seven propositions... which the Supreme Congregation of the Holy Office on the day 18 Sept. of the year 1861 judged could not safely be handed down" are handed down, it is then said that in the same books there are found doctrines or opinions which cannot be handed down without danger.

10. Moreover this danger is the danger of error, if we wish to understand the mentioned decision of the Holy Office in its proper and obvious sense. For it is said that it cannot safely be taught, and danger in teaching some opinion, properly and in the obvious sense, is nothing other than the danger of error. Wherefore that Decree is not some mere disciplinary prohibition of teaching or handing down in public or even private schools that opinion; but it is a true doctrinal judgment concerning the truth and falsity of the same opinion, which consequently can no longer be handed down in any schools, but must be altogether kept away from them.

11. Nor indeed should it be said that this danger is to be understood from the subject matter, which is some practical thing. For the matter about which there is question is practical and most practical, but it is a matter not regarding ecclesiastical and positive discipline, but regarding morals and touching the natural law itself. Wherefore from the consideration of the subject matter it does not follow that that decree is merely disciplinary, but that it is doctrinal in a matter of morals. For that decree involves this in other words: that that opinion concerning craniotomy cannot be taught without danger of error in a matter of morals. Nor should it be urged by saying that it can very well happen that that opinion cannot be safely taught, even speaking speculatively, because practically someone could easily abuse it, by

applying it badly to practical cases, and by not rightly distinguishing the cases in which it can lawfully be given to execution from the cases in which that would be altogether illicit. This objection has no force, for that confusion of the case of lawful application and the case of unlawful application is impossible, and thus that danger is not this danger, of badly applying practically the aforesaid opinion and of confounding case with case. For indeed the opinion concerning craniotomy has not been condemned in the abstract, considered according to itself and generally; but the opinion concerning craniotomy has been condemned in the concrete, according to determined circumstances and considered in particular. For the question proposed, which the Sacred Congregation resolved by its decision, is not: "Whether it can safely be taught in Catholic Schools that the surgical operation which they call Craniotomy is lawful," thus, generally; but in that peculiar and determined case concerning which there was question and controversy among theologians, "namely when, if it is omitted, the mother and child would perish, but if it is admitted, the mother would be saved, the infant perishing." In this case, surely, the doctrine concerning craniotomy is declared dangerous. Therefore the very application to a determined case is declared a dangerous doctrine; IT CANNOT SAFELY BE TAUGHT. Therefore that danger is not the danger of practical abuse, the danger of unlawful application, but it is the danger of error in the opinion enunciating the lawfulness of craniotomy in that aforesaid case.

12. But it is still objected that the aforesaid opinion could well be called not safe, although determined to that peculiar case concerning which there was question, because of the practical danger itself of discerning the case of true necessity, namely that, if craniotomy is omitted, the mother and child truly would perish, but if it is admitted, the mother truly would be saved, the infant perishing. This cannot reasonably be objected. For that case of necessity is supposed as certain in that proposition concerning the lawfulness of craniotomy. Only in such a hypothesis was the question made by Theologians and proposed to the Sacred Congregation, and the Sacred Congregation certainly understood it in this sense; for it says in its Response, "account also having been taken of those things which in this matter were written by expert Catholic men and transmitted by Your Eminence to this Congregation." Besides, that objection would then have force when that case of necessity were truly difficult to know; but where craniotomy is concerned the matter is most clear and subject to no difficulty, unless the Surgeon is wholly stupid, which is accidental and is not attended to in the condemnation of a general proposition. For the matter is considered in itself.

13. Danger is one thing intrinsic, another extrinsic; and likewise one is proximate, another remote. The danger of error in asserting the lawfulness of craniotomy cannot be from a circumstance extrinsic to craniotomy itself, insofar as it is applied in such circumstances of things as render it unlawful. For, as has just been observed, what is condemned is not the lawfulness of craniotomy in general, but the lawfulness of craniotomy in the stated circumstance of the death of the mother and child, if that operation is omitted, and of the safety of the mother and death of the child, if it is done. Moreover, if any circumstance can be thought up which could render craniotomy lawful, this plainly is no other than the one just enunciated, since without that operation neither mother nor child is saved, while, when it is applied, the child is not placed in a worse condition and the mother is saved. But the Holy Office, in this very case,

declares it dangerous to teach the lawfulness of craniotomy. Therefore the danger of error is intrinsic to craniotomy itself; namely because it is the direct killing of an innocent person. The danger of error is intrinsic to the complex itself, that is, to craniotomy clothed with the aforesaid circumstance; for in that complex craniotomy remains with its whole nature, which is not changed in the least by that maximally favorable circumstance. But if the danger of error is intrinsic, namely by force of craniotomy itself, consequently that danger of error cannot be remote, but proximate and most proximate; for nothing is more proximate to any thing than its intrinsic and innermost nature. Therefore the lawfulness of craniotomy cannot be taught without proximate and intrinsic danger of error.

14. An action which is a danger of sin is an action distinct from the action itself of sin, and is sin not properly and strictly speaking by reason of itself, but by reason of that action sinful in itself with which it is connected. Likewise an opinion containing danger of error is an opinion distinct from another certain and unshaken doctrine against which that opinion contains the danger of erring, and thus is connected with it insofar as it is opposed to it. Therefore, generally and speaking in itself, an opinion which cannot safely be taught, or which contains danger of error, is an opinion which, although it is not in itself error, nevertheless is connected with error; at least insofar as of itself and in the obvious sense, and not accidentally from mere inconsideration, it so labors under equivocation between error and truth that by an easy way it turns aside toward error rather than toward truth, and one who adheres to it is judged to embrace error indeed, not truth. Nevertheless, when from the subject matter a proposition is so determined that no way lies open to truth, although it is defined merely as not safe, and by reason of the note itself or censure cannot be held except as merely dangerous, or containing danger of error, consequently that proposition must nevertheless be held as error, namely by reason of legitimate deduction. And hence it is easily explained why, although those seven propositions of Ontologism were not marked with any other censure than that they cannot safely be handed down, nevertheless in the Schools they have commonly been held as altogether improbable after that Decision of the Holy Office. The same seems to happen in our case. For no true sense can be thought up, since in the very case most favorable it is said that it cannot safely be taught. Wherefore it does not appear how craniotomy can still be defended probably.

15. That adverb, safely, can be explained in another way; but the conclusion is nearly the same. That adverb can be resolved into an adjective, and then the substantive understood under it is to be sought. Moreover this substantive, which can be thought up more favorably in the present matter, is conscience; so that it cannot safely be taught is the same as it cannot be taught with a safe conscience. This interpretation, which pertains most greatly to a moral and practical matter, seems altogether to agree with the decision of the Holy Office which we are treating; for in it there is question of a moral and practical matter. Moreover, in Moral matters, that opinion is called safe which someone can follow practically without danger and fear of violating some precept or some law. Likewise in a moral matter an opinion is called safe in the merely speculative order which someone can hold in the mind and teach externally to others without danger and fear of erring against some certain law or precept. In our case that certain and unshaken law is the law, Thou shalt not kill. Wherefore that craniotomy in that case set

forth above cannot safely be taught is the same as that craniotomy cannot be taught without danger and fear of error against the law, Thou shalt not kill. But this danger and fear of error would then remain on the part of the thing a mere danger of error, and would not consequently become error, if a case could be given in which the law Thou shalt not kill was in reality not infringed. But here this case cannot be given. For if this case were given, it would be no other than the proposed case itself. But that proposed case would then on the part of the thing remain a mere danger of error, and would not become error, directly against that law Thou shalt not kill, since it would not yet be ultimately determined by every favorable circumstance, and could still be further determined. Therefore, although by force of the condemnation that opinion is only a doctrine not safe, nevertheless in reality by force of the matter that opinion becomes altogether improbable.

