INSTITUTIONS OF MORAL THEOLOGY

According to the Doctrine of St. Thomas and St. Alphonsus

by Gennaro Bucceroni, S.J.

Sixth Edition, revised and enlarged by the author

VOLUME I

Human Acts · Conscience · Laws · Sins and Virtues · the Precepts of Faith, Hope, and Charity · the First to Sixth and Ninth Precepts of the Decalogue (nn. 1–831)

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Title Page

According to the doctrine of St. Thomas and St. Alphonsus By Januarius Bucceroni of the Society of Jesus Volume I Sixth Edition Rome

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Approval of the Work

Since some theologians of the Society of Jesus have reviewed the work entitled *Institutions of Moral Theology*, etc., of Fr. Januarius Bucceroni, S.J., and have approved that it can be brought to light, we grant the faculty that it may be printed, if it shall so seem to those whom it concerns. Rome, March 7, 1904. Augustus Ferretti, S.J., Provincial of the Roman Province

We grant the faculty that the aforesaid work, reviewed and enlarged by the author himself, may be published for the sixth time, if it shall so seem to those whom it concerns. Rome, July 8, 1913. Octavius Turchi Provincial of the Roman Province, S.J.

Abbreviations

S. Th. S. q. 1. a. 1. = St. Thomas, *Summa Theologica*, Supplement, question 1, article 1.

L. 5., H. A. tr. 1. n. 37. = St. Alphonsus de Liguori, *Theologia Moralis*, Naples, 1819, in the same treatise, n. 5; and *Homo Apostolicus*, Bassano, 1826, treatise 1, number 37.

A. A. S. v. 1. p. 6. = *Acta Apostolicae Sedis*, volume 1, page 6.

A. S. S. v. 1. p. 6. = *Acta Sanctae Sedis*, volume 1, page 6.

E. M. = *Enchiridion Morale*, fourth edition, at the same number.

The codes of Italy, France, Switzerland, Spain, Portugal, and Austria are indicated by their initial letters: C. I., C. G., C. He., C. H., C. L., C. A.

The German Code is indicated by the initial letters C. B., the Prussian Code. Customary citations of Roman law:

Inst. *de Mand.* § 1. *Mandantis* = the *Institutes*, under the title *On Mandate*, section 1, beginning *Mandantis*.

L. 7. § 4. *Sed cum de Pactis* = the Pandects, law 7, section 4, beginning *Sed cum*, under the title *On Agreements*, or with D. or ff. added before the title, that is, *Digestum* in Latin, *Pandectae* in Greek.

L. *Creditor* C. *de Usuris* = the law which begins *Creditor*, in the Code, title *On Usury*. Nov. 22. C. 1. = the Authentic Novels, Novel 22, chapter 1.

Lib. 1. f. tit. 7. C. un. = Book 1 of the feudal laws, title 7, sole chapter. Customary citations of canon law: Decree of Gratian:

First Part: Can. *Ieiunium* 7. Dist. 76; or Dist. 76, chapter 7.

Second Part: Can. *Qui viderit* 13. question 5, cause 32; or cause 32, question 5, chapter 13. Treatise on Penance, Distinction 1, canon 1.

Third Part: Can. *Est unitas* 49. Dist. 4 *de Consecr.*; or *de Consecr.*, Dist. 4, chapter 49.

Decretals of Gregory IX: Cap. *Presbyter* 2. *de Peculio Clericorum*.

Decretals of Boniface VIII: Cap. *Non putamus* 2. *de Consuetudine* in the Sixth. Clementines of Clement V: Clem. 3. *de Haereticis*. Extravagants of John XXII: Extr. 2. *de Conc. praeb.* Common Extravagants: Extr. Comm. 5. *de Poenit.* Pr. d. = condemned proposition. Cf. 119. = confer here number 119.

A small line at the end of any paragraph or number has the same meaning as "confer." Citations refer to the things which immediately precede; after a small line at the end, they refer to the things which precede in that very number or paragraph.

Preliminary Notices

1. What is moral theology? - If the name is considered, it is that part of theology which is concerned with morals. But if the thing itself is considered, it can be defined: that part of theology which, resting upon divine law manifested through revelation, inquires what is lawful and what is unlawful in human actions, so that it may direct these actions in order to eternal life. The human act is the subject of this science. The lawfulness or unlawfulness of human acts is the material object of this science. But the lawfulness or unlawfulness of human acts, insofar as it is demonstrable by divine law manifested through revelation, or by the revealed word of God, constitutes the formal object of this science. From this also the proper source of this science is clear. Therefore moral theology is distinguished from moral philosophy, because the former directs human acts to the supernatural end, the latter to the natural end of man; the former rests especially upon the light of faith, but the latter upon the natural light of reason. Hence it is easily clear how great is the excellence, necessity, and usefulness of moral theology.

By divine law manifested through revelation; for the principles of morals flow from the same sources as dogmas. They are contained first of all in Scripture, and are made known by Tradition, of which splendid monuments exist in the writings of the holy Fathers. Writings of this kind do not contain a distinct and methodical account of moral discipline, but certainly, together with the dogmas of faith, they present the principles of morals, besides also several particular cases, in which what is lawful and what is not lawful is discussed, as is especially to be seen in Tertullian, Cyprian, Chrysostom, and Augustine. But those who afterward treated moral discipline according to the method of the schools explained those principles more fully, adapting them to the individual cases which arise day by day.

What is lawful, what is unlawful; for in this it is distinguished from Ascetic and Mystical theology. Ascetic theology adds to Moral theology, commonly so called, in that it does not so much direct human acts so that they may simply be good, as hand down the manner by which human life may be adorned with all the virtues. Mystical theology, moreover, adds to common sanctity the manner of a special union with God, which is granted not to all, but only to some. Moral theology is also distinguished from Canon Law. For in the latter the laws by which the Church is governed are properly explained, especially as regards her whole external government. But Moral Theology also considers these laws, certainly, yet insofar as they bind in conscience and must be observed, and consequently what, also in regard to them, is lawful or unlawful in conscience. S. Th. I. p. q. I., 1. 2. q. 91. a. 4.; Commentary *On the Nature of Moral Theology*.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

2. What have been the vicissitudes of Moral Theology? - There have been various vicissitudes of Moral Theology, both as regards its didactic development and as regards the development of the general rule of morals in doubtful cases.

As regards its methodical form, various ages can be distinguished in it, and they are the following six.

The first age, from the beginning, in the time of the Apostles, was when moral doubts were resolved by the decisions of the Supreme Pontiffs, by the decrees of Councils, and by the opinions of the Fathers, who especially in their homilies and sermons to the people explained those things which are necessary for rightly informing morals and for salvation.

The second age succeeds a little later, when in the first centuries of the Church the use of canonical penance became established, and Penitential Books were employed. Special treatises on moral matters were gradually multiplied in this age, either together with speculative doctrines or separately, up to the twelfth century, when, after St. Anselm, Archbishop of Canterbury, who died in the year 1033, and after St. Bernard, first Abbot of Clairvaux, who died in 1153, Peter Lombard, called the Master by antonomasia, wrote the books of the *Sentences*, in the third of which he treats of the virtues and of vices; he died in 1164. Benedict XIV, *de Syn.*, l. 11, c. 11; Decree of Gratian, at the end.

The third age extends from the thirteenth century to the fourteenth. In this age sacred practical doctrine made great progress, especially through the work of William of Paris, who died in 1249, St. Bonaventure, O. Min., who died in the year 1274, St. Thomas Aquinas, O.P., who died in the year 1274, called the Angelic Doctor, St. Raymond of Pennafort, of the Order of Preachers, who died in the year 1275, and Peter Paludanus, O.P., who died in the year 1342, who for St. Alphonsus is a doctor of perfect knowledge.

The fourth age embraces the two following centuries, the fifteenth and the sixteenth; and it is distinguished by the notable saints who flourished in this age. Among others are celebrated St. John of Capistrano, O. Min., who died in the year 1440, St. Bernardine of Siena, O.S. Fr., who died in the year 1444, St. Lawrence Justinian, who died in the year 1455, St. Antoninus, Archbishop of Florence, who died in the year 1459, Thomas Cardinal Cajetan, O.P., who died in the year 1534, a man of most subtle genius, Francis de Vitoria, O.P., who died in the year 1546, Dominic Soto, O.P., who died in the year 1560, Peter Soto, O.P., who died in the year 1563, Bartholomew Medina, O.P., who died in the year 1581, St. Charles Borromeo, who died in the year 1584, Martin Azpilcueta, called Navarrus, who died in the year 1590, Cardinal Francis Toletus, S.J., who died in the year 1596, and Louis Molina, S.J., who died in the year 1600.

The fifth age embraces the seventeenth and eighteenth century up to St. Alphonsus M. de Liguori, and it is distinguished by many learned scholastic theologians who expressly expounded and illustrated moral questions in copious treatises. Among many others there excel Thomas Sanchez, S.J., who died in the year 1610, Francis Suarez, S.J., who died in the year 1617, Leonard Lessius, S.J., who died in the year 1623, Basil Pontius, O.S. Aug., who died in the year 1629, the Salmanticenses, O. Carm. Disc., from 1631 to 1722, Martin Bonacina, who died in the year 1631, Giles Coninck, S.J., who died in the year 1633, Ferdinand De Castro Palao, S.J., who died in the year 1633, Paul Laymann, S.J., who died in the year 1635, Francis Sylvius, who died in the year 1649, Augustine Barbosa, who died in the year 1649, Cardinal John De Lugo, who died in the year 1660, Peter Marchant, O. Min., who died in the year 1661, Antoninus Diana, Cleric Regular Theatine, who died in the year 1663, Zacharias Pasqualigo, Cler. Reg., who died in the year 1664, Hermann Busembaum, S.J., who died in the year 1668, Henry Pirhing, S.J., who died in the year 1670, Thomas Tamburinus, S.J., who died in the year 1675, Anacletus Reiffenstuel, O.S. Franc., who died in the year 1703, Claude La-Croix, S.J., who died in the year 1714, Patrick Sporer, O. Min., who died in the year 1714, Prosper Lambertini, Benedict XIV, who died in the year 1758, and Lucius Ferraris, Ord. Min., who died in the year 1760.

The sixth age takes its beginning from St. Alphonsus M. de Liguori, who died in the year 1787, and extends down to our own times. St. Alphonsus, most outstanding in genius and doctrine as well as in sanctity of life, and divinely given for exterminating Jansenist errors and severities, wrote a *Moral Theology* in which he treats all questions learnedly, eruditely, and with the highest prudence, recounting almost all that had been handed down before him; hence he was deservedly adorned by the Church with the title of Doctor. Hence it happened that in more recent times Moral Theologians followed St. Alphonsus as leader and master. In our age very many compendia of Moral Theology have been published.

The name indeed is modest, but the works are certainly of notable merit. For in these compendia the whole doctrine of Moral Theology is handed down briefly and in order, and in them is contained, accurately set forth, not only the doctrine of the old theologians accumulated in the course of time, but also that which has been acquired for Moral Theology either from the more recent Acts of the Holy See and of the Sacred Roman Congregations, or also from the progress of the natural sciences. Nor indeed have more expansive treatments been lacking in this age, as can be seen in the treatises *On Justice and Law* and *On Contracts* of D. Carriere, and in the scholia, annotations, and dissertations of Fr. Anthony Ballerini, S.J. Zitelli, *Enchirid.*;

Hurter, *Nomenclat.*; D'Annibale, *Summ.*, 4th ed., p. 1, n. 2 ff.; Bouquillon, *Inst. Theol. Mor. Fundam.*, Introduction V.

As regards the development of the general rule of morals in doubtful cases, for several centuries each one defended his own opinion, according to the varying weight of the reasons, as seemed better to him. In the year 1572 Antonius Cordubensis first began to contend on behalf of law, because of the authoritative and obligatory prerogative of law, and accordingly he established that in doubt the safer part must always be held. But in the year 1577 Bartholomew Medina, professor at Salamanca, began, on the contrary, to contend on behalf of liberty because of the prerogative of its natural right, and accordingly he established that in doubtful matters he acts prudently and licitly who follows an opinion truly probable and favoring liberty, even after leaving aside the more probable opinion in favor of law. He was the first who reduced the doctrine concerning probable opinions into a system. From this Tutiorism and Probabilism arose.

In the following seventeenth century Synnichius, who died in the year 1666, brought Tutiorism down into Rigorism, while Caramuel brought Probabilism into Laxism: for the former denied that we can follow an opinion favoring liberty, even if it is most probable, which was condemned by Alexander VIII in the year 1690; the latter, on the opposite side, affirmed that we can follow an opinion even slightly probable, which was proscribed by Innocent XI in the year 1679. Hence in that same century Probabilism was widely diffused, and became a very common and very received doctrine in every school: of almost all the disciples of St. Thomas, of almost all the disciples of Scotus, of almost all the Fathers of the Society of Jesus, and of other theologians, with few exceptions.

But since many of these probabilists favored liberty too much, asserting that it was lawful to follow even an opinion that was probably and doubtfully probable, the Probabilists were divided among themselves, and there arose moderate Probabilism, standing in an opinion truly and gravely probable, and broad Probabilism, proceeding even to doubtful probability. Hence, while the Fathers of the Society of Jesus commonly remained in Probabilism, the Thomists passed over to Probabiliorism,

requiring for liberty an opinion more probable than the opinion favoring law. Zitelli, in his *Enchiridion*, mentions as the head of the probabiliorists Francis Genet, who died in the year 1702.