16. But someone will ask why then the Holy Office negatively said that sentence was not safe, and did not positively say that it was erroneous, if not safe is in reality the same as erroneous? It is responded, first: it did not say this, because this was not asked, but that; and Sacred Congregations respond with customary formulas to proposed doubts, nor are they accustomed in their brief responses to make a treatment of the matter about which there is question, so as to set it forth and explain it. It is responded, secondly: although the sentence not safe in our case falls back in reality, by reason of the matter, by legitimate conclusion, into an erroneous or false sentence, nevertheless that theological censure, not safe, is not the same as the other censure: erroneous or error, which is a far graver censure. We contend for the former, not the latter. But we say erroneous or false also to restrict the signification of error, since strictly speaking error and false are not the same. "From Augustine, in the *Enchiridion*, ch. 17, and *Contra Academicos*, ch. 4, to err is nothing other than to approve true things for false, or false things for true. In this signification error is nothing other than a false proposition, and so it can be found not only in the matter of faith or Theology, but also in any natural or human matter: but according to the common manner of speaking, error, as it were by antonomasia, is accustomed in each matter to signify not just any false judgment, but, by a certain exaggeration, that which is more evidently or more certainly false." Suarez, *De Fide*, D. 19, S. 2, n. 11. Hence the same Suarez, discoursing on an erroneous proposition, as it is distinguished from a heretical one in theological censures, says that it is one "which is opposed to a truth certain by theological certitude, which does not attain the certitude of faith; because it is in no way immediately revealed, as is supposed, but is a conclusion evidently inferred from one proposition of faith and from another evident by the natural light.... A proposition contrary to such a proposition does not attain the grade of a heretical proposition, because it does not have the highest opposition with a proposition of faith, such as immediate opposition is: but that it is erroneous is manifest; because after a heretical proposition, it has the highest repugnance with the truth of faith, namely mediate through evident inference." l.c., n. 14. The doctrine of Cardinal Lugo, *De Fide*, D. 20, S. 3, n. 73, is the same. "The word error, taken most broadly, can be attributed to any false proposition in any matter; for he who believes the false as true errs from the true and is deceived. Commonly, however, that word is accustomed to be restricted to the false which is opposed not only to the true, but to the evident or certain, which among all is commonly known certainly. Nor in Philosophy is just any false opinion called error, but one which is opposed to a certain dogma and received as such among

philosophers. Wherefore in Theology that will not be called error unless it is opposed to some certain truth which is held as certain among Catholics and Theologians." But insofar as error is a special censure below heresy, according to the same Lugo, "error properly is that which is not opposed immediately, but only mediately to the doctrine of faith, insofar as it immediately denies a proposition which is not of faith, but only a theological conclusion, evidently deduced from one proposition of faith and another evident by the light of nature." l.c., n. 78.

17. Wherefore if that censure, it cannot safely be taught, is taken altogether properly and strictly by reason of itself, according to the general rule of interpreting condemned propositions, the aforesaid opinion concerning craniotomy is a dangerous opinion, which namely cannot be taught without danger of error; consequently, moreover, it is also a dangerous opinion, which cannot be reduced to practice without danger of sin. But if the censure, it cannot safely be taught, is considered in the subject matter, that same opinion concerning craniotomy is simply false, and in this sense can also be called not safe and dangerous in the true and proper sense; for it contains an intrinsic and proximate danger of denying a truth, evident, certain, received by all; namely, Thou shalt not kill.

18. Finally it must be noted that if craniotomy cannot safely be taught, neither can the direct procurement of abortion in the same circumstances be safely taught. This follows by legitimate reasoning. For first, the arguments by which craniotomy was defended are the same as the arguments by which the direct procurement of abortion is defended. Besides, it matters little whether the infant's head is cut or compressed, or whether the infant is infected with poison, or an immature fetus by mere ejection from the maternal womb is directly and of itself deprived of the natural element altogether necessary to it for life. It is surely the same thing to kill a man by steel, poison, or projection into fire, or immersion into water.

Second Commentary: On Grave Matter in Theft

1. The reason for doubting in this matter is that in the present day it seems necessary to exceed the limits predefined both by the older Theologians and also by St. Alphonsus, book 3, nn. 527, 528, because from their age down to ours no slight difference is perceived concerning the value of money. For all now complain that the prices of things have increased notably in comparison with past times, or, what comes to the same thing, that the value of money has decreased. Whence grave matter in theft must now reach a greater quantity of money. But on the contrary it seems that one must not depart either from the opinion of the old theologians, which is always to be held in the greatest account in a moral matter, or, and much less, from the doctrine of St. Alphonsus, which has had special approval from the Holy See. Moreover, although it must be conceded that according to the variety of times a variety has also been introduced in the value of money, nevertheless, if a proportion of this sort had to be observed, since now the prices of things have increased immensely, the grave quantity in theft would also have to be increased immensely, which would cede to evident damage of Society. To resolve this question we inquire into three things: 1st. How many kinds of grave matter are to be distinguished in theft? 2nd. What in our age is to be judged in theft matter both relatively and absolutely grave? 3rd. What must be judged concerning the proposed reasons for doubting?

2. As to the first question it is enough to note that, properly speaking, grave matter in theft is always relative, nor can it be absolute. The reason is that, as the Angelic Doctor says, 2.2, q. 73, a. 3, "sins which are committed against one's neighbor are to be weighed in themselves according to the harms which are brought upon the neighbor, because from this they have the nature of fault. But the harm is so much the greater as the good taken away is greater." This notwithstanding, theologians commonly distinguish in theft absolute grave matter and relative grave matter. Relative grave matter is that which is grave, attention having been paid to the conditions of the person in particular, to whom in fact grave harm is brought. This is altogether consonant with the doctrine of St. Thomas just set forth, l.c., and q. 66, a. 6, ad 3. But as regards absolute grave matter, Scavini, Milan ed. 1874, book 2, n. 697, says: "the theft will be absolutely grave when, independently of the damage which the owner suffers, in the judgment of men it is considered of itself to suffice for constituting mortal sin." This definition is either inexact, as being incomplete, or in reality says and explains nothing; because, if precision and abstraction are made from the neighbor's damage, no judgment of grave matter can be formed. And if the common sense of men judges this or that matter grave, it judges so because in this or that matter it considers grave harm to the neighbor. Otherwise that judgment of common sense would be a judgment without foundation and sense. Absolute grave matter, according to the common doctrine of Theologians, ians, is matter which is grave with respect to all, of whatever condition they themselves may be, whether they are poor or rich; whether they are individual or moral persons, as that which in any conditions of status always brings grave harm to the neighbor, for such a place or time. It is said, for such a place or time, because the same thing in this place or time, on account of abundance, is valued little, and consequently its taking away inflicts slight damage; but in another place or time, on account of rarity and necessity, it is valued more highly, and consequently the taking away of

the same thing brings grave damage. Hence that also is inexact which the same Scavini adds, l.c.: "But it is plain that the determination of matter absolute and in itself, for judging concerning the gravity of sin, ought then only to have place when the state and condition of the damaged person is unknown." And he asserts this absolutely grave matter to be about five or six libellae.

3. Lugo aptly says, *De Iust. et Iur.*, D. 16, S. 2, n. 23: "And indeed it cannot be denied that the malice of theft is respective, nor has anyone denied this. For although they say that there can be some grave matter of theft that is absolute, and another respective..., nevertheless they do not will that it be grave without any respect to damage to the neighbor; but they only signify that there is some matter of such a sort through which grave damage is inflicted upon all, and therefore, such matter standing, there is no need to examine and weigh the condition of the person suffering the damage, since it is established that every person, of whatever condition he may be, suffers grave damage from a theft of this sort. Nor can it be denied that there is some matter which is not grave with respect to all, but with respect to one person is slight, and with respect to others is grave.... For the gravity of malice is taken from the gravity of the damage inflicted; but the gravity of damage proceeds from the greater need by which the neighbor needs that thing. Wherefore, since not all equally need the thing which is taken away, it follows that they do not suffer an equally grave injury either, and therefore one person will be able to suffer a slight injury, another a grave injury, through the theft of an equal sum."

4. As regards the second question, there is a twofold criterion or rule for judging and determining matter relatively grave. For one criterion is intrinsic, the other extrinsic. Let us speak first of the intrinsic. That which reasonably and, speaking in itself, brings grave displeasure to our neighbor is a grave sin against charity; and if justice enters into it, it is a grave sin against justice, which obliges more strictly than charity. The Angelic Doctor uses nearly this reasoning, 2.2, q. 66, a. 6, to prove that theft in itself is a mortal sin. "Mortal sin," he says, "is that which is opposed to charity, according as it is the spiritual life of the soul. But charity consists principally indeed in the love of God, and secondarily in the love of neighbor, to which it pertains that we will and work good for the neighbor. But through theft a man inflicts harm upon his neighbor in his goods, and if men everywhere stole from one another, human society would perish. Whence theft, as contrary to charity, is a mortal sin." Moreover, to deprive some person and his family of daily sustenance, necessary according to his own condition, reasonably brings grave displeasure to our neighbor, who sees himself and his own deprived of the things necessary for life according to his own state. Whence it evidently appears that the harm is grave, counting in sustenance not only food, but also clothing and habitation. "Commonly the Doctors say," says St. Alphonsus, book 3, n. 527, "that in theft that is grave matter which would suffice someone according to his condition in a day for the sustenance of himself and his family; in which, as La-Croix well observes, n. 985, with Sporer, Gomez, and others, not only food is computed, but also clothing and habitation." And here it must be noticed that in sustenance of this sort, speaking in itself, there ought also to be comprehended honorable pleasures and lawful recreations fitting to one's own condition, without which human life neither can be, nor in fact is, and of which also someone would be deprived with altogether reasonable displeasure. For man does not live only on bread and meat, water and

wine, in a strict measure, nor does he live solitary; but physically he also lives by other things, and by a measure conveniently good and considered together, if not always superabundant; but morally he lives in his own family and in society; and therefore expenses of pleasure, for the sake of honorable and suitable recreation and also of due honor, must at least sometimes be sustained. Theologians seem implicitly to understand this in that sustenance of the family which they call congruous and suitable to one's state.

5. But as regards grave sin, although deprivation of sustenance in the sense explained is certainly and among all grave, nevertheless a smaller quantity still suffices for grave sin, according to the principle established. For if someone were deprived of daily sustenance necessary only for his own individual life, and not also for the life of his own family, he would certainly experience grave and reasonable displeasure. Indeed, for constituting grave sin from the principle already established it is not necessary that someone be deprived of that whole which is necessary for the daily sustenance of his own individual life, as this sustenance has just been explained, but it suffices that he be deprived only of a notable part of it. For indeed, would not someone feel grave and rational displeasure if even for one day he were deprived of necessary food, or clothing, or habitation, or for that reason could not fulfill the offices of his own status and condition?

6. Wherefore considering, 1st, what at present and as regards Italy is spent for the sustenance of life by the poor, by workers, by various persons of civil and noble condition, what is spent daily in Colleges and Seminaries, in religious Communities, in families which live decently and suitably, but also with due economy; considering, 2nd, the stipends of workers, doctors, advocates, public officials, and the profits of merchants, the pensions of students in Colleges and Seminaries, the dowries of Nuns, the incomes of ordinarily rich persons; it seems possible to establish at present and as regards Italy, and perhaps also, at least more or less, for other regions of Europe, the following matter relatively grave: 1st, for the poor, 1 libella, and less, according to the degree of their poverty. 2nd, for workers and artisans, 1 libella, 2, 3, according to the various crafts and arts, more or less lucrative. 3rd, for persons of civil and ordinary condition, who live from incomes, or from the exercise of merchandising and commerce, or of a liberal profession, 4 libellae, 5-6, 7, according to the various degree of convenience of life. 4th, for ordinary rich persons, 8, 9-11, 12 libellae, and for ordinary moral Bodies, 10-20 libellae, according to the degree of riches. 5th, finally, for extraordinarily rich persons, such as reigning and non-reigning Princes, Nobles and Merchants and very rich Businessmen, moral Bodies and Societies possessing exorbitant Capitals, relatively grave matter cannot be designated; recourse must be had to absolutely grave matter. And indeed, when a private Prince, for example, possesses 50 and 100 millions, and daily spends 30 libellae and more for letters and telegrams alone, it is an evident thing that the theft of 10, 20, 30 libellae certainly will not deprive him in any way of suitable sustenance. Therefore to assert that matter of this sort is relatively grave for them is merely arbitrary, and in no way confirmed by the enunciated intrinsic criterion and rule for judging concerning relative gravity.

7. But let us make a step to the extrinsic criterion and rule. Since here there is question of a moral judgment in a moral matter, such criterion and rule is contained in the authority of

Theologians. "Moreover," says St. Alphonsus, l.c., "for making a just measurement of this gravity, the Salmanticenses rightly say, *De Rest.*, c. 5, n. 12, that the judgments of the wise contribute greatly, whose greater authority in this point seems to me to constitute greater probability. Wherefore I have taken care diligently to gather here the diverse opinions of Doctors," etc. But recent theologians, with few exceptions and a slight difference of which account cannot be taken in moral matters, agree altogether in the matter assigned. For in this they agree, that for the regions of Europe, matter relatively grave at present is almost twice greater than that which St. Alphonsus established for his own time. Moreover, the Holy Doctor, book 3, n. 528, no distinction having been made between the lowest, middle, and highest degree of riches, assigns: 1st, for the poor, 1 iulius, 54 centesimi; 2nd, for workers, 2 iulii, 1 libella, 8 centesimi; 3rd, for artisans, 2 1/2 iulii, 1 libella, 35 centesimi; 4th, for those moderately rich, 4 iulii, 2 libellae, 16 centesimi; 5th, for those absolutely rich and for very wealthy merchants, 6 iulii, 3 libellae, 24 centesimi; 6th, for the very richest magnates, 1 aureus, 5 libellae, 38 centesimi; 7th, for a very wealthy Community, 1 1/2 aurei, 8 libellae, 17 centesimi; 8th, for Kings, 2 aurei, 10 libellae, 76 centesimi. But the Holy Doctor adds, l.c., n. 527, that very many doctors extend this quantity up to 3 aurei, 16 libellae, 14 centesimi. And this quantity, as is plain, is, as it were, half the quantity assigned. For a iulius is worth 54 centesimi of a libella. But an aureus is worth 5 libellae, 58 centesimi. Cf. Finardi, *Prontuario del Commerciante*, etc., Rome 1862. That we may pass over others, for the sake of brevity, the most learned Joseph D'Annibale has these things in *Summula Theolog. Moral.*, Part 2, n. 201, 2nd ed., Milan 1882: "Let me have St. Alphonsus before my eyes, the price of things having almost doubled from that time in which he lived. And so, for the present value of coins, I would say that the damage which does not reach about one libella is always slight in itself, even if to a beggar; on the contrary I would say that damage which exceeds about 30 libellae is grave in itself, even if inflicted upon the very richest person, or upon a King. Between these the damage must be measured relatively, that is, from the persons: therefore I judge it grave, 1st, for the poor, that is, for a beggar, or worker, or artisan, damage of 1 libella or 2 1/2; 2nd, for merchants, according to each one's fortune, whether lowest, middle, or highest, 2 1/2, or 4, or 8; 3rd, for the rich, according as nothing, or little, or much, or very much remains to them from their own revenue, expenses deducted, 3 and perhaps less, or 4, or 7, or 10. Finally as regards moral persons which have the body of a College, damage is grave which is reckoned at 10, or, if they shall have been wealthy, at 20." This question was debated in the present year 1887, on the day 24 Jan., in the Conference of Cases of Conscience at S. Apollinaris before the Most Eminent Cardinal Vicar of the City, and the same opinion was defended by the Resolver and approved by the Censors present; and the Censor who at the end, according to custom, made the recapitulation, set forth the whole doctrine which is explained in this Commentary.

8. Let us come to absolute matter. As for relative matter the damage of individuals is attended to, with all particular circumstances considered, so for absolute matter the damage of Society itself ought especially to be considered. And, this once admitted, then it is easily understood how absolutely grave matter is always grave, namely grave for all, without distinction, although there is question of extraordinarily and exorbitantly rich persons. This principle being established, absolutely grave matter seems to be that which exceeds thirty libellae, the quantity designated by the praised Joseph D'Annibale. But someone will object: how can thirty

libellae more or less bring grave damage to Society, if they do not bring grave damage even to an extraordinarily rich individual, such as are great bankers or merchants of monies in Europe, to whom the loss of 30 and even 300 libellae and more in their commercial operations is scarcely perceptible and is immediately compensated by so many and so great other profits? It is responded that it is common doctrine with relation to fornication that it is prohibited in all cases by natural law itself on account of the uncertain education of offspring. Although in some particular case, which is not very difficult to be verified, both the father and the mother, otherwise very rich, agree between themselves that the offspring be educated in due manner; indeed even that they themselves immediately undertake the care of a suitable education, and therefore with sincere and efficacious will promise a marriage to be entered at once, fornication would always remain prohibited by natural law; because if it were lawful and permitted in some particular case, the gravest danger would always be present of disordered license with immense damage to the offspring. In like manner, although a determined quantity, already sufficiently great in itself, does not bring grave harm to some individual in particular, nor even for the same individual is there at least danger of further grave harm, nevertheless it is itself sufficient for constituting a grave and most grave danger for Society itself, and, speaking in itself, also for individuals themselves. Wherefore, absolutely speaking, it will always be grave matter in any case. For if the grave damage of the individual and of society is considered, there is need to take account not only of expenses necessary for the sustenance and decorum of one's own state, but also of slight thefts, which are sufficiently frequent not only in thieves by profession, but also in the very persons of one's own family, community, society; but especially in persons to whom the administration of others' goods has been entrusted, especially of public dominion and utility. "Namely," says the most distinguished D'Annibale, l.c., n. 257, note 20, "it is very difficult for the things of owners to be administered by others so faithfully that something does not adhere to the hands of those handling them." Therefore, such danger being posited, not only is it evident that the designated quantity is sufficient for constituting absolutely grave matter; but also perhaps that quantity can, not without reason, seem excessive and to be restricted to narrower limits. For where the gravity of sin does not deter, and the hope of a greater, sufficiently notable profit invites and incites to a new theft, many men, and commonly by far more, would commit it, and our fortunes would be most gravely injured, unless they were deterred by fear of graver sin. Hence it is plain why, although the excess of the faculty of the most wealthy King over the faculties of an ordinary rich man, or even of a Marquis or Count, is far greater, beyond any proportion, than the excess of the rich man over the faculties of a citizen or common man, nevertheless there is not required so great a proportionate excess in a grave theft made against a King over a theft made against a rich man as in this latter with respect to a theft made against a common man. And this doctrine seems conformable to the doctrine just related of the Angelic Doctor concerning the gravity of theft, which he declares absolutely, saying: "But through theft a man inflicts harm upon his neighbor in his goods, and if men everywhere stole from one another, human society would perish." But cf. also Lugo, l.c., n. 29 ff.