In the eighteenth century, to overthrow broad Probabilism and Probabiliorism at the same time, St. Alphonsus M. de Liguori undertook to defend moderate Probabilism, establishing that it is lawful to use a probable opinion even in competition with one more probable for law, whenever the former has a certain and grave foundation. And for that reason the Holy Doctor called his system moderate Probabilism, against rigid Probabiliorists and lax Probabilists, Equiprobabilism, with *aeque* taken according to the nature of true probability, not according to equality of degree.

But since the word nevertheless was not free from ambiguity in itself, hence after St. Alphonsus another system arose, which the Redemptorist Fathers defend, namely the system of Equiprobabilism, by which it is established that it is lawful to follow an opinion favoring liberty when it is equally or a little less probable than the opinion favoring law; but that it is not lawful when the latter is much more probable than the former, which in truth falls back into Probabiliorism. La-Croix, vol. 1, prodromal book, Franc. Ant. Zachariae and *Quaest. facti* of Stephen De Champs; Zitelli, *Enchir.*; D'Annibale, p. 1, n. 8 ff.; Bouquillon, *Inst. Theol. Mor. Fundam.*, Introduction II; E. E. M. n. 114, 119.

3. What is the division of Moral Theology; and what is the order of the treatises? - All the questions of moral theology are reduced to certain principal treatises into which it is divided. That we may proceed in order, we shall speak: 1. On human acts, which are as it were the proper subject of honesty and sin. 2. On conscience, which proximately regulates human actions. 3. On laws in general, which remotely regulate the same actions. 4. On sins, which arise from the lack of conformity of human actions with respect to the rule, whether proximate or remote. 5. On laws in particular, by which what is lawful or unlawful in human actions is determined in particular. The first four treatises constitute fundamental or general Moral Theology, while the remaining treatises, on particular laws, constitute special Moral Theology.

Now the following order must be used in treating of these particular laws: 1. On the properly evangelical precepts, which are established by revealed divine law, namely on the precepts of the theological virtues, faith, hope, charity, by which man immediately tends to his end. Moreover, "law is not imposed by any lord except upon his subjects.... But the first subjection of man to God is through faith.... And therefore faith is presupposed for the Precepts of the Law." S. Th. 2. 2. q. 16. a. 1. But through hope man is led to the observance of the law, and from charity follows the observance of the precepts. S. Th. 2. 2. q. 22. a. 2.

2. On the precepts of the Decalogue, properly constituted by natural law, although also positively confirmed by divine law, as is clear from Matt. 19:17 and Trent, sess. 6, c. 19. 3. On the precepts of the Church, which depend upon human law. 4. On the obligations of various states. For after the more general precepts one must proceed to the more particular.

By the observance of all these latter precepts man tends mediately to his end. For other precepts concern various acts of the moral virtues. And as God is immediately attained by the theological virtues, so by the other moral virtues there is immediately attained only the honesty of some created thing.

5. On the precepts of the sacraments, which contain a law at once commanding and assisting; for through them sanctifying grace is infused, and other aids of grace are given, by which man can observe the whole law, so that he may thus be preserved in the friendship of God, or be restored to it if, by transgressing the law, he has sinned gravely against God.
6. On censures, which are ecclesiastical penalties, preventing and following upon the transgression of certain special laws; and on irregularities, which are partly penalties and partly impediments to receiving sacred orders. 7. On indulgences, through which, sins having otherwise been remitted, the temporal punishment still due to them is remitted; and thus man is proximately disposed to attain eternal life. *Theol. Wirceburg.*, on the Theological Virtues, 32 ff., on the Virtue of Religion, 9 f.

4. By what method is Moral Theology treated? - Moral theology can be treated by a threefold method: positive, casuistic, and scholastic. The first sets forth and proves moral precepts and dogmas in an orderly way from properly theological sources. The second insists upon resolving practical cases, by applying general principles to particular cases determined by various circumstances. The third proceeds by the discourse of reason rather than by authority. For moral precepts and dogmas, already positively proved by properly theological arguments, it confirms and illustrates by philosophical principles and reasons, and declares their connections, relations, and consequences.

That threefold method can easily be joined and employed together, and from this threefold method, mixed together, there is had a perfect and excellent treatment of moral theology. In the present *Institutions* we shall insist a little more upon reason than upon authority. For the disputation which is instituted in the schools is not directed to removing error, but to instructing and leading the mind to the understanding of the truth which it intends; "and this ought to rest upon reasons which investigate the root of truth and cause one to know how that which is said is true; otherwise, if the master determines the question by bare authorities, the hearer will indeed be made certain that it is so, but he will acquire nothing of science or understanding, but will depart empty." S. Th. *Quodl.* 4, a. 18.

This latter scholastic method is of itself brief in the treatment of questions. But since several of the older scholastics often undertook a long examination of the opposed opinions of others, in order to refute them directly, hence, especially as regards moral theology, it has happened that their most learned works were handled only by few. In order that these, our whatever-sort-of *Institutions*, may be of greater use and utility, we have determined to proceed in them in scholastic form, omitting that long discussion of the opinions of others, which we also observe was done in the *Summa Theologica* by the Angelic Doctor. - Pius VI, Constitution *Auctorem fidei*, August 28, 1794, proposition 76; Pius IX, *Syllabus*, proposition 13.

On Human Acts

I. On the Nature of the Human Act

5. What are human acts? - An act in created things is the determination of some potency or faculty. Hence human acts are acts of human faculties. But human acts are considered in moral theology in the genus of morals, or insofar as they are moral acts. Hence here "moral acts and human acts are the same." S. Th. 1. 2. q. 1. a. 3. But "the genus of morals begins where dominion of the will is first found." S. Th. 2. D. 24. q. 3. a. 2. Therefore human acts are, in general, acts of man by which man himself orders himself to an end suitable to him. Therefore human acts can be considered either in relation to the man who is ordered to the end by them, or in relation to the end to which he is ordered by their help. We shall speak step by step of human acts considered in both respects. S. Th. 1. 2. q. 1. a. 2; E. M. n. 4.

6. What is the division of the treatment of human acts in relation to man? - Human acts, considered in relation to man, can be inspected in two ways: 1. Insofar as they proceed from human faculties, which is to consider them in their intrinsic nature. For an act in general, in created things, as was just said, is nothing other than the determination of some faculty from being able to be to being. And therefore they are called acts, not actions. For an act is so called by reason of its intrinsic principle; an action, when it comes forth outwardly, from which also the effect differs if it follows, for the action is the object of the act. 2. Insofar as they fall short of this proper nature of theirs because of impediments, which do not allow the human faculties to act rightly.

We shall speak first of the intrinsic nature of the human act; then of its impediments. E. M.

7. What is the intrinsic nature of the human act? - Usage has obtained that a distinction be made between an act of man and a human act. An act of man is called one which proceeds from man without advertence and deliberation, or without deliberation only. But human acts are called those which proceed, not in any way whatever, but with advertence and deliberation. Nor indeed was that distinction made without reason. For "of the actions which are done by man, those alone are properly called human which are proper to man insofar as he is man" (namely adequately, both as to the substance of the work and as to the mode of operating). "But man differs from other irrational creatures in this, that he is master of his acts.... But man is master of his acts through reason and will; hence free choice is said to be the faculty of will and reason. Therefore those actions are properly called human which proceed from deliberate will. But if any other actions befit man, they can indeed be called actions of man, but not properly human actions, since they are not of man insofar as he is man." S. Th. 1. 2. q. 1. a. 1.

Moreover, a human act can be elicited or commanded, according as it is performed by the will alone, or also by another potency; merely internal or external, or mixed, according as it is performed by a power of the soul alone, or also by another faculty of the body; natural or supernatural, according as it is brought about by the powers of nature alone, or also by the powers of grace; good, bad, indifferent, and meritorious or demeritorious from its relation and order to the rule of morality, to reward or punishment; valid or invalid, according as it has all the things required for its effect, or not.

Now, since a human act is an act proceeding from deliberate will, and therefore voluntary and free, so that we may know its nature more deeply, it is necessary briefly to explain 1. the nature of the voluntary, 2. the nature of the free, 3. finally, in how many ways any act can proceed from a deliberate will. And this is done in the following questions. E. M. n. 6, 69, 71, 72, 74, 89.

8. What is the voluntary; how many acceptions of the voluntary are there? - R. To the first: The voluntary, so called from the will, is that which proceeds from or is caused by the will, which is the rational appetite. Therefore the voluntary is nothing except either an act of the will or the effect of that act. Therefore the voluntary differs from the willed, which designates only the object of the act of the will. Since the voluntary proceeds from the will, which is a principle intrinsic to the agent, it agrees with any natural motion, but differs from the violent; for the former proceeds from an intrinsic principle, the latter from an extrinsic principle.

R. To the second: The voluntary can be taken in three ways: 1. more broadly, for the spontaneous; 2. more strictly, for the voluntary precisely as such, namely insofar as it differs from the spontaneous and from the free, or at least abstracts from the free; 3. most strictly, for the free. The spontaneous is that which proceeds from the sensitive appetite from a prior sensitive cognition of the object toward which the appetite tends. "The reason is that, just as the appetite of nature follows from the natural form, so the elicited appetite follows from the apprehended form, the act representing the object." Suarez, on 1. 2, tr. 2, d. 6, s. 4. Therefore the spontaneous belongs both to men and to brute animals.

The voluntary properly is that which proceeds from the spiritual appetite, or will, with prior rational cognition of the object or end. Finally, the free is that which proceeds from the will determining itself to an act, with the power of eliciting that very act, or not eliciting it, or of eliciting another. Therefore the free essentially includes the notion of the voluntary; and the voluntary also essentially includes the notion of the free, if indeed the voluntary is taken according to the proper meaning of the word, but adequately, both as to the substance of the act and as to the mode of operation proper to the will. S. Th. 1. 2. q. 6. a. 1, 2; q. 8. a. 1; q. 26. a. 1; 2. D. 25. q. 1. a. 1; Suarez, tr. 2, d. 1, s. 1, 3, 6; L. 1. 5. n. 6.

9. You will resolve: The voluntary cannot be had without prior cognition. Nothing is willed unless first known. Nevertheless a clear and distinct knowledge of the thing is not always necessary; for obscure and confused knowledge is sufficient. And thus an adult is validly baptized, even though he does not yet have all Christian obligations fully examined. Moreover, the voluntary cannot exist except concerning a determinate thing. For the will is moved only to the good; but the good has the notion of an end. "Since the good is what all things seek, and this has the notion of an end, it is manifest that the good imports the notion of an end." S. Th. 1. p. q. 5. a. 4. But an end is nothing except something certain and determinate. S. Th. 1. 2. q. 1. a. 2. And therefore he who wills to contract betrothal with either one of two women does not contract; and the priest who wills to consecrate any one host out of several hosts does not consecrate. Sanchez, l. 1, d. 26, s. 1; Rubr. Miss. *de Defect.*, title 7, n. 1; L. 1. 3. n. 203, 224.

Finally, the voluntary cannot exist concerning an impossible thing. For "the will is a certain rational appetite; but every appetite is only of the good. The reason for this is that appetite is nothing other than a certain inclination into something. But nothing is inclined except into something similar and suitable." S. Th. 1. 2. q. 8. a. 1. Yet it is by no means required that the voluntary be only concerning a true and real good. "For the will to tend into something, it is not required that it be good in the truth

of the thing, but that it be apprehended under the notion of good; and on account of this the Philosopher says: the end is a good, or an apparent good." S. Th. 1. c.

10. Can the voluntary at least exist concerning a thing impossible, not in fact, but in law? - Concerning a thing impossible as to the fact itself, the voluntary cannot exist, as is clear from what was said in n. 9, if one uses reason rightly. Hence no one can seriously will to touch with his hand the empty space outside the world.

Concerning a thing impossible only as to law, there is a question: for example, contracting marriage with one who has a diriment impediment, consecrating water, baptizing with wine, etc. But it seems that this must be affirmed; since the will is borne into the fact itself, and it is not necessarily borne at the same time into the law, or into the fact only dependently upon the law. And thus one who contracts marriage with a diriment impediment unknown to him, and one who even attempts marriage before a civil magistrate, truly wills, as far as he is concerned, to contract marriage. Hence it is that the Church afterward sometimes dispenses in the root, namely without a renewed consent, and validates the marriage. And indeed C. *Ex sponsalibus*, sole chapter, *de Spons. et Matr.* in the Sixth, says: "From pure and certain betrothals, even if they are null by reason of consanguinity, affinity, frigidity, religion, or any other reason whatever, provided they are not null from defect of consent, there arises ... the impediment of public honesty of justice." Therefore true consent with a diriment impediment is openly supposed. Cf. vol. 2, n. 1033; Sanchez, *de Matr.*, l. 2, d. 33.

11. What is the free, and how many kinds are there? - The free adds to the voluntary only a relation to the potency eliciting the voluntary act and having the power to suspend it, or to elicit another act, different only in species, or even opposed. In the first case it is called liberty of exercise or of contradiction. In the second case, liberty of specification. In the third case, liberty of contrariety.