9. Nor indeed should the authority of Cardinal de Lugo be objected, as asserting, l.c., n. 21, that a quantity absolutely grave cannot be constituted in theft. For Lugo, l.c., does not assert this, but a very different thing, namely "that it cannot be defined what are the borders of each matter,

namely slight and grave, so that short of such a sum it is slight, and beyond that it is grave." It is surely one thing that this quantity cannot be mathematically defined, another that absolutely grave matter cannot even be determined morally, with a certain moral latitude, namely a little more or a little less; and this is what Cardinal de Lugo himself attempts to effect in the following paragraphs. Cf. n. 29 ff., where he designates the universal reason of the malice of grave theft, namely absolutely grave. Cf. also n. 35.

10. Nor likewise should it be objected that from the discourse made it would follow that any theft whatever is grave, since from any slight theft whatever a most grave detriment of Society and of individuals could be feared. For men are not so allured to these smaller thefts, from which they take little profit, as they are allured to those other greater ones, in which profit appears not contemptible, if they could be done without grave sin, as the same Lugo has, l.c., n. 33. But the assigned quantity of thirty libellae, more or less, surely brings profit not contemptible, more than enough alluring to steal.

11. Finally, the authority of Lugo is still objected against the assigned quantity of 30 libellae as absolutely grave. For Lugo asserts this quantity to be 100 aurei, l.c., n. 21. If therefore in the time of Lugo this was the absolutely grave quantity, in our time certainly it ought to be greater still. It is responded that the assertion is altogether false. For Lugo does not say that for his own time that was the absolutely grave quantity, but that that was a quantity evidently and certainly grave, which is very different; and he asserts this indeed by a kind of near exaggeration. For in that same number he does not speak of matter to be determined absolutely, so that he determines it, but he speaks only of the difficulty of determining that grave matter and much more of defining the limits of that grave and slight matter, on account of the difficulty itself of finding in this matter some rational principle and some fixed rule. Hence in the following numbers 22-29 he relates various opinions of Theologians, and various rules assigned by them, which he weighs, and shows to be insufficient. But before he brings forth in n. 29 his own rule and rational principle, so that the malice of grave theft, namely absolutely grave, may be understood, he openly declares that in reality he does not depart from the opinion of others, attention also having been paid to the decrease of money at that time; and he says at the end of n. 28: "Wherefore I shall not reluctantly agree with the aforesaid in the matter itself, that in order with respect to Kings and wealthy Magnates a theft of one aureus be required; with respect to the rich, six or seven argentei; with respect to artisans, four; with respect to the poor, the value of daily food, or the average wage which in a time midway between winter and summer is given to a digger." An argenteus is the same for Lugo as a iulius or regalis, nn. 22-26; but an ordinary regalis is worth 26 centesimi of a libella. But since he takes an argenteus for a iulius or regalis, and says in n. 26 that one Ducat contains eleven reales or iulii, by regalis he understands not the ordinary regalis, of bronze, *real de vellon*, but the silver regalis, *real de plata*, of about twice greater value and about equivalent to a iulius. And in n. 31 he establishes still more definitively that the theft of one aureus is absolutely grave, on account of the danger of grave detriment which is in it: "for," he says, "from several thefts of one aureus made to you by diverse persons, your family affairs would truly suffer most grave detriment." Likewise in n. 32 he affirms the same thing altogether clearly, extending that absolutely grave matter not to 100 aurei, but to one or two aurei. Finally, in n. 35,

discoursing again concerning the difficulty of defining precisely the limits of grave and slight matter, although he speaks hypothetically and only for the sake of example, he certainly brings into the midst not 90 or 80 aurei but 6 iulii. This can also be confirmed by the authority of St. Alphonsus, who in n. 527 counts Lugo among authors who "with respect to the very richest Magnates... say that one aureus suffices for grave matter." But from the opinion of Lugo, n. 29, with respect to these very rich persons, relatively grave matter is not to be required, but absolutely grave, which he then establishes according to this rule and principle; namely, "some things are prohibited not on account of precisely the damage which they bring when they are done once, but on account of the damage which they would bring if, being repeated more often, they were lawful.... Thus therefore in the present matter it seems to be said that although the theft of one aureus or half made only once would not bring great detriment, especially to a rich man, and therefore considered according to itself would not seem sufficient for inducing eternal damnation; nevertheless consequently it would bring great detriment, because if such theft were slight and could be done without grave sin, thefts of this sort would be multiplied, from the frequency of which the greatest detriment would follow even for the rich and princes." And from these things it is more than sufficiently plain how false it is to assert that matter absolutely grave from Lugo is the sum of 100 aurei, namely greater than 500 libellae, since an aureus is equivalent to 5 libellae, 38 centesimi.

12. Let us come to the third question. The reason adduced, that one depart from the limits designated by ancient Theologians and by St. Alphonsus, is excellent. For since the value of money has changed, and has been diminished, and notably diminished, the damage at present brought upon the neighbor in equal circumstances is much less than that which it was before. And in the matter of theft it is precisely this damage, grave or slight, which renders the matter grave or slight. St. Alphonsus himself, l.c., n. 527, says that the gravity of the matter of theft "is to be measured respectively according to the circumstances of person, thing, place, and time." Lugo has the same, l.c., nn. 24, 25. But what is asserted against this, that it is not lawful to depart from the doctrine of the ancient theologians and of St. Alphonsus, whose works received special approval from the Apostolic See, truly has no place in our case. For we do not depart from their doctrine and principles even by the breadth of a nail, although the conclusion is different, because the circumstances are different, as the same St. Alphonsus and Lugo teach that they ought to be. Finally, what is added, namely that grave matter in theft would assume nearly enormous proportions if attention had to be paid to the changed value of money and the price of things, is most false. A certain recent theologian, indeed, relying upon a certain catalogue of prices which is found in a certain Ordinance of the Police of the City of Bourges in France, in the year 1598, from a comparison of the aforesaid prices with the prices of the same city in the year 1883, found the proportion to be one to thirteen. And hence he deduced that grave matter for a king is at least 150 libellae. This assertion is a very true exaggeration, and without any solid foundation. It does not suffice to compare the price of a few wares and the stipend of some workers which are found in that Ordinance of the City of Bourges. But in order that we may come to a seriously deduced and founded conclusion, it is necessary to examine and weigh the whole present State of Society in relation to public and private riches, in relation to the value of money and all necessities of life. And first indeed, the poor, who live from the goods of the rich, are in the present day as many as before and perhaps more and

much more than before. If money is more abundant, taxes also and revenues are greater, at least in an equal if not greater proportion. The stipend of public officials has increased, but certainly it has not increased thirteen times nor ten times, nor much less relatively to the stipend of the time immediately past. But the necessities of life in the present day have increased; and money, if, attention being paid to commerce and present industry, it is more fruitful than before, certainly the increase is not thirteen times greater, but scarcely by a third or half. Cultivation of fields, on the contrary, in many places is much less fruitful, and in some almost abandoned. But attention being paid to the evolution of Commerce, the loss of Capitals on account of cessions of goods, fires, shipwrecks, etc., is much greater than before. And although there is now greater activity, circulation, and quasi-motion of riches, notwithstanding this, those who now are extraordinarily and exorbitantly rich do not seem truly to be richer than those who were extraordinarily rich in past times, as can easily be deduced from their great works and foundations of beneficence, of most splendid buildings, Monasteries, Hospitals, etc., which they erected and founded. Finally, if according to that Ordinance of the City of Bourges a pound of beef and a hen today is of thirteen times greater price than before, a proportion of this sort is not true for all cities and towns of Europe, indeed not even of the same France, as is established from catalogues of prices which are published in public Journals. And thus, for example, in the City of Bourges the best hen of all is bought for 3 libellae and 90 centesimi; at Turin it is bought for 2 libellae and 40 centesimi. Cardinal Lugo himself observed this for his own time; for he says, l.c., n. 24: "I saw at Madrid that the common price of one hen was eight argentei, while nevertheless at Salamanca, while I was studying there, it was commonly bought for two argentei." Besides, how many other things there are which previously were bought at a much dearer price, but today are had at a cheap price, as it is easy to discern in the transmission of letters, in the carriage of goods, in journeys, in things made by machine art, in fuels necessary for illuminating and burning, etc. Therefore the excess of grave matter in theft in the present day can by no means be enormous. All things well weighed, perhaps it scarcely reaches double, as can also be confirmed from the stipend of Masses, which either by custom or by diocesan Statutes has increased about twofold. And thus in the time of St. Alphonsus and Benedict XIV, the stipend of manual Masses was 10 solidi; but that of founded Masses was 26 or 27 solidi, cf. Benedict XIV, Instr. 56, n. 19 ff.; but today it is 1 1/2 or 2 libellae for various places. Nearly the same must be said concerning the stipend of soldiers, doctors, etc. In the year 1856 the Sacred Congregation, for the furnishing of support, decreed the sum of 6 ducats monthly, about 30 libellae, etc. Cf. Bizzarri, *Collect.*, etc. Moreover, in the time of Molina, who died in 1600, the variation of money was from 1 to 6. *De Iust. et Iure*, tr. 2, D. 685, n. 2. In the time of Lugo, who died in 1660, the variation of money was from 1 to 3. *De Iust. et Iur.*, D. 16, n. 25. St. Alphonsus also affirms a variation from 1 to 2, book 3, n. 383. Nor indeed did these Doctors increase grave matter of theft for their own time in this proportion. Therefore that the grave matter of theft must be increased according to the reasoning of the change in the value of money, in the same proportion, is proved neither by reason nor by authority.

Third Commentary: On a Sentence of Divorce as to the Bond of Matrimony to Be Given by a Lay Judge. Cf. n. 2

1. That this sentence is altogether illicit is plain from several Decisions of the S. Penitentiary and of the S. U. Inquisition concerning this matter. It is asked whether it is intrinsically illicit? It must altogether be responded affirmatively.

2. For first, if there is any law which contains something against natural and divine law, it is certainly the law of divorce as to the bond itself of matrimony. But "if the writing of a law contains something against natural law, it is unjust and does not have the force of obliging.... And therefore one must not judge according to such laws," St. Thomas, 2.2, q. 60, a. 6, ad 1; otherwise judgment would be made according to injustice and against natural and divine law, which certainly is intrinsically illicit. Nor certainly is it less intrinsically illicit in this matter of matrimony than in any other matter of temporal good and property for a judge to give sentence against natural and divine law.

3. It is intrinsically illicit for the parties to seek a sentence against natural and divine law. Consequently it is intrinsically illicit for an advocate to seek and patronize this same sentence; for the advocate holds himself on the part of the client and represents the client. Therefore much more is it intrinsically illicit to give a sentence against natural and divine law. But again, a sentence of divorce against the bond of matrimony, indissoluble by natural and divine law, is a sentence against the same natural and divine law.

4. The law itself of divorce is intrinsically illicit and iniquitous. Therefore the sentence of divorce is still more intrinsically illicit and iniquitous. Surely law is of itself quasi speculative-practical. Insofar as it is considered speculatively, the enunciation of a law that is illicit and iniquitous is not illicit, but false and absurd. But insofar as it is inspected practically, then indeed it is illicit and evil. Moreover the sentence of the judge is what constitutes it de facto practical, or practical-practical. "The sentence of a judge is, as it were, a certain particular law in some particular fact." St. Thomas, 2.2, q. 67, a. 1, c.

5. This intrinsic malice is evidently confirmed from various Decisions of the S. U. Inquisition; for such a sentence is said to deflect from the principles of natural law and to be repugnant to divine law.

6. Nor indeed do the reasons of the adversaries prove anything. They say first that that sentence is not intrinsically evil if it is considered in itself and by reason of itself, namely by reason of the act itself: because the judge does nothing other than declare the law in a particular case. But it is not intrinsically evil to declare that which an iniquitous law contains. But this reason has no force at all. For the judge does not declare the law in just any way, but declares it authentically and authoritatively, defining or determining the just, or the right, in a particular case. St. Thomas, 2.2, q. 60, a. 1, c. It is intrinsically evil authoritatively and juridically to declare, not indeed speculatively, but altogether practically, that that is just which in itself is unjust, that that is right which in itself is injury. Men, Aristotle says, and after Aristotle St.

Thomas, l.c., flee to the judge as to a certain animated justice. In the present case the judge is nothing except animated injustice. By this reason brought forward by the adversaries, it would also be proved that judges under the Roman Emperors could licitly have condemned Christians, because in reality they were doing nothing other than merely declaring, in a particular case, the edicts of the Emperors.

7. Hence another reason is dissolved, namely that in the case about which there is question, the cooperation of the judge with sin is only material and by no means of itself efficacious, which, a grave cause intervening, is lawful. The new matrimony to be entered depends only on the will of the parties, who can abuse that sentence. Although the cooperation of the judge is only material, nevertheless the yielding of his own office, which is brought forward as an excusing cause, is certainly not a sufficient cause for giving honorable color to so great a damage, which comes both upon families and upon society itself from that most impious law of divorce, as is established by experience itself. But the cooperation of the judge is by its nature formal and of itself efficacious, although the second act of the new matrimony, or adultery, depends on the free will itself of the parties. It is by its nature formal, because all that it is tends toward making a faculty on the part of the law of flying to other nuptials, which thing is certainly most iniquitous in itself. It is by its nature efficacious, because the aforesaid faculty of marrying on the part of the law, in a particular case and in a determined person, is only the effect of the sentence of the judge. And if, the sentence of divorce having been pronounced, one spouse flies de facto to other nuptials, the other spouse objecting and pleading exception, the latter objects and pleads exception in vain; by the law itself and by the very sentence of the judge the other spouse is protected and fortified in his adultery. "Judgment," says the Angelic Doctor, 2.2, q. 60, a. 6, ad 1, "imports a certain impulsion, and therefore it is unjust that someone be judged by him who does not have public authority." And the same Angelic Doctor, l.c., q. 67, a. 1, says: "The sentence of a judge is, as it were, a certain particular law in some particular fact. And therefore, just as a general law ought to have coercive force..., so also the sentence of a judge ought to have coercive force, through which each party is constrained to observe the sentence of the judge; otherwise the judgment would not be efficacious." It matters little or nothing that adultery de facto depends on the free will of the parties. If a judge were to make a faculty for iniquitous and impious men of killing Clerics and despoiling Churches, would he not cooperate formally and efficaciously, although in act and de facto, because the judge does not command and compel to that killing and despoiling, the aforesaid killing and despoiling would depend on the free choice of those criminal men? Finally, in our case it is so true that by the law and the sentence of the judge there is made a faculty and civil right of flying to other nuptials, that, when these have been contracted, that right is now acquired by the new spouse; so that, during that new marriage, return to one's own and true spouse is prohibited; and the new spouse will always be able juridically to invoke the favor of the law conceded to himself.

8. Nor indeed does it have force to insist by saying that the judge can privately warn the parties concerning natural and divine law; indeed that in the Consideranda preceding the Sentence he can very well assert the Catholic doctrine concerning this matter. Whence it is that his Sentence in reality will be nothing except a mere exterior ceremony, and a certain solemnity, or rather a mere formality without any force and strength. A prior admonition privately made by

the judge, even an expression of the doctrine of the Church in the Consideranda preceding the Sentence, does not change the intrinsic nature of the sentence; indeed it shows more the iniquity of this, against which the judge wishes to protest. That protest and admonition privately made is of a private person. The sentence is of a juridical and public person. In a judge of this sort there is had a true practical contradiction. For as judge he sanctions by his sentence that very thing which as a Christian faithful person he affirms to be against natural and divine law. The contradiction grows, as is plain, if that protest and admonition is placed in the very Consideranda preceding the sentence, which always remains an authentic, juridical, authoritative definition or determination not of the just or of right, but of the unjust and of injury. By this very sentence of his the judge openly confesses that he is not an interpreter of justice, but an interpreter of injustice by public authority. St. Thomas, 2.2, q. 60, aa. 5, 6; q. 67, aa. 1-2. And this certainly is intrinsically illicit.

9. Nor again does it have force to insist that that Sentence of the Judge is nothing except a mere permission. And as liberty of cults is permitted, so also Divorce can be permitted. This reasoning, if it proves anything, proves also that the Law itself of Divorce is not intrinsically evil. Indeed this is what it properly and directly proves. For the judge, as the adversaries themselves assert, does nothing other than merely declare and apply the law in a particular case. Therefore either they must say that that Law, as it is de facto, is not intrinsically evil, or they must confess that the Sentence of the judge also is intrinsically evil. Besides, if the action of the Syndic who pronounces the dissolution of the bond of true matrimony, or the validity of a second marriage, notwithstanding the first true and legitimate matrimony, is intrinsically evil, as even the adversaries themselves affirm, how is the Sentence of the judge not intrinsically evil, which gives that faculty to the Syndic, and to the parties the right of demanding that declaration from the Syndic? Can the execution of some action be intrinsically illicit without either the ratification, or the mandate, or the right conferred for that action being intrinsically illicit? Then the parity of liberty of worship would have force, when, as for liberty of cults, so for divorce the law would be a mere permission, i.e., a negative permission, namely insofar as, although the Legislator held divorce as a crime, he nevertheless tolerated it and did not punish it in certain determined circumstances, lest graver damage in detriment of the Republic should thence follow. Cf. St. Thomas, 2.2, q. 10, a. 11. But the law of divorce, as it is had de facto, is indeed a permission of divorce, but a positive permission, authorizing divorce, giving a civil right of divorce, and making power of flying to other nuptials before the civil magistrate himself, who holds the new marriage as ratified.