Therefore the free certainly requires in the potency or faculty an intrinsic dominion of the act, and accordingly immunity not only from extrinsic coercion, but also from intrinsic necessity; but it by no means requires immunity also from weakness, namely from concupiscence and the other miseries of human life, which, as extrinsic, and neither coercing nor necessitating, cannot change the intrinsic manner of acting of the human will. "The free is that which is the cause of itself." S. Th. C. G. l. 2, c. 48. And this liberty is altogether necessary for meriting or demeriting.

This liberty of which we are speaking is physical liberty. But moral liberty involves in its concept the absence not only of physical necessity of acting, but also of moral obligation by force of a law commanding or prohibiting. S. Th. 1. p. q. 83; 1. 2. q. 1. a. 2; E. M. n. 10, 11.

There is indeed no doubt that various interior dispositions of the soul and body of man, and also exterior conditions of man, can influence human acts. Hence moral statistics collects the moral facts of men, in various conditions of persons, in order to investigate their causes, whether internal or external. And it especially dwells upon enumerating criminal facts. But criminal anthropology insists upon investigating the causes of crimes, some of which are internal, various diseases, neurasthenia, epilepsy, etc., others external, education, the company of associates, the reading of books and newspapers, etc. Psychopathology or Psychiatry considers the influence of various diseases upon various crimes. But from all these exterior and interior causes, although the voluntary and the free can be diminished, as will later be seen in the impediments of human acts, nevertheless liberty is by no means taken away, unless madness entirely perverts the use of reason. For from these there can

indeed be inadvertence, inconsideration, ignorance, the excitation of concupiscence and of the passions, a contracted habit, and imaginations clinging to the mind, and certain fixed judgments; by all of these an inclination to acting can indeed be had, greater or lesser, but in no way an intrinsic necessity of acting. If the intellective faculty is not injured, through whatever bodily disturbance, the liberty of the will always remains.

12. In human acts is the free truly found not only from coercion, but also from necessity? - R. Affirmatively. It is a truth of faith, which is most openly clear from Scripture and Tradition; notably from Trent, sess. 6, c. 4-6. The reason is that "if some good is proposed to the will which has the complete notion of good, as the ultimate end, on account of which all things are sought, it cannot not will to be happy, or will to be miserable. But in those things which are ordered to the ultimate end, nothing is found so evil that it does not have some good mixed in, nor anything so good that it suffices in all respects; hence, however much the good or the evil is shown, it can always adhere and flee into the contrary by reason of the other thing which is in it; from which it is taken, if it is evil simply, as an apparent good; and if it is good simply, as an apparent evil; and hence it is that in all things which fall under election the will remains free, having determination in this alone, that it naturally seeks happiness, and not determinately in this or in that." S. Th. 2. D. 25. q. 1. a. 2.

Hence, as is clear, that power toward opposites, by which the act of the will is placed by the will itself, presupposes in its exercise the objective indifference of the judgment of the intellect, which consists in this: that the intellect proposes to the will in the object various notions of suitability or unsuitability, of good or evil. Therefore liberty is concerned with particular goods to be sought. But as regards the seeking of happiness in general, the human will is not free as to the specification of the act, because it cannot will the opposite; but it is free as to the exercise of the act, because someone can not wish then to think about beatitude. S. Th. *de Malo*, q. 6, sole article.

From the liberty by which human acts are performed, they are said to be imputable to the agent, namely the honesty or baseness of the act redounds to the agent himself, as to its author. Eccl. 15:11 ff.; Trent, sess. 6, c. 4-6; St. Augustine, *Enchir.*, c. 105; S. Th. 1. 2, Prologue, q. 10. a. 2; q. 13. a. 6; 2. D. 25. q. 1. a. 1; Suarez, tr. 2, d. 1, s. 2; Wurzburg, *de Act. hum.*, c. 2; E. M. n. 10, 11.

13. "It follows that, when a grave temptation has arisen, and after the sensitive appetite, concupiscible, venereal, or irascible, is vehemently excited by phantasy or from elsewhere, then, I say, acts of a threefold kind can be given in the will. 1. Those which precede the use of reason, and are elicited by the one tempted in that instant or time in which the intellect does not yet propose to the will motives deterring it, but only motives enticing it toward that object into which the appetite is borne. And these acts of the will are called first-first motions. 2. Those which follow upon some use of reason, and are elicited by the one tempted in that instant in which the intellect proposes the deterring motives only obscurely, but the enticing motives toward illicit love or toward hatred so vividly that the will is moved only weakly and imperfectly by the deterring motives.

And these acts of the will are called second-first motions. 3. Finally, those which follow upon the perfect use of reason, and are elicited by the will in that instant in which the intellect has proposed to the will, sufficiently clearly and intensely, deterring motives or the unsuitability and moral malice, by which the will could freely be deterred if it seriously wished. And these acts of the will are called deliberate acts. "Acts of the first kind are not free, and consequently they are not formally sinful. But acts of the second kind are imperfectly free, and only venially sinful. But acts of the third kind are

perfectly free, and consequently, if there is gravity of matter, they are mortally sinful." Struggl, *Theol. Mor.*, tr. 1, q. 1, a. 1, v. 10; S. Th. 1. 2. q. 10. a. 3.

14. In how many ways does the voluntary proceed from the will? Since the voluntary presupposes the apprehension of the intellect, includes an act of the will and the exercise of liberty, and extends itself also to some extrinsic act, or extrinsic action, hence the voluntary is from the will in many ways, and from this arise various divisions of the voluntary, which we shall now explain.

15. What is the voluntary elicitedly and commandingly? - The first is had when the whole act is performed by the will and in the will, without the aid of another faculty, whether interior and spiritual, or exterior and bodily; such are volitions and nolitions.

The second is had when the act indeed depends upon the very command of the will, but nevertheless is performed by another faculty of the agent; whether interior, as are the intellect, phantasy, memory; or exterior, as are the members of the body and the organs of the senses, as to walk or to speak. But an act can be at the same time elicited and commanded; for the will can command itself in its own acts. And in this way one virtue, for example charity, commands the acts of other virtues, when the will from the motive of one virtue elicits the act of another virtue, for example, from love of God it has mercy on the poor. S. Th. 1. 2. q. 1. a. 1 ad 2; q. 17. a. 5; Suarez, tr. 2, d. 10, s. 1, 2.

16. What is the division of acts elicited by the will? - The division is twofold, according as these acts consist in the pursuit of good, or in flight from evil; and according as they are concerned with the end or with the means.

17. What are the acts of the will which consist in the pursuit of good and in flight from evil? - These acts of the will can be distinguished according as the passions of the sensitive appetite, to which they correspond, are distinguished. S. Th. 1. 2. q. 22. Now the passions are: love, to which hatred is opposed; desire or concupiscence, to which flight or abomination is opposed; delight, to which sadness is opposed; hope, to which despair is opposed; daring, to which fear is opposed; finally anger, which has no opposite.

S. Th. 1. 2. q. 23. The first three are passions of the concupiscible; the four latter are passions of the irascible. Love is the simple complacency of good, which proceeds from the connaturality and coaptation of the one appetizing with regard to the thing suitable to him. Dilection adds to love a preceding election; charity adds to love a certain perfection, insofar as that which is loved is esteemed of great price. One love is of friendship, another of concupiscence. For to love is to will good to someone. Toward that good which someone wills to someone there is love of concupiscence. Toward that to which someone wills good there is love of friendship. S. Th. 1. 2. q. 26.

Hatred is the simple displeasure and detestation of evil, which arises from a certain dissonance of the appetite toward that which is apprehended as repugnant and harmful. S. Th. 1. 2. q. 29. One hatred is of abomination, another of enmity. The former is the detestation of some evil of a person; the latter is also the detestation of the person himself, to whom one wills evil. Concupiscence or desire is the movement of the appetite into an absent good. Flight or abomination is the detestation of an absent evil. S. Th. 1. 2. q. 30.

Delight is a certain repose of the appetite from the presence of a delighting good. Sadness is a certain pain from the presence of evil. S. Th. 1. 2. q. 31, 35. Hope is the movement of the appetite into a

future good, arduous, possible to obtain, and according to this possibility or impossibility hope differs from despair. Hence it is that hope imports a certain approach to an arduous good; despair, on the contrary, imports withdrawal from it. S. Th. 1. 2. q. 40. a. 1, 4. "Fear flees future harm because of its victory over the one fearing; but daring attacks imminent danger because of its victory over the danger itself." S. Th. 1. 2. q. 45. a. 1. For fear "does not regard evil absolutely, but with a certain difficulty or arduousness, so that it can scarcely be resisted." S. Th. 1. 2. q. 41. a. 2 ad 3. "According to the opposition of good and evil, fear is contrary to hope; according to the opposition of approach and withdrawal, daring is contrary to fear, but despair to hope." S. Th. 1. 2. q. 45. a. 1 ad 3.

Anger is the appetite of vengeance, as possible to itself. It seeks evil itself under the notion of vindictive justice. Hence it regards one object according to the notion of good, namely the vengeance which it seeks, and another according to the notion of evil, namely the harmful man, against whom it wills to be avenged through the infliction of punishment. S. Th. 1. 2. q. 46. a. 2, 6. It has no contrary either according to approach and withdrawal, or according to the opposition of good and evil. For it is a movement toward attacking the injurious evil already lying upon one. Hence neither can there be a movement toward fleeing evil; nor can there be a movement toward good: for when this has been obtained, there is repose and joy of the appetite. S. Th. 1. 2. q. 23. a. 3.

18. What are the acts of the will which are concerned with the end and with the means? "Every action of the will is concerned either with the end, or with the means, which can happen in two ways, either by appetizing or by executing. From this arises a twofold order of acts of the will and of the practical intellect, which governs the will in morals. The first contains all those acts which are necessary up to the final election of the means, which are will, intention, counsel, consent, election. The first two are concerned with the end; the latter with the means, in the order in which they have been numbered. But once the election has been established, the will proceeds to free execution, and thus there is the second order, in which only two acts are numbered: command and use. To these acts fruition is added, which is not an operation ordered to seeking or attaining the end; but, rather, once the end has been obtained, it follows upon it." Suarez, tr. 2, d. 6, at the beginning.

19. What is will? - Will, or simple volition, is the first act of the will, which is as it were the first inclination of the will toward the proposed object, as toward something lovable of itself, without any order to another. From this it is clear that this act is concerned with the end; for only the end is lovable of itself. But it does not include a tendency into the end, standing only in love and complacency for that good, and therefore it is simple volition, or love and complacency, still inefficacious. Suarez, tr. 2, d. 6, s. 1; S. Th. 1. 2. q. 8. a. 1, 2.

20. What is intention? - Intention is a free or perfectly voluntary tendency into a good, so that we may attain it. Therefore intention is a tendency of the will into some end to be obtained through due means. It is a purpose and desire toward the thing loved, and of itself is an efficacious desire. For purpose is had when someone determines with himself to do something. But desire, in its general signification, signifies any appetition whatever of obtaining a good which someone lacks; and it extends not only to the appetition of an efficacious will, but also to imperfect volitions, or velleities, even of impossible things. Intention, either virtually or expressly, is also an appetition of the means in common. The reason is that intention is the efficacious will of obtaining the end. But to will the end, absolutely as something to be attained as such, is virtually to will to execute all the means necessary to the end. Moreover someone can explicitly elicit this act: I will to employ all the means

necessary for the end; this act is intention, because it precedes every consultation about the means and every election, and is the principle of counsel and election. In common, not in particular; for by this reason it is distinguished from election. Suarez, tr. 2, s. 2; S. Th. 1. 2. q. 8. a. 2; q. 12.

21. Can someone intend several things at the same time; and if several incompatible things are intended, which intention prevails? - R. To the first: Affirmatively. For either those things are ordered to one another, or they are not. "If indeed they have been ordered to one another, it is manifest that man can intend many things at the same time. For there is intention not only of the ultimate end, but also of an intermediate end: but someone simultaneously intends both the proximate and the ultimate end, as the making of medicine and health. But if two things not ordered to one another are taken, thus also man can intend several things at the same time, which is clear from the fact that man chooses one thing before another, because it is better than the other. But among the other conditions by which something is better than another, one is that it is useful for several things. Hence something can be chosen before another from the fact that it is useful for several things, and thus manifestly man intends several things at the same time." S. Th. 1. 2. q. 12. a. 3.

R. To the second: If those wills are simultaneous, the predominant one prevails, namely the one which would be chosen if the impossibility were known. If neither is more powerful, neither prevails, and accordingly neither is valid. If among contrary wills one succeeds another, the later prevails over the former; for it is predominant in the order of time and actuality. Except if the former is more powerful, or has revoked, at least virtually, every subsequent will; for then the former will, provided it is not expressly revoked, is certainly predominant. Lugo, *de Sacr.*, d. 8, n. 121, 123; L. 1. 6. n. 24.

22. You will resolve: If one person asked you for a Mass in thanksgiving, another for someone gravely sick, it must be held to have been applied for the latter, whether he asked for it first or later.

If you have established with yourself: Whatever vow I may emit hereafter without the permission of my confessor, I do not wish it to be valid; and afterward you have vowed something without consulting your confessor, it is not valid, provided that will is not retracted expressly or virtually, namely if, mindful of the first vow, you were to emit the second, for example in shipwreck, in fire, etc.

If someone contracted marriage, intending it to be soluble, with such a mind that if he knew it to be indissoluble he would not contract, the marriage is null; for indissolubility is an essential property of Christian marriage. But he would contract validly if merely through error he thought marriage to be soluble, because private error does not take away from him the intention of contracting in the way in which he ought. L. 1. 3. n. 179, 210, 700; l. 6. n. 24; Elbel 130.

23. What is election? - Election is an act of the will by which the will is borne into a particular means as a means, or as a useful good; namely, it is the efficacious volition of some particular thing which is loved on account of another.

Therefore election proceeds from the efficacious intention of the end, and its object is the useful good as such and possible for us; and it contains at least virtually the volition of the end itself.

Likewise election retains its intrinsic nature, although it does not happen to take place among several things, when that means is only one. For an act is specified by its proper object, and the same object of election remains, namely the means to the end, whether it is the only means or whether it is

compared with others. Election is after the manner of desire, because it is concerning the means as to be executed, and precedes execution; and therefore it is concerning an absent thing.

Moreover election is the purpose of the will; since purpose is an act of the will by which someone determines that he will do something. S. Th. 1. 2. q. 13; Suarez, d. 8, s. 1, 2.

24. What is consent? - Consent can be attributed to any free act of the will conforming itself, or consenting, to the judgment of the intellect, that is, accepting the good proposed by the intellect; in this way sin is said to be perfected by consent, and thus it is not a special act, and is concerned not only with the means, but also with the end. But insofar as it is a special act, it is concerned with the means, and is not an act specifically distinct from election, but only by reason, from diverse respects. "For insofar as the will wills what the intellect judges to be useful, it is called consent; but insofar as it prefers that either to other useful means, or certainly to other useless things not conducing to the end, it is called election." Suarez, tr. 2, d. 8, s. 2. But also in reality consent can be distinguished from election, namely when consent is inefficacious. S. Th. 1. 2. q. 15.

25. What is counsel? - Counsel properly is an act of the intellect including two things: the inquiry and discovery of the means, and the discerning judgment concerning the means more apt for attaining the end. Therefore counsel involves not one act of the intellect, but several. For that inquiry does not take place without discourse and consideration of several things. But counsel sometimes signifies only inquiry, sometimes only judgment, even though it does not proceed from discourse, and sometimes it embraces both. Counsel in this last sense indeed frequently precedes election, but not always. For when election takes place among many things, which happens more often, all those things must be found, proposed, discussed, and judged by the intellect. But where there is question of very small matters, or of things determined of themselves, or known of themselves, then there is no formal counsel. S. Th. 1. 2. q. 14; q. 9. a. 4; Suarez, tr. 2, d. 8, s. 5.

26. What is use? - Use is one thing active, another passive. The first is an act elicited by the will, by which the will moves the other powers to operating. The second is the act of the executing power proceeding from active use.

Use properly concerns the means, for use signifies a certain movement of the will toward really obtaining the thing willed, or the end. Use is really distinguished from election, since counsel and election concerning the means according to itself first take place before there is treatment of execution. But it is by no means really distinguished from election when the intellect suddenly determines the means and all the circumstances, and the will in the same instant in which it chooses the means also chooses the circumstance of actual execution; for from the force of such election there follows the action of the executing power. Therefore use is the will executing the chosen means for attaining the end. Use and election are not acts specifically distinct from one another, because they tend into the object under the same notion of good, namely as it is useful for attaining the end. But election of itself is concerned with the means in the order of intention, as future and as an effect of the end. Active use is concerned with the same means in the order of execution, as present and as the efficient cause of the end had in reality. S. Th. 1. 2. q. 16; Suarez, d. 9, s. 1, 2.

27. What is command? - The command which is treated here is the command by which someone commands himself, not that by which he commands others, and it is the absolute will intimated to oneself for doing or omitting something. Man can command himself in two ways: 1. as it were in the

exercised act, while he moves himself to doing something; 2. in the signified act, by expressly eliciting the act of command: do this. Command of this kind is partly an act of the will, and partly an act of the intellect; because to command is to move to acting, but "the first mover among the powers of the soul to the exercise of an act is the will." S. Th. 1. 2. q. 17. a. 1. But to command is not to move in any way whatever, but to move as if by imposing a law; and it is the intellect that imposes law on the will, since it judges concerning things to be done. Now here it is asked, what is this act of intellect and will which adequately constitutes command?

As regards the act of the intellect, note: 1. Before will and intention there precedes a practical judgment of the intellect, by which someone judges not only that the thing is good in itself, but also that it is suitable for him, and that it is expedient to love it. This judgment contains some notion of command. "For one commanding orders him whom he commands to doing something, by intimating or announcing." S. Th. 1. 2. q. 17. a. 1.

2. Before election and consent there likewise precedes a practical judgment, whether it is by way of formal counsel or not, proposing the means apt for the end as something electable; and a judgment of this kind contains the notion of command more, since it moves more by announcing and intimating.
3. After that election which in time precedes active use, another judgment precedes, more practical, distinct in this from the judgment which precedes election, that it more immediately touches the work and all the determinate circumstances necessary for the execution of the work. The reason is that before every act of the will there must precede a judgment of the intellect consonant with it, by which it is directed and illuminated; but active use is an act of the will, which adds something to the election already made. Therefore. This judgment still more participates in the notion of command; for it moves the will more vehemently by announcing and intimating, not so much by its own power as by the power of the election already made. For it is altogether ordered to the execution of the work and inclines more to overcoming the difficulty of the work, which at the time of execution always appears greater than in consultation and abstract election.
4. Besides these practical judgments, there is found in us another judgment, which we experience when it speaks thus internally with us: do this; and it explicitly expresses the efficacious act of the will to be elicited for executing the work. This judgment is that which explicitly constitutes command. This judgment is not of itself necessary for the work; nevertheless it is a useful act, so that the will itself and the whole man may be moved more, or so that he may more quickly undertake the execution, or so that he may persevere more constantly in it; because while man thus commands himself, he as it were reflects above himself and becomes superior to himself; and because, as external speech with regard to others has the power of moving and inciting the mind, so internal speech has this power with regard to oneself.

As regards the act of the will, it must be noted: 1. that this command, if it is efficacious and true, supposes an absolute will; for if it takes place without any will, it is fictitious and not true; but if the will which precedes is inefficacious, the command itself also will be inefficacious. And the reason is that the whole efficacy of moving is from the will. Therefore a will of this kind completes the notion of that command.

2. The act of the will preceding the act of reason, which is command, is election, by virtue of which reason moves. Therefore command is the practical judgment itself, whether direct or reflex, which, from election already made, by announcing and intimating what is to be done, moves to execution; and then the will begins to use by executing the command of reason. Hence it is manifest that command is prior to use.

3. Nevertheless active use itself of the will has some notion of command, and is often called command. For the will commands the other potencies, even the intellect. Indeed, the will commands even itself. For the will commands all voluntary acts, and one act of the will is commanded by another act of the same will. And the reason is that to command belongs to one having dominion; but it is the will which, as it were, has dominion over all human actions.

S. Th. 1. 2. q. 17; q. 71. a. 6 ad 2; 2. 2. q. 4. a. 2 ad 2; *Quodl.* 9. a. 12; Suarez, tr. 2, d. 9, s. 3.

28. What is fruition? - Fruition, as regards the name, is to take fruit from a thing. As regards the thing itself, it is a certain repose of the will, sweetness, joy, delight, once the presence of the desired object and its possession have been posited.

Joy is said more of a rational good, delight of a sensitive good, fruition of both; and it is rather restricted to one's own good, while joy is also said of another's good, as of a friend. Moral theologians commonly distinguish joy from delight by time, teaching that joy is of a past thing, delight of a present thing. Therefore the object of fruition properly is the good under the notion of a delightable good. But both the end and the means can be an object of joy, although the reason for rejoicing, or the formal object, is always the end. The first reason is that joy arises from the attainment of a delightable good. But the means itself is a certain delightable good. And thus we experience that we are delighted when we obtain suitable means. The second reason is that every loved good is an end or by reason of the end. Therefore every good which delights is an end or by reason of the end. Moreover a twofold joy or fruition is distinguished, perfect and imperfect. "For since it concerns an attained end, if the end has been perfectly obtained, fruition is perfect; if it has been obtained in a certain hope, from this some fruition can arise, but imperfect, because that is already some kind of attainment; and this seems to be that fruition of which Paul speaks: rejoicing in hope." Suarez, tr. 2, d. 7, s. 2. S. Th. 1. 2. q. 11, 31; 2. 2. q. 28.

29. What is the perfect and imperfect voluntary; the absolute voluntary and velleity; the voluntary simply and according to a certain respect? - These various divisions can be taken and explained in various senses, according as there is considered in the voluntary either precisely the notion of the voluntary, or the notion of the free, or the various object to which it is referred, according to its various state. We shall briefly explain them in the following paragraphs, according to the various acceptions which they have.

30. By reason of the voluntary, or of the inclination of the will, one voluntary is such simply, or perfect; another is such according to a certain respect, or imperfect. The first is that which proceeds from the will with the full inclination of the same will, without any repugnance. In this way the most perfect voluntary is the love of God toward Himself and the love of the Blessed toward God, which proceed from the most perfect cognition of the object.

The second is that which proceeds indeed from the consenting will, but not without some repugnance of the same rational will, so that there is indeed volition actually, but mixed with a conditioned nolition of the object. Thus a sailor, when the danger of shipwreck presses, actually wills and deliberately wills to throw away the merchandise, which nevertheless he would also, by deliberate will, wish to preserve if shipwreck were not imminent; hence, not without the deliberate repugnance of the will, but an inefficacious repugnance, he absolutely consents to throw them away. S. Th. 1. 2. q. 6. a. 6 ad 3; a. 7 ad 2; Suppl. q. 47. a. 1; L. 1. 5. n. 21.

31. By reason of the free, according to the varying degree of deliberation, one voluntary is perfect, and it is that which proceeds from the will with perfect cognition and full deliberation; another is imperfect, and that is what proceeds from the will with imperfect cognition and half-full deliberation. Such are the actions of a man half-drunk, half-asleep. Suarez, tr. 2, d. 1, s. 3, 4; S. Th. 1. 2. q. 6. a. 2. The voluntary that is perfect in this way can well be imperfect in the preceding way, as is clear from the example given of throwing merchandise into the sea in shipwreck.

By reason of deliberation, simply, one voluntary is absolute and simply; another is according to a certain respect, which is also called velleity. And thus, when the temptation of sin stands in the will, yet someone deliberately resists the sin, the will as nature, or according to a certain respect, wills the sin; but nevertheless the same will, as the will of reason, absolutely and simply detests the sin. Aptly S. Th. 3. p. q. 21. a. 4, where he also gives the reason for this division: "The will simply of man is the will of reason. For we will absolutely what we will according to deliberate reason. But that which we will according to the movement of sensuality, or even according to the movement of simple will, which is considered as nature, we do not will simply, but according to a certain respect, namely if nothing else stands in the way, which is found by the deliberation of reason. Hence such a will should rather be called velleity than absolute will; because, namely, man would will this if something else did not stand in the way."

32. By reason of the object, likewise one voluntary is absolute and simply; another is velleity and according to a certain respect, according as the object to which the will tends is considered absolutely, as it really is, according to all its circumstances, or only as it is in itself, with abstraction made from the circumstances.

To the point, the Angelic Doctor, 1. p. q. 19. a. 6 ad 1: "Each thing, according as it is good, is thus willed by God. But something can be, in the first consideration of itself, according as it is considered absolutely, good or evil, which nevertheless, as it is considered with something added, which is the consequent consideration of it, has itself contrariwise. Thus for a man to live is good and for a man to be killed is evil, according to absolute consideration; but if there is added concerning some man that he is a murderer, or living to the danger of the multitude, then it is good for him to be killed, and evil for him to live. Hence it can be said that a just judge antecedently wills every man to live, but consequently wills the murderer to be hanged. Similarly God antecedently wills every man to be saved, but consequently wills certain ones to be damned, according to the demand of His justice. And nevertheless that which we will antecedently, we do not will simply, but according to a certain respect, because the will is compared to things according as they are in themselves, and in themselves they are in particular. Hence we will something simply according as we will it with all particular circumstances considered, which is to will consequently. Hence it can be said that a just judge simply wills the murderer to be hanged, but according to a certain respect he would will him to

live, namely insofar as he is a man. Hence it can rather be called velleity than absolute will. And thus it is clear that whatever God wills simply, happens; although that which He wills antecedently does not happen."

And thus also that throwing away of merchandise of which above in n. 30, under various respects, is voluntary according to a certain respect, and at the same time voluntary simply. S. Th. 2. 2. q. 142. a. 3; 1. 2. q. 6. a. 6.

33. By reason of its perfection, finally, one voluntary is absolute, efficacious, perfect, or complete; another is the voluntary which again is called velleity, of simple complacency, or imperfect and incomplete. The first is that which extends itself all the way to the attainment of the thing, by efficaciously willing the thing and the means to it. The other is that which does not proceed all the way to the attainment of the thing, but stops in simple complacency for it. When there is a twofold contrary will concerning the same object, that one is absolute and efficacious which explicitly or implicitly contains the revocation of the other, because one is absolute, the other as if conditioned; for example, someone truly wills to contract marriage, but nevertheless would not wish to receive the sacrament; he truly contracts marriage and receives the sacrament. De Lugo, *de Sacr. in genere*, d. 8, s. 8, n. 120 ff.