10. Others, who sustain the contrary manner of opinion, bring forward another reason. They say that the aforesaid Sentence is not intrinsically evil if its object is considered; acts are specified from the object. For indeed the object of that sentence is not the bond of matrimony to be dissolved, or simply the civil faculty made of flying to other nuptials, but only the civil advantages and effects which that sentence removes, or of which that sentence deprives the matrimony otherwise indissoluble, by defining the cessation of civil rights. But this is asserted altogether falsely. The intrinsic, immediate Object of the Sentence of the judge, specifying the same Sentence, is the intrinsic, immediate Object itself of the Law. This is established from the very nature of judicial Sentence, from the most manifest doctrine of all Theologians, especially

of St. Thomas. For the judge, by his judgment or sentence, does nothing else than authoritatively interpret the law, define and determine the law in a particular case. Wherefore either it must be said that the Law of Divorce itself is not intrinsically illicit; or if that is intrinsically illicit, the Sentence of Divorce also is intrinsically illicit. Let the Angel of the School be heard: "He who brings forth judgment interprets in a certain way the dictum of the law, by applying it to a particular business. But since it belongs to the same authority to interpret the law and to establish the law, just as a law cannot be established except by public authority, so neither can judgment be brought forth except by public authority," etc. 2.2, q. 60, a. 6. The Angel of Our School teaches the same in the preceding article, where he says that judgment is the definition or determination of the just, or of written law, in which natural law or positive law is contained. This same is the mind of the Angelic Doctor, when he says that the sentence of a judge is, as it were, a certain particular law in some particular fact, ibid., q. 67, a. 1. For the sentence of a judge is not the particular law of the judge by simply constituting law, but by applying, defining, and determining in a particular case the law already constituted by the legislator.

11. It is insisted and asserted that that Sentence reaches only the civil contract, not the contract-sacrament; namely that contract, or species of contract, which is really distinct from the sacramental Contract and has place before the civil magistrate. The Law, not attending to the Sacrament, has this contract as matrimony; which nevertheless truly is not matrimony. Hence the Sentence of divorce does not have for its object divorce from the bond, but only denial of the protection of civil law. This insistence and assertion affirms in reality the same thing as the preceding assertion; for in other words it establishes that the object of that Sentence is the denial of civil effects and rights. Wherefore this insistence and assertion is altogether false, as was the preceding affirmation. For legislators bringing a law of divorce, although impious men, nevertheless are not so foolish that, leaving matrimony, which is the foundation of those civil rights, untouched, they would nevertheless deny the rights flowing from it; but, dissolving matrimony itself, by civilly making power of flying to other nuptials, they consequently deny the protection of law as to civil rights. Therefore the intrinsic immediate object of that law is the bond itself of matrimony, whence also it receives its name and is called the Law of Divorce. Therefore the object of the Sentence of the judge is the same, since it belongs to the judge not to establish law, but to pronounce judgment according to written law, by applying it to a particular case. Thus indeed the Fathers of the Provincial Council of Quebec understood the matter. For they say: "Not without great sorrow of soul, or rather horror, did the Fathers of this Provincial Synod learn that certain legislators of this region had most recently proposed that a Court of divorce be constituted, whose office would be TO PRONOUNCE DIVORCE FROM THE BOND on account of the cause of adultery." Thus also the Bishop of St. Gallen understood the matter, who proposed the doubt concerning this matter to the Sacred Congregation. For he says that, by that most recent law of the Helvetic Confederation, "marriages even of Catholics under certain very slight reasons can be dissolved perpetually, and DISSOLVED AS TO THE BOND, so that litigating spouses of this sort, after the sentence of divorce of the secular judges has been given, can pass, if they wish, to contracting other marriages." But then the same Most Reverend Bishop of St. Gallen enunciated the sixth Doubt thus: "Whether the same Catholic judges and advocates, according to the recent law of Helvetia, can with safe conscience propose

THE BOND OF MATRIMONY AS TO BE DISSOLVED, or declare it AS DISSOLVED, and also declare that spouses of this sort can pass to contracting another marriage," etc. Likewise the Most Reverend Fathers, the Bishops of the Gauls, understood the matter. For, after a Letter had been received from the S. R. and U. I., in which it was said that "it can be tolerated that those who hold magistracies and advocates conduct matrimonial causes, which pertain to Ecclesiastical power, in France... provided that... they never bring forth a sentence, nor defend one to be brought forth, or provoke or excite to one repugnant to divine or ecclesiastical law;" a doubt was proposed by the Most Reverend Bishops: "Whether correct is the interpretation diffused through the Gauls, and also given in print, according to which the judge satisfies the aforesaid condition, who, although some matrimony is valid before the Church, abstracts from that true matrimony with constant mind, and, applying the civil law, pronounces that there is place for divorce, provided that in mind he intends to rupture only the civil effects and only the civil contract, and that the terms of the sentence pronounced regard these alone?" Namely, the Most Reverend Fathers understood very well that the Law of Divorce regards true Matrimony itself, and consequently that the Sentence of Divorce reaches objectively the bond itself of Matrimony. Hence by right and deservedly they doubted concerning satisfaction of that condition of doing nothing against divine or ecclesiastical law, by that subjective abstraction. To this doubt the S. R. and U. I. responded: Negatively. Nor indeed could it respond otherwise, for that subjective abstraction and intention is retracted by the objective action itself, namely by that pronouncement of the Sentence of Divorce. And hence it is plain that the same also was the mind of the Sacred Congregation itself. For it could not deny for any other reason that this interpretation was correct, except insofar as it held as ratified and firm that the Law of Divorce and the Sentence of Divorce objectively reach, intrinsically and immediately, the very bond of Matrimony to be dissolved. This same mind the same Sacred Congregation disclosed to the Bishop of St. Gallen. For saying that it can be tolerated that Catholics act in the civil forum in the parts of advocate and actor in this cause of Divorce, besides other limitations, it added this: provided that "the Sentence of this tribunal has no other effect than the aforesaid separation," namely as to bed and board, just causes standing. Therefore the Sacred Congregation understood that that Sentence of itself can have also another effect, namely Divorce from the very bond of Matrimony, which, besides, is established from the whole tenor of that Response. Finally the aforesaid Congregation of the Holy Inquisition, in the Letter to the Bishops of France, says that judges ought to be so disposed in soul "both concerning the validity and nullity of marriage, and concerning the separation of bodies... that they never bring forth a Sentence... repugnant to divine or ecclesiastical law." Therefore the Most Eminent Fathers openly suppose that the object of that Sentence in the case is no other than both the very validity and nullity of marriage, and the separation of bodies.

12. Nor should it be objected that intrinsic illicitness cannot at least be deduced from the Decisions of the Sacred Congregation, since it uses the disjunctive particle or, saying that that Sentence is "repugnant to divine or ecclesiastical law." It is responded, 1st, although in the Letter to the Bishops of France the S. C. uses the disjunctive particle, nevertheless in the response to the Bishop of Southwark and St. Gallen it uses the copulative particle and, saying that nothing in the case ought to be done "which deflects from the principles of natural AND ecclesiastical law." It is responded, 2nd, that there was a reason why the S. C. used in the letter

to the Bishops of France the disjunctive particle. For there was question not of the simple object of that Sentence, but of the complex object. There was question not only of divorce from the bond, but also of divorce from cohabitation and bed; wherefore it was well added with the disjunctive particle that the Sentence could be repugnant to divine or ecclesiastical law. This is the whole text: "provided that they be so disposed in soul both concerning the validity and nullity of marriage, and concerning the separation of bodies, concerning which causes they are compelled to judge, that they never bring forth a sentence... repugnant to divine or ecclesiastical law." A sentence against the validity and bond of matrimony is always repugnant to divine law; for by divine law that bond is constituted. But a sentence concerning separation of bodies can sometimes be repugnant to ecclesiastical law only, since many things in this matter have been constituted by the merely positive law of the Church. Nor does the Church, by tolerating that lay judges handle matrimonial causes, also make power for them of altogether putting aside ecclesiastical laws. In the Response, on the contrary, to the Bishop of Southwark and St. Gallen, there was question of the simple object of that Sentence, of the dissolution of the bond, and then the Sacred Congregation employs the copulative particle. For not only by divine law but also by ecclesiastical law does that bond stand. The whole text is of the following tenor: "Whether a Catholic advocate can defend the causes of the defendant party against the plaintiff seeking the dissolution of the bond? The Response was: Provided that the Bishop is assured of the probity of the advocate, and provided that the advocate does nothing which deflects from the principles of natural AND ecclesiastical law, it can be tolerated." But the Letter which also is brought forward against this conclusion, to the Nuncio of the Holy See in Belgium and to the Minister of foreign affairs in the same Belgium, proves nothing. For that letter enunciates the fact only, but has nothing concerning the doctrine itself of the matter.