Thus the Angelic Doctor assigns the reason for this division, 1. 2. q. 13. a. 5 ad 1: "It must be said that the will is intermediate between the intellect and exterior operation. For the intellect proposes its object to the will, and the will itself causes exterior operation. Thus therefore the principle of the movement of the will is considered on the part of the intellect, which apprehends something as good in universal. But the termination or perfection of the act of the will is attended to according to order to operation, through which someone tends to the attainment of the thing: for the movement of the will is from the soul to the thing; and therefore the perfection of the act of the will is attended to according to this, that something is good for someone to do. But this is possible. And therefore the will is not complete except concerning the possible, which is good for the one willing. But incomplete will is concerning the impossible, which according to some is called velleity: because, namely, someone would will it if it were possible."

A sick man hoping for health wills health with a complete will; for he has an absolute and efficacious will of health, at the same time willing the means inducing health. A sick man despairing of health, whence he neglects to employ the means necessary for recovering it, wills health with an incomplete will; for he has only simple complacency, or velleity, of health, since he does not at the same time will the means inducing health. Complete and incomplete will, therefore, is not to be taken as if incomplete will were an undeliberated willing, or not capable of merit and demerit, or as if incomplete will were a half-deliberated willing. For someone can deliberately and with full deliberation will to expel God from His kingdom, if he could, and similar things, where it is clear that sin and grave sin are found. But the completion and incompletion of the will is to be taken according to the order of the will to operation, namely according to the movement of the will toward the thing. Hence from the fact that the movement of the will is toward the thing to be attained, disposed, etc., by means of exterior operation, it is not perfect, with the perfection apt by nature to be found in the genus of movement of the will, unless it is terminated at a good that can be done, although it is perfect as regards consent, deliberation, and other things of this kind. And thus a sinner, even a great sinner, who wills to be converted to God, and therefore wills to do penance, has a complete will.

The Angelic Doctor, q. 20. 2. a. 4, says: "If we speak of the goodness of the exterior act which it has according to the matter and due circumstances, then it is compared to the will as term and end, and in this way it adds to the goodness or malice of the will, because every inclination or movement is perfected in this, that it attains the end or reaches the term. Hence the will is not perfect unless it is such that, when opportunity is given, it acts. But if possibility is lacking, while the will exists perfected so that it would act if it could, the defect of perfection which is from the exterior act is simply involuntary."

Therefore the will can be called and can be complete in two ways. In one way, according to that relation by which the willed thing is in the will. In another way, according to that by which the will tends into the real attainment of the thing willed. According to the first way, the perfection of the will is signified by this, that it wills perfectly; but according to the second, by this, that it has perfectly, or attains and possesses the thing willed. Hence the will prepared to act if it could is a perfect will, because it wills perfectly, and this pertains to the perfection of the first relation; and it is imperfect simply, because it does not arrive at this, that it really has, attains, and possesses that which it wills, and which it is apt by nature to have. For every movement falling short of the term is imperfect by privation, which consists in the attainment of the term. And since the first perfection is of another account from the second, and the whole latitude of the first is compared to the second as the imperfect to the perfect, it follows that however much the interior act of the will may grow, and however intense it may be, alone it will never arrive at this, that it be perfect simply, without exterior attainment. On account of this the Savior said, John 15:13: Greater love no one has than that someone lay down his life for his friends; He said *lay down*, not *wish to lay down*. Cajetan, on 1. 2. q. 13. a. 5; q. 20, a. 4.

34. What is the direct and indirect voluntary; voluntary in itself and in the cause; positive and negative? - The voluntary, by reason of the act of the will by which it proceeds from the will, is one thing direct, another indirect. The direct is from the will acting. The indirect is from the will not acting, not prohibiting, namely which ought and can prohibit. For "not always is that which follows upon a defect of action reduced, as into a cause, into the agent from the fact that he does not act, but only then when he can and ought to act. For if the helmsman could not direct the ship, or the governance of the ship had not been entrusted to him, the sinking of the ship, which would happen through the absence of the helmsman, would not be imputed to him. Therefore, since the will, by willing and acting, can impede this which is not to will and not to act, and sometimes ought to, this which is not to will and not to act is imputed to it as existing from it." S. Th. 1. 2. q. 6. a. 3; 2. 2. q. 69. a. 7; 3. p. q. 47. a. 1. Namely, it must be what one ought and can prohibit, so that one is in fault. And thus no one would say that every good which you do not do is voluntary to you, even indirectly, and consequently imputable, although absolutely you can do it, but are not bound to do it; and much less every evil which you are not bound in any way to impede.

If nevertheless someone knowingly posits an act incompatible with another act, which is omitted, for performing which there is no obligation, since that omission is free, it is indirectly voluntary, although not imputable to fault; for example, if you wish to study without wishing not to go to visit a church, when there is no obligation; and, on the contrary, it is imputable to merit, as if you wish to pray and therefore omit recreation, without saying, I wish to omit it. Cf. Commentary *de Act. hum.*, Fourth, n. 9. Cf. here the following paragraph and n. 35.

The voluntary, by reason of the object which immediately terminates the act of the will, is one thing voluntary in itself, another voluntary in the cause. The first is had when someone immediately wills something in itself; the second, when someone wills the cause from which some effect is going to follow, even if he foresees this effect; for then he does not will it in itself, but in another, namely in its cause. *Foresees*, that is, merely foresees; for if besides this he wills it, that effect will already be directly and in itself willed and voluntary, and not merely in the cause. From this it follows that that effect will no longer be willed and voluntary as an effect; nor likewise will its cause be willed and voluntary as a cause; but then the effect, with respect to the will, will have the notion of an end, and the cause the notion of a means. For that which someone wills on account of itself has the notion of an end; what someone wills on account of another has the notion of a means. Nor indeed is it valid to object that if the effect is merely foreseen, and the will is not borne into it by its own act, then that effect is outside the intention, and in no way can it be voluntary, not even in the cause. For because the will, by not willing the cause, can impede the effect, and sometimes ought to impede it if it is evil, the effect is imputed to it; consequently, since it is not willed in itself, it will be willed in the cause. S. Th. q. 6. a. 3; q. 71. a. 5.

And thus evil works committed against one's neighbor in drunkenness are voluntary in the cause for him who was voluntarily made drunk, foreseeing those evils from previous experience, although he neither willed nor intended those same evils. If someone writing a bad book foresees many spiritual evils from it, although he does not intend them, they are imputed to him, and they are voluntary to him not in themselves, but in the cause. But if the effect is good, and someone who posits the cause foresees it, he is already judged implicitly to will it, and he does not lack his merit, since the good is the object of the will, not evil. If you give your goods to a monastery, foreseeing the spiritual goods thence to come, you certainly do not lack merit. Therefore there is a distinction between good and evil; for good, at least in some way, we ought to intend; evil, on the contrary, cannot be intended, but ought to be avoided. Suarez, d. 1, s. 4.

Several theologians altogether distinguish the voluntary in itself and the voluntary in the cause from the direct and indirect voluntary. And thus Suarez says, "The voluntary in itself is sufficiently clear; for then something is said to be voluntary in itself when it is willed in itself, so that the will is immediately concerned with it, either by a proper act, if it is voluntary direct, or through the lack of an act, if it is indirectly voluntary." D. 1, s. 4. Likewise S. Th. q. 77. a. 7: "Two things seem to have to be considered. First, that something can be voluntary either according to itself, as when the will is borne directly into it, or according to its cause, when the will is borne into the cause and not into the effect; as is clear in him who voluntarily becomes drunk. For from this, what he commits through drunkenness is imputed to him as quasi-voluntary. Secondly, it must be considered that something is called voluntary directly or indirectly. Directly indeed is that into which the will is borne; but indirect is that which the will could have prohibited, but does not prohibit."

But others call the voluntary in itself and in the cause the direct and indirect voluntary, and express this by another division, namely of the positive and negative voluntary. Gury, Ballerini, n. 5. Now, with a comparison established between both divisions, the voluntary in itself and in the cause, and the direct and indirect voluntary, and insisting upon the doctrine of the Angelic Doctor, it must be said that the direct voluntary includes under itself both the voluntary in itself and the voluntary in the cause. For the direct voluntary is said by the Angelic Doctor to be "that which proceeds from the

will as from an agent," q. 6. a. 3 ad 1. But both the voluntary in itself and the voluntary in the cause proceed from the will insofar as it is acting and willing.

But the indirect voluntary can be reduced both to the voluntary in itself and to the voluntary in the cause. The indirect voluntary is said by the same Holy Doctor to be "that which is from the will as from a non-agent," l. c. But both the voluntary in itself and the voluntary in the cause include the acting and willing will. Therefore the indirectly voluntary is neither properly voluntary in itself, nor likewise properly voluntary in the cause. Nevertheless it can be reduced to both; for the indirectly voluntary is said either only of the interior act of the will, or also of the exterior act. If the first, since not willing is immediately from the will, it can be called voluntary in itself. If the second, since externally not acting is as it were the external object completing that not willing, just as the former is in some way voluntary in itself, so also is the latter, since one complete non-act is as it were constituted from both the lack of an interior and exterior act; for example, not willing to hear Mass, and not hearing Mass in fact, just as one complete act is constituted from the internal and external act of willing to hear Mass and of hearing Mass.

Now, as from the positing of an act, as from a cause, some effect can follow, so from the omission of an act another act can follow, which, although it is not properly the effect of that omission, just as that omission is not properly the cause of the following act, since not acting cannot properly be a cause, nevertheless it can be considered as an effect. And thus it can be called voluntary in the cause; for example, the death of those sailing, indirectly voluntary, is, in the sense stated, voluntary in the cause for the pilot of the ship who desists from steering.

35. What is required so that an evil effect which follows, voluntary only in the cause or indirectly, be imputable to the will as fault? - The following conditions are required: 1. That he who posits or omits the cause advert, at least confusedly, that such an effect will follow from that cause; because nothing is willed unless in some way it is known beforehand.

2. That the agent be able to impede such a cause; because there is no obligation to impossibilities.
3. That the agent be bound, by reason of that effect, to remove or omit that cause; because the effect following outside the intention is not imputed to one pursuing his own right. For then the agent in reality does not will the effect, but wills the permission of the effect. L. 1. 5. n. 15; S. Th. 1. 2. q. 6. a. 3; q. 21. a. 2; C. I. 1151 f.; C. G. 1182 f.; C. H. 1092 ff.

36. When is someone bound to remove the cause, by reason of an evil effect that will follow? - 1. He is bound when it of itself, directly and primarily, produces nothing except an evil effect. For then the cause is evil in itself. It is said, *of itself, directly and primarily, produces nothing except an evil effect*, because one would not therefore be bound to remove the cause if the evil effect followed merely accidentally; for then the cause would not therefore be evil in itself. Nor would he be bound if the cause of itself, directly and primarily, produces a good effect, and only through this as a medium an evil effect follows; for a cause according to moral estimation is judged from its effect of itself, directly, and primarily, and accordingly it is then simply honorable in itself. Therefore then one would not will the evil, but would will the good, and would only permit the evil. Likewise one would not therefore be bound to remove the cause because it equally, directly and primarily, as if in a parallel manner, influences a good and an evil effect. For then the cause in itself, according to moral estimation, is

indifferent, and honorable, insofar as it is subject to the honorable intention of the agent; for the evil effect is not intended, but permitted. S. Th. 1. 2. q. 20. a. 5; q. 73. a. 8; 2. 2. q. 64. a. 7.

2. Someone is likewise bound to remove the cause by reason of an evil effect that will follow, when, although the cause is honorable or indifferent in itself, nevertheless someone is bound to impede the effect from justice, or from charity, or from a precept that presses to be fulfilled; for example, if someone wished to play for the sake of recreation while the last Mass on Sunday will soon be celebrated, so that consequently he omits it from distraction. "For he who is bound to the law must necessarily be bound to procure the ordinary means, and the means proximately necessary from the very nature of the thing, for observing the law..... Ordinary, I say; for human laws do not compel to extraordinary and excessively difficult things." Ithur., case 32, n. 4. Hence "the reason can be given, that by reason of the precept that cause and the effects following from it, although physically they are connected only accidentally, and one is not the cause of the other, nevertheless morally are judged to have the notion of one unsuitable object, or one to be avoided by the will, and therefore the will of one is judged the virtual will of the other." Suarez, tr. 2, d. 1, s. 4, n. 9.

3. Finally, someone is bound to remove the cause by reason of an evil effect that will follow, when, although the cause is honorable or indifferent in itself, nevertheless there is no proportionate necessity, utility, or fittingness on the part of the agent. For then an honorable end of the one operating is lacking; for evil is to be avoided, and it can be permitted when there is a rational and just cause. Besides, to will such a cause then often shows an evil affection directly toward that evil effect that will follow; or at least there is often a proximate danger of such evil affection. But a greater or lesser reason is required for positing the cause according as it is a cause of itself, or from its own nature influencing such an effect, or an accidental cause, namely one which does not influence such an effect from its intrinsic nature, but from some extrinsic condition of things. Likewise the greater reason is required for acting in such a case, the more proximately the cause touches the evil effect, the more probable the evil effect is, the less right one has to the action considered in itself, and the graver the effect itself is, if one is bound by office to impede the evil. For if a proportionately grave reason is not had, natural honesty itself obliges us to omit that cause. L. 1. 1. n. 152; l. 5. n. 14; S. Th. 2. 2. q. 64. a. 7.

37. Is the effect which follows, gravely evil, voluntary only indirectly or in the cause, always imputable as grave fault, so that someone contracts the grave malice proper to that effect, if he illicitly posits the cause without any sufficient reason? - R. 1. Affirmatively, if that cause of itself, or from its intrinsic nature, gravely influences the effect. The reason is that if the cause of itself gravely influences the effect, the grave malice from the effect redounds into the cause. Therefore someone contracts the grave malice proper to the effect itself by willing its cause without any sufficient reason. Moreover, at least practically speaking, one who wills the cause, of itself gravely influencing an effect gravely evil, without any sufficient reason, in reality directly wills the grave malice of that effect, and does not merely permit it; since the cause and effect are inseparably connected with one another, so far as concerns the very nature of the thing, and no other honorable reason is present for positing the cause on account of another honorable effect, as is supposed.

R. 2. Negatively, if that cause of itself influences that effect only lightly. The reason is that, since the cause of itself has only a light influence upon that gravely evil effect, a cause of this kind is not of itself sufficient for the positing of the effect, and accordingly, so far as concerns the nature of the thing, they are not inseparably connected with one another. Therefore it is not the case that because someone wills the cause, he also wills the effect, but he wills only the permission of the effect, if perhaps it follows. Accordingly he does not contract the grave malice proper to the effect. But since the malice of the effect redounds into the cause by reason of the influence which the latter has upon the effect, where the influence is light there is only light malice; and consequently, with the direct intention of the gravely evil effect always excluded, someone willing a cause that influences such an effect only lightly, although he will not sin gravely, nevertheless will sin lightly. And this is the proper reason why, although there is no smallness of matter in venereal matters, nevertheless there is such in those acts of mere sensuality, as are looks, from a cause of mere curiosity, at less honorable things, with the intention of the venereal thing itself again excluded, as the very common opinion of theologians holds.

R. 3. Again negatively, if the cause in no way of itself influences that evil effect, but the effect follows merely accidentally, or from extrinsic circumstances. The reason is that since the effect follows only accidentally, there is no connection, so far as concerns the nature of the thing, between the cause and the effect. Therefore it is not the case that because someone wills the cause, he also wills the effect, but he wills only the permission of the effect, if perhaps it follows. But since the malice of the effect in no way redounds into the cause, for the effect does not follow from that cause of itself, but merely accidentally, someone willing the cause, with every intention of the evil effect excluded, contracts none of its malice, neither grave nor light, although perhaps otherwise he also sins gravely. And thus, if someone foresees pollution from some excess of drink or food, without willing and intending it, he will sin lightly, or perhaps even gravely, by reason of that excess, but by no means will he sin by reason of the pollution, since this effect is not willed, but happens outside and against the intention, and the cause is outside the genus of lust. Nor indeed is someone bound to remove all causes influencing only accidentally into some evil effect, by reason only of that evil effect itself. For in actions only this one thing must be attended to: whether they are the cause of this effect, or not. For if they do not have the force of a cause, it is ridiculous that they must be avoided on account of an effect of this kind. And in no way is someone bound to abstain from positing such a cause, if a reasonable motive is present for positing a cause of this kind.

Cf. 40. 1, 4; Suarez, tr. 2, d. 1, s. 4, 5; Sanchez, l. 9, d. 45, n. 14 ff.; L. 1. 3. n. 484; Salm., tr. 26, c. 7, n. 41; S. Th. 2. 2. q. 154. a. 5; 3. p. q. 30. a. 7; d'Annibale, 4th ed., p. 1, n. 157, note 15.

38. When is an effect willed in the cause imputed? - It is imputed, speaking of itself, first when someone has posited the cause, or from the time when he could and ought to have impeded it, if he noticed it after the cause had been posited. "The reason is that the free volition, or non-impeding, of an evil effect is formally evil, but not the physical existence of the effect; and accordingly formal sin is committed when there is such a perverse volition or nolition.... Thus therefore, he who, for example, has offered poison to another ... does not sin when the death of the other follows ... but when he freely posited the cause of this effect." Struggl, q. 1, a. 3, n. 32. *Speaking of itself*; for if someone can impede an effect of this kind right up to its execution, and does not impede it, or is pleased in its futurition or existence, he continues in his mind the sin whose cause he previously posited freely and

culpably. Consequently someone must then confess the effect as if it were the external act and object, the complement of the sin. But it would be otherwise if, after the cause had been posited, before the effect follows, he retracts the will, or confesses the sin committed. L. 1. 5. n. 10; S. Th. 2. 2. q. 79. a. 3 ad 3.

39. Note: Since the cause, as such, participates in the specific malice of the effect, but not in a different malice, it suffices in confession to accuse only the malice of the effect; or if the cause has in itself another special malice, it suffices to state each separately. And thus, if because of play you omitted Mass, it suffices to accuse this omission; if because of theft you likewise omitted Mass, you can then accuse separately the theft and the omission of Mass. L. 1. 5. n. 9; Lugo, *de Poenit.*, d. 15, n. 479.

40. You will resolve: 1. "If the cause of pollution is one gravely influencing it, and the man does not abstain from positing that cause or action, it is clear that the pollution is imputed as sin, even if it was not intended, provided it was at least confusedly foreseen. But causes of this kind are without doubt all those which of themselves are grave faults in the genus of lust, namely touches or sights of the shameful parts of another's or one's own body with base and deliberate delight; the sight of human intercourse; and morose thoughts about venereal matters. Therefore all pollutions arising from these causes are certainly mortal. Thus S. Th. a. 2. q. 154. a. 5, and others commonly. And then that base act which is the cause of pollution has a special malice against nature, as Sanchez says, *de Matr.*, l. 9, c. 45, n. 23, and all agree." L. 1. 3. n. 482. A special malice, namely of the effect or pollution, which is a sin against nature, besides the proper malice which consists in delight excited from a base object. *Gravely influencing*; therefore, if the cause, whether by reason of itself or by reason of the disposition of the subject, does not gravely influence, grave fault is absent by reason of the pollution perhaps going to follow, since then it follows outside the intention and accidentally. *Of themselves are grave faults*: "the common and more probable opinion teaches that pollution is not mortal (namely in the cause), unless it comes from a cause of itself mortal in the genus of lust.... The reason is that, since pollution is not willed except in the cause, it will be evil in that degree in which the cause itself is evil." L. 1. 3. n. 484. *In the genus of lust*, whence "it is inferred that the pollution which happens outside the intention from causes illicit even mortally in another genus than lust is not mortal, as from drunkenness, or from eating too immoderately or on a forbidden day." L. 1. 3. n. 484, 477; Salm., *Theol. Schol.*, tr. 13, d. 10, n. 274; *Theol. Mor.*, tr. 26, c. 7, n. 41.

2. "If someone, about to do some necessary or lawful and honorable thing, foresees that pollution will naturally follow, and this applies much more to distillation, which nevertheless he in no way wills or intends, then, provided the danger of consent to the delight is absent, he is not bound to abstain from such an action; because the effect following accidentally and outside the intention is not imputed to one pursuing his right. Hence, notwithstanding pollution, it is lawful to hear the confessions of women, to study cases of conscience, to touch oneself from necessity, cautiously and from necessity to kiss women, to embrace according to the custom of the country, if otherwise one would have to be regarded as uncivil." L. 1. 3. n. 481. "It is lawful for someone who suffers a great itching in the private parts to drive it away by touch, even if pollution follows." L. 1. 3. n. 483. The reason is that these acts either of themselves influence only lightly, or although they of themselves gravely influence, nevertheless, since they are not done from a base cause of concupiscence and delight, but from an honorable, necessary, useful,

suitable cause, they no longer have the same force and influence upon the effect, which is gravely increased by that evil propensity of the will, and on the contrary is greatly diminished by the will turned elsewhere and resisting as far as it can. Hence the evil effect, if it follows, is attributed rather to natural constitution, or to weakness of nature, than to the aforesaid acts as cause. Besides, with the aforesaid honorable end standing, someone is not bound to abstain from the cause in order to impede the evil effect. For when a cause has two effects, one good, the other evil, it can be posited from the intention of the good effect alone, by behaving permissively toward the evil. Therefore that evil effect, in the case, truly follows accidentally and outside the intention. L. 1. 3. n. 483; l. 5. n. 14; S. Th. 3. p. q. 80. a. 7.

3. "It is inferred that the pollution which arises from a not prolonged conversation with a girl, or from a slight glance, or from curious reading venially base, is only venial; because, as has been said, since those causes influence lightly, the subsequent pollution proceeds rather from a natural cause than from them." L. 1. 3. n. 484. But if someone has a just cause, he sins in nothing. L. 1. 5. n. 29. A just cause is "any reasonable cause of necessity, utility, or fittingness." L. 1. 3. n. 484; l. 5. n. 29.

4. A fortiori grave fault is absent in those actions which influence remotely and accidentally, since they are outside the genus of lust. Therefore, although pollution or an evil commotion is foreseen as going to follow, it is lawful to ride horseback, not only for the sake of necessity and utility, but also for recreation; to recline in some position in order to rest more comfortably; moderately to take hot foods or drink; to lead honorable dances, etc. L. 1. 3. n. 483. Grave fault is absent; for whether light fault is present in the positing of such causes without a just reason, on account of the effect going to follow, is disputed. Holzmann and others deny it, "because, as they say, the pollution arises rather from the weakness of nature than from that cause, which concurs to pollution only accidentally and remotely. But Sanchez, Lessius, and others more probably affirm it..., because without a rational cause to permit pollution always seems something unbecoming and disordered." L. 1. 3. n. 484; Sanchez, *de Matr.*, l. 9, d. 45; Sporer, *de Matr.*, n. 644 ff.; Lessius, l. 4, c. 3, d. 14, n. 97-103.

41. What is the actual, virtual, habitual, interpretative voluntary? - The voluntary, by reason of the very act of the will and its efficacy, is one thing actual or formal, another virtual, another habitual, another interpretative. Actual voluntary is given when someone actually wills something, with actual attention on the part of the intellect, whether he wills explicitly, that is, clearly and in particular, or implicitly, that is, confusedly, by a universal or quasi-universal will, which extends also to this object.

42. The virtual voluntary is threefold. First, the virtual voluntary is that which perseveres in some power of itself, and it is given when the explicit and clear will itself, or intention of the end, no longer exists, but only volitions of the means explicitly and clearly exist, which volitions of the end itself, in a more remiss degree, with more remiss attention, accompany. Thus when a priest wills to celebrate Mass and then puts on the sacred vestments, approaches the altar, and performs the other customary things, without any longer having that clear actual will to consecrate, the consecration will be virtually voluntary if, while he performs all things voluntarily, there is always present to him, confusedly and weakly, some attention and will to consecrate. Or at least then acts of the cogitative or estimative power remain, which are first generated when the mind proposes its object to the will, and which acts then go on to influence all subsequent acts. When the mind apprehends that object,

its apprehension is at the same time generated in the cogitative or estimative power, which pertains to sensitive cognition, and moves the sensitive appetite and the exterior members to motion.

The virtual voluntary, secondly, is that which perseveres in the exterior work itself, commanded by a prior act of the will, or in the voluntary execution of the means, which someone voluntarily employs by the force or virtue and impulse of the prior intention of the end, even though as regards the end not even remiss attention and volition any longer exists. Thus the pilgrimage undertaken by a traveler to the sanctuary of the Blessed Virgin will be virtually voluntary, even though on the journey he no longer attends to it, indeed thinks of entirely different things.

The virtual voluntary, thirdly, is that which perseveres in some moral effect of its own; thus, for example, a contract entered into by a procurator will be virtually voluntary to the principal agent, who gave him the faculty of acting in his name. *In a moral effect*, so that a merely physical effect may be excluded, into which perhaps that prior act of the will influenced as it is a physical act; for example, if, having had the will to consecrate, afterward while sleeping you consecrate in a dream, the consecration is null. For that prior act of the will does not influence this effect as it is a human or moral act, but merely as it is a certain physical action. S. Th. 3. p. q. 64. a. 8 ad 3; Lugo, *de Sacr. in gen.*, d. 8, s. 5, n. 87; *de Fid.*, d. 1, n. 98; *de Poenit.*, d. 24, s. 4; Laymann, l. 1, c. 2, c. 3, n. 4.

43. The habitual voluntary is that which was, but is neither in itself, not even weakly, with no attention to it persevering on the part of the intellect, nor in an exterior commanded work, or in the execution of the means, nor in any positive moral effect, but is, morally speaking, in a merely negative effect, insofar as the prior will has not been retracted. Hence a will of this kind suffices for certain moral effects. Thus, if an adult invalidly baptized were rebaptized while he sleeps, the baptism is valid. Thus also "for contracting," says St. Alphonsus, l. 3, n. 769, "an interpretative or conditional will does not suffice, cf. below n. 773, but an actual or virtual will is required, or at least one had and not retracted, according to what is to be said, l. 6, n. 324." Habitual voluntary is sometimes called virtual voluntary, which in truth is a certain habitual voluntary, insofar as it is distinguished from actual. S. Th. 3. p. q. 64. a. 8 ad 3; Laymann, l. c.