13. Finally it is objected: because otherwise a good judge, to the great detriment of Society, would have to desert his office, and a bad judge certainly would be substituted for him; because if a Catholic judge does not pronounce this sentence, another impious judge will give it; because many Catholic judges now act in this way. It is responded to the 1st: It is not a detriment to Society that judges, in order to defend public justice and honesty, yield even their own office. It is not a detriment to Society that, among so many depraved examples of those who rule and govern Society, there are a few who adorn it by a good and praiseworthy example with so great inconvenience to themselves, others seeking the things that are their own, but they the things that are of Jesus Christ. It is a detriment to Society that by the cooperation of most honorable judges themselves Cities are filled with divorces and families are dissolved. It is responded to the 2nd: That others act badly is certainly not a reason why we also should do the same evil. Rather by our example, our principles and doctrines, let us impede also the evil of others. It is responded to the 3rd: That many Catholic judges also so act in good faith surely does not prove that they act rightly objectively. And as regards them, right prudence and a greater evil to be avoided, in determined circumstances of places and times, can counsel silence at least for a time. On the contrary, many and by far more hold the matter as illicit, and illicit by the natural law itself. Moreover secular judges ought not to teach theologians, but theologians ought to teach secular judges what in this matter is lawful and what is illicit.

Fourth Commentary: On the Decree of the R. and U. Inquisition concerning Absolution from Papal Cases. Cf. n. 575

1. Two general questions can be raised concerning this Decree. The first is what its value, or force of obliging, may be. The other is what its objective extension may be.

2. As regards the First question, several indeed doubt concerning the force of obliging of such a Decree, and by thus doubting they seem in reality to deny it. The reason is that such a Decree seems a certain new law, derogating from the whole law of the Decretals; but this law is neither approved in specific form by the Supreme Pontiff, nor legitimately promulgated. But Decrees of the Sacred Congregation, even of the Supreme and Universal Inquisition, approved by themselves and only in common form, merely published, cannot constitute a new law, although they are of the greatest authority and weight. Cf. Ballerini, note (a), n. 130, Vol. 1, *Comp. P. Gury*; St. Alphonsus, book 1, n. 106; Pichler, *Prolegom.*, n. 46; Schmalzgrueber, *Dissert. Prooemial.*, nn. 373-377; Reiffenstuel, *Prooem. in Ius Canonic.*, nn. 130-134. Besides, the matter is confirmed from the very practice of the Sacred Penitentiary, on which alone the present Decree rests, drawing all its intrinsic strength from the same practice. For this practice, by no law, is to be held as a true law; nor does it have the conditions, especially in the subject matter, necessarily required for forming at least a custom having force of law. Cf. Ballerini, Vol. 2, *Comp. P. Gury*, n. 867, note (b), n. 25 ff. of the same note. Finally, the same Sacred Congregation of the Inquisition, interrogated concerning this same matter, responded on the day 18 July in the year 1860: "Let him consult the Decretals of Clement III related in chapter 15, *Cum desideres*, and chapter 26, *Quod de his*, *De Sent. Excomm.*, and approved authors, among whom St. Alphonsus de Liguori, book 7, ch. 1, on Censures, nn. 84 to 92." Moreover, in the cited places of the Law and of St. Alphonsus nothing is had concerning the obligation of seeking absolution by letter, when an impediment stands. Indeed St. Alphonsus, l.c., says that the doctrine is common, more probable, and safe, that he who has an impediment of appearing before the Pontiff is not bound to seek absolution by an intermediary or by letter, even from the Sacred Penitentiary. But it seems strange that a contrary practice should have prevailed in so brief a time. Nor indeed can this contrary practice be sufficiently proved absolutely, since perhaps many and by far more were those who, consulting the Decretals and approved authors and especially St. Alphonsus, gave absolution, no faculty having been sought by letter from the Sacred Penitentiary. When a doubt had been proposed by the Most Reverend Peter Bertapelle, in *Const. Apost. Sed.*, Padua 1877, n. 218, "Whether through the Constitution *Apostolicae Sedis* there was derogated in any part from the power which law and universal custom had conceded to Bishops concerning those impeded from personally setting out to Rome?" the Secretary of the S. Penitentiary, although in an altogether private manner, deigned to rescript: "Nothing has been innovated." Cf. Gury-Dumas, *Cas. Consc.*, Vol. 2, n. 646; Gury-Ballerini, *de Poenit.*, n. 575.

3. These things notwithstanding, several others, and learned Theologians at that, think that such a Decree has a true and proper force of obliging all. For Decrees of Sacred Congregations, and especially doctrinal Decrees, such as the present one is, of the Supreme Universal Inquisition, approved by the Supreme Pontiff in whatever form and manner, have the same authority as if

they emanated from the Supreme Pontiff himself, and consequently have the force of law. Hence it is not strange at all if a simple Decree of a Sacred Congregation derogates without another formality from the Pontifical Constitutions themselves which up to now were in force. Nor indeed, that they may oblige, is promulgation necessary, since knowledge alone of the same suffices. For there ought to be one judgment and one profession of Christ's faithful concerning doctrine and morals. Therefore by this very fact that something has been doctrinally defined by the Holy See, immediately or mediately, or has been decided for the sole purpose of protecting the security of doctrine, those knowing it now ought, without another promulgation, to hold and profess it. Cf. Paul Villada, *Cas. Consc. his praesertim tempor. accommod.*, Brussels 1887, Part 3, Case 8; *Nouvelle Revue Theologique*, Vol. 18, p. 378.

4. But there is another way of considering the aforesaid Decree, which, as more conformable to received principles and reason, is altogether approved by us. This Decree is not some new law, but an interpretation of preexisting law and right. Hence its whole juridical value easily appears. And indeed this Decree pronounces that which had already been established by ancient law, namely that, when an impediment stands, the inferior confessor absolves. But now all circumstances of Society and Commerce, of the difficulty of journeys and of the transmission of letters, having been changed, the Sacred Congregation declares that an impediment of now approaching the Supreme Pontiff, so that an inferior Confessor can absolve from Censures reserved to the Roman Pontiff, is not present unless someone not only cannot personally come to Rome, but also, because of narrowness of time, cannot at least seek absolution by letter. Wherefore the impediment which previously was present was only an impediment of personal access; but the impediment which now is present, the circumstances of times having been changed, is an impediment of personal access and by letter. For someone can treat this matter by letters at present as well and safely as once he could undertake a journey to Rome; indeed, as is plain in itself, someone can now much more easily and safely send a letter than once undertake a journey. But now, if this Decree is nothing except a mere Declaration of Law and Right, that it may have force of obliging there is not required a special approval, or approval in specific form; nor is its solemn promulgation required; but common approval, or approval in common form, altogether suffices, and simple publication, namely that it simply become known. Cf., besides the authors praised in n. 1, Varceno, *Comp. Theol. Mor.*, Turin 1887, Tr. 3, ch. 6, art. 1; Scavini, *Theol. Mor.*, Milan 1874, book 1, n. 173; Joseph D'Annibale, *Summ. Theol.*, 2nd ed., Part 1, n. 182; Ferraris, *Biblioth. Canon.*, v. *Declarationes et Decreta*, nn. 12-15.

5. Hence the practice of the S. Penitentiary, of which there is speech in the Response to the 1st Question, does not seem to be simply the practice of conceding absolution to those asking. For from this practice nothing can be deduced. Nor does practice of this sort seem to be the removal of the obligation of approaching personally to the Holy See for those very persons who seek absolution from the S. Penitentiary. For those who obtain absolution from the S. Penitentiary, by that very fact are freed from the burden of appearing at some time before the Holy See. But the removal of this burden for these persons cannot be the reason why generally one impeded can no longer be absolved by an inferior confessor as before. Therefore the practice of the S. Penitentiary about which there is question seems to be this: that the S.

Penitentiary for all at present, whether they are impeded or not, no longer has as obligatory in practice the prescription of ancient law of personal access, but it is at one's choice either to come in one's own person to the Roman Church, or to approach it by letter. Wherefore, the obligation of exclusively personal access having been removed, the faculty of approaching personally still remains. And thus of one who, while an impediment stands, is absolved, it is not said that he ought afterwards by letter to approach the Holy See, but that at least by letter and through the medium of the confessor he ought afterwards to have recourse to the Holy See. Therefore, in the case of a censure reserved to the Roman Pontiff, whether personal access is possible or not, someone can as before approach the Holy See in his own person or through a procurator in his own name, or have recourse to the same by a letter sent by himself, or finally by a letter sent by the confessor himself. Cf. St. Alphonsus, book 1, n. 186. Hence also removed is the distinction which previously was made between a perpetual and a temporal impediment, for a long and for a short time.

6. The question previously was among Theologians whether, when an impediment of approaching the Supreme Pontiff stands, any confessor in that case could absolve from sin and from reserved censure, or only the Bishop; and only in impossibility of approaching the Bishop would that faculty be made for any confessor. By the present Decree such a controversy is found settled in favor of the opinion which, more congruently with the Law, held that any confessor in that case can impart absolution. Cf. Commentary on Censures, nn. 64, 65.

7. The question likewise was whether, when an impediment stands, absolution is always given directly, or only indirectly. The present Decree also settles this question in favor of the opinion which, again congruently with the Law, asserted that absolution is given directly. For the Sacred Congregation declares that the faculty belongs to confessors of absolving even from censures reserved in a special manner to the Supreme Pontiff. Moreover the same S. C. adds that there is a penalty of reincidence into the same censures unless, within at least a month, the absolved person has recourse by letter to the Holy See. But now, if reincidence is had into censures, the penitent was truly absolved from them and consequently obtained absolution directly as to sins. Cf. Commentary on Censures, n. 51 ff.