44. Interpretative voluntary is an act of the will which neither is, nor was, because cognition of the object is not present and was not present, but would be if cognition of this kind were had. Just as actual and virtual voluntary is a true cause of the act which is posited by the force of an actual or past volition, so habitual and interpretative voluntary is not a cause of the act. Habitual makes it that the act is positively according to the will, for example, the reception of a sacrament by a dying person deprived of his senses, who while healthy had resolved to receive the sacrament in danger of death. Interpretative makes it that the act at least is not judged to be against the will. Its foundation is the disposition and inclination of the soul, on account of the suitability of the thing. And these concern the voluntary considered in itself. Suarez, tr. 2, d. 1, s. 4, n. 4.

45. What is expressed, tacit, presumed, interpretative voluntary? - If the voluntary is considered insofar as it is outwardly shown by some sign, then expressed, tacit, presumed, and interpretative will are distinguished.

Expressed will is that which is expressed by words, letters, nods, or some exterior deed. This is one thing explicitly expressed, namely when someone by an exterior sign clearly and explicitly, or in

particular, manifests some act of the will; another is implicitly expressed, when someone by an exterior sign manifests that he wills something with which another thing is connected.

Tacit will is that which is manifested by silence itself. He who is silent seems to consent, if namely he can and ought to speak, or if there is question of a matter simply favorable, unless nevertheless from the nature of the thing or from law expressed consent is required. Hence tacit voluntary does not lack its effect. And tacit license is valid, as expressed license is valid. Rule 43 in the Sixth.

Presumed will is that which, although it is not known to us a posteriori by some exterior sign, or by silence itself, nevertheless is gathered a priori to be present. For there is some sufficient cause for judging thus.

Interpretative will is that which, although in reality it neither was present nor is present, and is not gathered to be or to have been present either by some exterior sign a posteriori or by some sufficient cause a priori, nevertheless there is some sufficient reason for gathering that it would be present if cognition of the object were had. Therefore no one sins by merely interpretative will. And therefore the confessor rightly imparts absolution to one retaining another's thing in good faith, if the same confessor does not admonish him for this reason, namely because the penitent, knowing the thing to be another's, would still retain it and would not restore it. Struggl, t. 1, q. 1, a. 2.

Presumed voluntary is sometimes had by the law itself, namely when in certain determinate cases the law presumes a priori that consent of the will was present. Thus formerly, by Canon Law, a silent son was presumed to consent to betrothals contracted for him by his parents. But this presumption of law, in the internal forum, always yields to the truth; and it yields to it also in the external forum, if it can be proved. C. un. *de Despons. impub.* in the Sixth.

46. What is the distinction between presumed and interpretative will? - Presumed will is often confused with interpretative will. It is also often distinguished from it by distinguishing presumed will concerning the present, which is properly called by us presumed, and presumed will concerning the future, which is properly called by us interpretative. So that the distinction between the two may be better known, the matter can be explained by this practical example.

A religious on a journey, while the superior is absent, wishes to buy a thing of some importance and of great utility for the whole community. He writes about the matter to the superior. While the superior, after receiving the letter, is writing back, the occasion for buying the thing presses, and he buys it, the response not yet having been received because of lack of time, presuming an affirmative response from the otherwise well-known will of the superior. Here you have will simply presumed, or presumed concerning the present. But whether the will of the superior is really present, or is falsely presumed to be present, the truth itself must be inspected, which the response of the superior afterward received will declare.

But if the same occasion presses for buying a thing very useful to the community, for example a great abundance of excellent books at a very small price, and no time is present for consulting the absent superior, nevertheless from the same otherwise well-known will of the superior that religious presumes that he would agree if he were asked, and he buys the books with the money received for the journey, preferring the utility of the monastery to a more comfortable journey, you have will presumed concerning the future or interpretative. L. 1. 3. n. 288, 700; l. 4. n. 18; Laymann, l. c. n. 3; Struggl, l. c. n. 20; La-Croix, l. 4. n. 1324 ff.

II. On the Impediments of the Human Act

47. What are the impediments of the human act? - As is clear from what has been said, to have a human act there is required: 1. the exercise of the adverting intellect; 2. the free exercise of the will; 3. the exercise of the other faculties proceeding from free will. Now then, if we look at the fact itself, often we act without knowing what we are really doing, for we think we are doing something else. Likewise, often we act impelled by some vehement passion of concupiscence, or oppressed by some vehement passion of fear, and with violence done to us. In the first case there seems to be lacking the condition required on the part of the intellect; but in the second case there seems to be lacking the condition required on the part of the will. Here without doubt an impediment of the human act is had; and the question is raised concerning ignorance, concerning concupiscence and passion, concerning fear and force, whether they cause the involuntary. For ignorance and error obstruct advertence; force and fear obstruct deliberation; concupiscence and passion obstruct both.

48. Does ignorance cause the involuntary? - Ignorance with which someone acts either has itself causally in relation to that which is done, or has itself merely concomitantly with respect to that which is done. It has itself concomitantly "when ignorance concerns that which is done; nevertheless, even if it were known, it would still be done. For then ignorance does not induce one to willing that this be done, but it happens at the same time that something is done and unknown; as... when someone would indeed wish to kill an enemy, but, ignorant, kills him, thinking he is killing a deer. And such ignorance does not make the involuntary" (namely contrariwise), "because it does not cause something that is repugnant to the will; but it makes the non-voluntary" (or the involuntary merely privatively), "because what is unknown cannot be actually willed." S. Th. 1. 2. q. 6. a. 8.

But it makes the non-voluntary, whether that merely concomitant ignorance is involuntary, or whether it is not merely concomitant, but voluntary. Nevertheless there is a distinction between involuntary and voluntary ignorance in the case; because involuntary concomitant ignorance, since it simply takes away the voluntary, makes something simply non-voluntary. But voluntary concomitant ignorance, since it does not simply take away the voluntary, for it is voluntary, makes that which is done with that ignorance non-voluntary indeed in itself, but voluntary in some way in the cause. S. Th. *de Malo*, q. 3. a. 8.

Voluntary in the cause, namely insofar as the ignorance concerns a thing which ought to have been known, and perhaps someone knowing would not do what he does ignorantly. And if certainly he would do it even knowing, the voluntary is still had indirectly in the cause, by reason of that evil disposition which the willed ignorance leaves intact, and by reason of that action, for example hunting, which was the cause of the consequent act, for example homicide. To the point Suarez, on 1. 2, tr. 2, d. 4, s. 2, n. 19: "That ignorance does not excuse from fault; therefore neither does it take away the voluntary. He is bound to expel that ignorance in order to avoid the act, and voluntarily omits to do this; therefore he also acts voluntarily, at least indirectly. Therefore it matters nothing that this ignorance is not the cause of the act, and that if knowledge were present, the act would nevertheless take place; both because, although we grant that that act is not voluntary in ignorance as in a cause, nevertheless that ignorance will be a sufficient condition for that act to be voluntary indirectly, insofar as man is bound and can avoid it and does not do so; for what he would have done if knowledge existed does not excuse him, but rather in a certain way accuses him more, because that is an evil disposition and contrary to the obligation by which he is bound to avoid the act; and also

because that effect is voluntary in another act directly willed, as, for example, the killing of a man in hunting. But voluntary ignorance, although it is concomitant, is the reason or condition that that prior act of hunting be done imprudently or incautiously, and consequently that in it the effect thence following is judged to have been willed."

Indeed, notwithstanding that evil disposition, he was still then bound, indeed much more, to know; and knowing, perhaps, notwithstanding that evil disposition, he would not have committed the monstrous crime with open eyes. S. Th. 1. 2. q. 6. a. 3; Billuart, *de Act. hum.*, diss. 1, art. 6, I say 3.

If ignorance is not merely concomitant, or does not have itself merely concomitantly in relation to that which is done, but is causing, or has itself causally, namely is the cause of doing that which is done, then that ignorance is either voluntary, or consequent upon a free act of the will, or it is not voluntary, or antecedent to a free act of the will. A free act of the will, namely concerning the ignorance itself, not concerning that which is afterward done from that ignorance. "But consequently," says S. Th. ibid., "ignorance has itself to the will insofar as it is voluntary."

Therefore when ignorance of this kind is the cause of doing that which is done, "since it is itself voluntary... it cannot cause the involuntary simply" (that is, contrariwise; since that which is done is voluntary in the cause from which it proceeds, i.e. in that willed ignorance). "Nevertheless it causes the involuntary according to a certain respect, insofar as it precedes the movement of the will to doing something, which would not be if knowledge were present," ibid.; that is, although that movement of the will is voluntary in the cause, nevertheless in itself it is altogether involuntary, for it would not be if knowledge were present. L. 1. 5. n. 4.

But if the causing ignorance, or that which is the cause of doing what is done, is not voluntary, or is antecedent, then ignorance causes the involuntary simply, since that which is done, by the very fact that it is caused by ignorance, would not be if knowledge were present, and accordingly is against the will. Nor indeed is that willed in itself; nor in any way willed in the cause. Therefore it remains totally or simply involuntary. "But antecedently," says the Holy Doctor ibid., "ignorance has itself to the will when it is not voluntary, and nevertheless is the cause of willing what otherwise one would not will; as when some man is ignorant of some circumstance of the act which he was not bound to know, and from this does something which he would not do if he knew: for example, when someone, diligence having been used, not knowing that someone is passing along the road, shoots an arrow with which he kills the passerby. And such ignorance causes the involuntary simply."

S. Th. 1. 2. q. 76. a. 1. As regards the insane, it is certainly not always established that they are not sufficiently in possession of themselves in an act of sin. Nor likewise is it established whether those who are hypnotized, and in hypnotic sleep execute the evil commands of the one hypnotizing, are not also sufficiently in possession of themselves. But in these cases the voluntary can easily be in the cause.

49. Whether ignorance renders the act objectively null? - R. Negatively. The reason is that our false estimation cannot change the objective truth of the thing. And thus an unbeliever who baptizes, thinking that a man is not really justified by baptism, nevertheless, if he has the intention of doing what the Church does, baptizes validly. A priest baptizing in a case of necessity with water which he falsely does not think to be natural, if the water is truly natural, baptizes validly. A pastor who assists at a marriage, falsely thinking that he still needs some special delegation of the bishop which he does

not have, validly assists at it. Consequently it must be said that by ignorance an act objectively null is not validated. Therefore, if a confessor ignorant of reserved cases absolves from them, he by no means truly absolves from them. Bonacina, *de Sacram.*, d. 1, q. 2, p. 1, n. 28; Sporer, *de Matr.*, n. 48.

50. Is ignorance always sin? - One ignorance is invincible, another vincible. Invincible ignorance has place when someone suspects nothing at all concerning the thing itself and concerning the obligation of inquiring; or although he has fallen into suspicion of the thing and of the obligation of inquiring, nevertheless after using moral diligence, he could not know the thing. After moral diligence; for it is not necessary that the diligence to be used be the greatest, but it suffices that it be common and ordinary, proportionate to the person and to the matter about which there is question.

Vincible ignorance is had when someone not only comes into doubt about the thing and about the obligation of inquiring, but also has occasion of coming into knowledge of the thing, and nevertheless voluntarily passes it by. L. 1. 1. n. 3. Antecedent ignorance is always invincible; but not every invincible ignorance is antecedent. Even merely concomitant ignorance is invincible. S. Th. 1. 2. q. 6. a. 8. Invincible ignorance is involuntary; but vincible ignorance is voluntary.

Vincible ignorance is one thing directly voluntary, another indirectly voluntary, another voluntary accidentally. Directly voluntary ignorance is called affected ignorance. This is had when someone deliberately wills to be ignorant, whether because of weariness of learning, or so that he may sin more freely, or so that he may have an excuse, or so that he simply may not be drawn back from sin. Indirectly voluntary ignorance is had when someone omits to apply study to knowing, or neglects to learn because of mere laziness or sloth, because of the labor of learning, or because of other occupations. Ignorance of this kind is distinguished in two ways, namely into crass or supine, and into purely vincible. Crass or supine ignorance is in him who, although he does not studiously seek ignorance, nevertheless uses no diligence or almost no diligence to acquire for himself that knowledge which according to his condition he can have. Purely vincible ignorance is when someone uses some diligence for knowing the truth, but slight and by no means sufficient, considering the quality of the person and the gravity of the matter.

Finally, accidentally voluntary ignorance is that which is not intended and is outside the intention, and which is had "when someone directly or indirectly wills something to which ignorance follows. Directly indeed, as appears in the drunk man, who wills to drink wine excessively, through which he is deprived of the use of reason; but indirectly, when someone neglects to repel the rising motions of passion, which, growing, bind the use of reason in the particular thing to be chosen." S. Th. *de Malo*, q. 3. a. 8.

Oblivion, inconsideration, and inadvertence are equated with ignorance. Therefore the same moral judgment must be made concerning these as concerning simple ignorance. Suarez, tr. 2, d. 4, s. 3; L. 1. 1. n. 169; S. Th. 1. 2. q. 6. a. 9; q. 76. a. 3.

Finally, one ignorance is of law, by which a law or precept is unknown, as if someone does not know that marriage is contracted invalidly with one related by affinity; another is of fact, by which a fact is unknown, as if someone contracting marriage with one related by affinity does not know that she is related by affinity; another is of penalty, by which someone is ignorant of the penalty added to the law, as if someone striking a cleric does not know that excommunication is attached to that striking.