8. Finally, a distinction, brought into the midst by someone against the most common opinion of the Doctors, between cases and reserved cases of greater and lesser moment to be absolved when an impediment stands, insofar as the former cannot be absolved by an inferior confessor but absolution must altogether be obtained by letter, but the latter can be absolved by an inferior confessor, is altogether rejected by the present Decree, and indeed reasonably, and altogether suitably to the Law of the Decretals. For the present Decree equates all papal cases among themselves as to absolution to be obtained, when an impediment stands, from an inferior confessor, even if they are censures reserved in a special manner to the Supreme Pontiff. But they are reasonably equated, since there will always be the same impediment, the same danger of grave scandal or infamy from delayed absolution, whether there is question of an altogether enormous matter or of a lighter matter. Those censures are also equated suitably to the Law of the Decretals. For from the Law of the Decretals no distinction is had between censure and censure, between reservation and reservation, between enormous and less grave

delict, where there is question of absolution to be given in the case of impediment, precisely by reason of impediment. Nowhere indeed is it pronounced that absolution should be sought by letter if the crime was enormous and an impediment of approaching the Holy See is present. But on the contrary it is openly asserted that they can be absolved, nevertheless with the burden imposed that, the impediment ceasing, they must visit the Roman Church in their own person, approach the Roman Church or its Legate, approach the Roman Pontiff, etc., as is found everywhere in book 5 of the Decretals, Title 39, *de Sent. Excomm.*, and book 3, Title 11, in the Sixth. Nor indeed is this general rule to be confused wrongly with that which is established in some particular case; nor likewise is this general faculty made for an inferior confessor of absolving the impeded, as impeded, to be confused with the special faculty made for a Bishop of absolving from the excommunication of the canon when the striking has not been enormous, but slight or even grave, which special faculty by common law was conceded also to Regular Prelates and has been confirmed by the Constitution *Apostolicae Sedis* itself. Cf. Commentary on the cited Constitution, n. 49. And indeed the Response of the S. I. C. related in number 3 does not refer to any case whatever, but to an altogether enormous case, to the case, namely, as they say, reserved to the Supreme Pontiff in a most special manner. For there was question of the excommunication "which the Confessor contracted by absolving outside the article of death an accomplice in a shameful sin." But now in the praised Decretals of Clement III, to which the S. C. refers the orator, not even a word is had concerning a letter to be written. In chapter *Cum desideres*, 15, *de Sent. Excomm.*, it is said that notwithstanding caution given and satisfaction furnished, absolution is to be obtained in the form constituted by the Church. But chapter *Quod de his*, 26, of the same title, has these things: "Brother, we have judged that you should be responded to thus: that he who asserts that he has fallen into the Canon of a sentence latae sententiae can obtain the benefit of absolution in no other way than through the Apostolic See or its Legate: unless perhaps in the article of death, or by poverty, or infirmity, or old age, he were burdened so greatly that he could not endure the labor of coming to the Roman Church, or were drawn back from this by some other canonical impediment. But from these persons in the form of the Sacrament it has been customary to exact that, strength having been resumed, and opportunity having been granted, they ought to visit the Roman Church in their own person." Cf. chapters *Super eo* 1, *Monachi* 2, *Mulieres* 6, *De caetero* 11, *Ea noscitur* 13, *Pervenit ad nos*

17, *Nuper a nobis* 29, *Cum illorum* 32, *De monialibus* 33, *Relatum* 37, *Canonica constitutione* 50, *Quamvis incidens* 58, *De Sent. Excomm.*, *Eos qui* 22, of the same title in the Sixth, *Quoniam* 9, *De vita et honest. Cleric.*

9. But here it is asked how it still cannot safely be held that, when an impediment stands, any priest or Bishop can absolve from papal cases, if the Decree itself finally teaches this very thing in the Response to the second Question? That is called safe which is without danger. Therefore an opinion which cannot safely be held speculatively, or cannot safely be taught, is an opinion which cannot be taught without danger of error. Likewise an opinion which cannot safely be held practically, or cannot safely be reduced to practice, is an opinion which someone cannot follow in practice without danger of sin. But now, the aforesaid legitimate Declaration of the Sacred Congregation standing, if someone at the present time were generally to say that one

personally impeded can be absolved by another inferior, he would expose himself to the danger of erring speculatively and sinning practically. For first, the circumstances of times having been changed, many who previously were truly personally impeded from approaching the Holy See are at present no longer such. Besides, those personally impeded from approaching the Holy See were previously understood to be only those who could not come to Rome in their own person; but now they are understood to be those who neither can come to Rome in their own person, nor because of narrowness of time can seek absolution at least by letter. Wherefore there is no opposition in the Response of the Sacred Congregation to the first and to the other Question, when it affirms, namely, both that it cannot safely be held that a penitent who is in the impossibility of personally approaching the Holy See can be absolved by an inferior confessor, and that a penitent impeded from approaching the Holy See personally and by letter can be absolved by an inferior confessor, when absolution cannot be deferred further by reason of grave scandal or infamy. Cf. St. Alphonsus, book 1, n. 42.

10. The obligation imposed by the Decree of still having recourse by letter, absolution now having been obtained, and indeed direct absolution, in the case of the aforesaid impediment, begets no difficulty. The reason is that this is the natural consequence of the pre-established Declaration. For just as formerly, from the Law of the Decretals, absolution having first been obtained in the case of an impediment of presenting oneself to the Superior, when the impediment ceased, someone had to present himself to the same Superior; so equally now, in the case of an impediment both of presenting oneself to the Superior and of sending a letter, absolution having been obtained, when there is now time enough for writing and every impediment to it ceases, he ought either to present himself personally to the Superior, or at least by letter to have recourse to the Superior. Hence also as to this part, for the legitimate value of this Decree, neither approval in specific form nor promulgation is required, since again it is not in reality a new law, but a mere Declaration of law, such as is accustomed to be called comprehensive. Cf. C. *Quamvis*, 58, *De Sent. Excomm.*, etc.

11. Therefore the whole difficulty of the present Decree is reduced to reincidence. Indeed it must also be asserted that this difficulty in reality is none if it is said, as several have thought, that reincidence was not removed by the Constitution *Apostolicae Sedis*. But the difficulty is really present if, on the contrary, it is said that reincidence was removed by that Constitution, as several and indeed most learned Theologians have taught; and this is truly established by the very tenor of the praised Constitution. In this opinion no other explanation of this part of the Decree can be at hand except that it be said to contain, under this head, an extensive Declaration. Cf. Joseph D'Annibale on the Constitution *Apostolicae Sedis*, 3rd ed., n. 218; Peter Bertapelle on the same Constitution, nn. 218, 224.

12. We now proceed to the other question, namely concerning the objective extension of this Decree. And first indeed, in the present Decree, as is established from its very tenor, there is not question of Episcopal cases. There is not question of papal cases, but occult ones. Nor indeed is there question of danger or the article of death, which is positively excepted in the second question. Therefore nothing new is to be established in these cases, so far as is by force of the present Decree. Cf. Commentary on Censures, n. 36 ff. Nor indeed would this Decree

reasonably be extended from case to case, on account of that special reason also that the Sacred Congregation founds its Decree on the practice of the S. Penitentiary; whether this practice is the same for other cases as for those impeded as to papal cases is not positively established from the same present Decree. Therefore only by reasoning can the same disposition of law be affirmed, even as regards Episcopal cases.

13. But whether in the aforesaid Decree there is question of papal cases, for the impeded, reserved either with censure or without censure, does not lack difficulty. It seems to be affirmed, because in the Questions there is question generally of cases and censures, of all cases reserved to the Pope. But it seems to be denied, 1st, because in the questions themselves the doubt seems to be restricted to censures, so that the word censure restricts and narrows the other word case as to signification; for the allusion is evidently made to the cases of the Constitution *Apostolicae Sedis*, when at the beginning it is said: Whether it can still safely be held, etc. 2nd. In this same sense proceeds the Response to the 1st; for it is said: attention having been paid to the practice of the S. Penitentiary, especially from the published Constitution of Pius IX of holy memory, which begins *Apostolicae Sedis*, etc. 3rd. The Response to the 2nd Question treats only of cases reserved with censure, and the reincidence into censures there established regards only these cases. Wherefore, again, then only by legitimate reasoning must the same disposition of law be affirmed for other papal cases reserved without censure.

14. Finally it can be asked whether by the aforesaid Decree there is comprehended the censure of the canon, art. 2 of the second series of the Constitution *Apostolicae Sedis*. It seems that it must be denied; and the reason is that an exception is made by the same Constitution, and it is said: "excepted, as to reservation, cases and persons concerning whom by law or privilege it is permitted that the Bishop or another absolve."

A. M. D. G.

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Imprimatur

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