Invincible ignorance is not sin; but vincible ignorance is sin if it concerns those things which someone is bound to know, but not if it concerns those things which one is not bound to know. The reason for the first part is that ignorance is called invincible because it cannot be overcome by study. But it is not imputed to man as negligence if he does not know those things which he cannot know. Therefore such ignorance, since it is not voluntary, because it is not in our power to repel it, is not sin. The reason for the second part is that whoever neglects to have or to do that which he is bound to have or to do sins by a sin of omission. Hence because of negligence, ignorance of those things which someone is bound to know is sin. Therefore it will be a sin to be ignorant of those things without knowledge of which one cannot rightly exercise a due act. Hence all are bound commonly to know those things which are of faith and the universal precepts of law; but individuals are bound to know those things which pertain to their state or office. But there are certain things which, although someone is naturally able to know them, nevertheless he is not bound to know, such as the theorems of geometry and contingent particulars, unless perhaps in some particular case that occurs.

St. Augustine, l. 3 *de lib. arb.*, c. 19; Suarez, on 3. p., t. 5, d. 4, s. 8, n. 18; S. Th. 1. 2. q. 19. a. 6; q. 76. a. 2, 3; *Quodl.* 1. a. 19; *Quodl.* 8. a. 15; L. 1. 5. n. 4, 26 ff.; Wurzburg, c. 1, a. 3; E. M.

51. Whether ignorance diminishes sin? - Antecedent, invincible, efficacious ignorance, or ignorance that is the cause of sin, "which totally excuses from sin, because it totally takes away the voluntary, does not diminish sin, but altogether removes it." S. Th. 1. 2. q. 76. a. 4. "Ignorance which is not the cause of sin, but has itself concomitantly to sin, neither diminishes sin nor increases it." S. Th. l. c., since it in no way influences the act of sin; nor consequently does it take away sin, insofar as it does not render it involuntary, but it takes it away only insofar as it renders it non-voluntary. S. Th. l. c. a. 3. But cf. 48.

Consequent ignorance that is purely vincible, or even crass or supine, efficacious, or the cause of sin, "diminishes the voluntary and consequently sin." S. Th. l. c. For the voluntary is had only indirectly or in the cause. Consequent affected ignorance, efficacious, or the cause of sin, "seems to increase the voluntary and sin; for from the intention of the will to sin it comes that someone wills to undergo the loss of ignorance on account of the liberty of sinning." Thus S. Th. l. c. a. 3 and others. But others deny this, and their opinion, says St. Alphonsus, H. A. tr. 19, n. 8, truly cannot be called improbable. For he who transgresses the law knowingly and prudently openly contemns it; he who affects ignorance still seems to fear the law somewhat. But one must distinguish; for ignorance of this kind can proceed from various affections and motives.

If someone affects ignorance because of weariness of learning, or not precisely so that he may not be drawn back from sin, but so that he may not be drawn back from such an action to which he strongly adheres, or even so that he may not be drawn back from sin, the sin is not thereby increased. For ignorance of itself diminishes the notion of a human act and formal contempt of the law. Moreover, if for this reason he wills to be ignorant, so that he may not be drawn back from sin, therefore if he knew, perhaps in reality he would be drawn back from sin. Therefore that ignorance shows a will not so confirmed in such a sin.

But if someone affects ignorance because he absolutely wills the sin itself, whether in reality it is prohibited or not, then the sin is increased, because that ignorance is a sign both of great affection toward sin and of greater contempt; since with such affection he pursues sin that he is willing also to suffer the loss of ignorance, and thus to sin, although perhaps the thing in itself is not a sin.

Therefore although that ignorance also excuses, because it always conceals the condition of the work, nevertheless it accuses and increases the sin by reason of its cause. Luke 23:34; Acts 3:17; Suarez, tr. 2, d. 4, s. 2; Lugo, *de Poenit.*, d. 16, s. 4, n. 183; Struggl, l. c. n. 36.

Since sins which proceed from ignorance are voluntary only in the cause, and consequently have no other malice than the malice which was present in the positing of the cause itself, the gravity or lightness of the sin which follows from it must be taken from that cause, not from the gravity or lightness of the thing which is derived from it. For this latter is voluntary and culpable only insofar as the ignorance itself is voluntary and culpable. And thus from lightly culpable ignorance of a physician or confessor, grave effects can follow, which consequently do not bring grave fault.

52. Is vincible ignorance of law a special sin of itself? - R. Negatively. For every law commanding its own observance implicitly commands knowledge of the same law. But it commands this only in order to the work which is commanded to be done or omitted. Therefore that vincible ignorance of law receives its species from the transgression of the law itself, for which it provides the cause or danger. And this has place also as regards ignorance of the articles of faith. For although knowledge of them, as the more common opinion has it, is commanded by a special precept and through itself, and therefore, standing in the obligation itself of knowing, such ignorance is culpable of itself, nevertheless this sin is opposed to the same virtue of faith. For the malice of sin against faith is in this, that someone offends the authority of the one speaking by not believing. But this irreverence is found not only when someone knowingly dissents from God speaking, but also when someone culpably neglects to examine whether it is the doctrine of God, and because of that negligence dissents from those things which are said by God. Lugo, *de Poenit.*, d. 16, n. 182 ff.; Laymann, l. 1, tr. 2, c. 4, n. 10; Viva, *de Act. hum.*, q. 3, final article.

53. Are actions which someone does from a contracted habit to be held as human, and accordingly imputable? - A habit is a certain disposition of the soul by which something is done when there is need; and, if it is acquired by acts, it is called acquired. Hence habit contains a certain special propensity to an act. S. Th. 1. 2. q. 49.

Now speculatively: They are human and imputable if he adverts to them, in themselves; otherwise only in the cause, as long nevertheless as he foresaw, at least confusedly, that they would follow from the habit when he was contracting the habit, and has not retracted the habit, nor tries to extirpate it. Practically: "Sinners of this kind badly habituated, although they have less ready knowledge than others, nevertheless always have some actual knowledge of their crimes sufficient to render the acts deliberate and mortal." L. 5. n. 4, par. Third; l. 3. n. 127; tr. *de Act. hum.* XIV. "It is manifest that he who sins from habit sins from certain malice." S. Th. 1. 2. q. 78. a. 2. "He is said to sin from certain malice or industry, as if knowingly choosing evil," S. Th. l. c. a. 1, with full affection of the will.

For he who neglects to amend a custom of sin is convicted of loving and fostering sin, freely conserving a habit freely acquired; from this the will is borne into the act with greater readiness and propensity. Hence the voluntary is increased, although the free is diminished. And this applies whether the habit is bad or good. But sin of this kind "from certain malice, according as it comes from the inclination of habit, is not a special sin, but a certain general condition of sin." S. Th. 2. 2. q. 14. a. 1 ad 3; 1. 2. q. 73. a. 4.

54. Does concupiscence cause the involuntary? - The sensitive appetite is distinguished into the concupiscible and the irascible. The concupiscible is that by which it reaches after or flees from those things which are represented through imagination as good or evil. The irascible is that by which it strives to remove those things which stand in its way as it reaches after the former things or flees from the latter. S. Th. 1. 2. q. 23.

By the name concupiscence is understood here any movement whatever of the sensitive appetite which is borne toward the good or flees from the evil proper to itself. But those things which are said concerning the affection of the sensitive appetite can easily be applied to the affection of the will; for just as the movement of the will can be caused from sensitive concupiscence, so one affection of the will can be caused from another affection of the will itself. And thus from love of children, of God, of honor, someone voluntarily undertakes dangers, and that will will be the more fervent, the greater that affection was.

One concupiscence is antecedent, another consequent. The former precedes the free act of the will, and consequently is excited merely naturally. The latter follows upon the free act of the will. The former draws and inclines reason and the will. The latter redounds from the will. The former is not voluntary; the latter is voluntary, either in itself, if the will deliberately wills and excites it, or in the cause, if it naturally results from a free act of the will. "The sensitive appetite," says S. Th. 1. 2. q. 77. a. 6, "can have itself to free choice both antecedently and consequently. Antecedently indeed, according as the passion of the sensitive appetite draws or inclines reason or the will. But consequently, according as the movement of the higher powers, if they are vehement, redounds into the lower powers. For the will cannot be moved intensely into something without some passion being excited in the sensitive appetite."

Antecedent concupiscence diminishes the voluntary both under the notion of voluntary and under the notion of free. Therefore an act proceeding from it is the less voluntary under both notions, the more intense it is. The reason for the first part is that an act is voluntary insofar as it is from an intrinsic principle. But concupiscence is extrinsic to the will. Therefore an act proceeding from its impulse is less voluntary under the notion of voluntary. Hence S. Th. 1. 2. q. 77. a. 6 ad 3 says: "It must be said that, although the movement of the will is more intense when incited by passion, nevertheless it is not so proper to the will as if it were moved by reason alone to sin." And ibid. in the body: "An act is sin insofar as it is voluntary and existing in us. But something is said to be in us through reason and will. Hence the more reason and will do something from themselves, not from the impulse of passion, the more it is voluntary and existing in us."

The reason for the second part is that an act is the less voluntary under the notion of free, the less dependence it has on the part of free will and advertence on the part of reason. But when a preceding passion is more vehement, so much less is the dependence of this consequent act upon the will freely determining itself and upon reason considering. For the more the free will finds the soul already inclined by passion, the less it itself influences the determination of the consequent act. Then, although passion cannot directly influence judgment, nevertheless it can indirectly influence it in three ways: 1. Through a certain distraction, for the sense is less attentive to individual things when it is intent upon many. 2. Through a certain contrariety, insofar as it inclines to the contrary of what ought to be judged, and the soul becomes weak and feeble. 3. Through bodily alteration; for it

perverts the phantasy, which does not present itself to the right operations of the intellect, as is seen in the insane and in those raging from the vehemence of passions.

But although from antecedent concupiscence the act of the will is less voluntary, nevertheless it becomes more intense and easier, because it inclines the will to willing. And according as the passion is greater, it renders the effort of the will easier. And thus soldiers from hope of glory, parents and friends from love of children and friends, gladly endure all kinds of burdensome things. S. Th. 1. 2. q. 6. a. 7 ad 3; q. 10. a. 3; q. 33. a. 3; q. 48. a. 3; q. 73. a. 6 ad 2; q. 77. a. 1, 2, 3, 6, 7; 2. 2. q. 154. a. 3 ad 1; q. 158. a. 3 ad 2; Suarez, tr. 2, d. 3, s. 3, 4.

Consequent concupiscence presupposes an act the more voluntary the more intense it is. The reason is that consequent concupiscence is excited in us consequently upon an act of the will freely determining itself. Therefore whether it is excited naturally, through a certain redundancy into the lower part from the higher; or whether it is excited voluntarily, either indirectly through voluntary negligence and omission of repressing rising motions, or directly, deliberately and studiously, by exciting motions in the lower part; concupiscence, as consequent and not preceding the free act of the will from which it proceeds, cannot exercise any causal influence upon that act, but presupposes the same act of the will, which rather exercises influence upon it. And, if the discussion again is of concupiscence which is excited from the very act of the will, whether voluntarily or naturally, since an effect must be proportioned to its cause and cannot surpass it, consequent concupiscence does not diminish the voluntary, but rather increases it, insofar as it signifies and demonstrates a greater propensity and inclination of the will to the act. S. Th. 1. 2. q. 24. a. 3 ad 1; q. 73. a. 6 ad 2; q. 77. a. 6.

Consequent concupiscence which arises from a merely natural resulting and redundancy of the superior part into the inferior, renders that which proceeds from it voluntary and more voluntary in the cause, the more interior it is, by the very fact that it proceeds from the will. But it renders that less voluntary in itself, since it always somehow clouds reason and somehow impedes the free exercise of the will.

But consequent concupiscence directly excited for acting, for example if someone deliberately excites hatred in himself against an enemy by turning over received injuries in his mind, so that he may seek vengeance more obstinately and execute it with greater daring, renders that which proceeds from it more voluntary simply, because that passion directly and voluntarily excited is a sign that the movement of the will is stronger. S. Th. *de Malo*, q. 3. a. 10, 11; 1. 2. q. 24. a. 3 ad 1, 3; E. M.

55. Does passion diminish sin? - Passion is here called a movement of the sensitive appetite, as if by a certain force and impetus carrying off the soul, so that the soul seems as if to suffer under its influence. "It must be said that sin essentially consists in an act of free choice, which is the faculty of will and reason. But passion is a movement of the sensitive appetite. Therefore if passion is taken according as it precedes the act of sin, then it is necessary that it diminish sin. For an act is sin insofar as it is voluntary.... And according to this passion lessens sin insofar as it lessens the voluntary. But consequent passion does not diminish sin, but rather increases it, or rather is a sign of its magnitude, insofar namely as it demonstrates the intensity of the will toward the act of sin. And thus it is true that the more someone sins with greater lust or concupiscence, the more he sins." S. Th. 1. 2. q. 79. a. 6; q. 24. a. 3. Cf. preceding n.; L. 1. 5. n. 23.

56. You will resolve: Hence it follows that sin is diminished the more vehement the antecedent passion is. "It must be said that it belongs to the notion of sin that it be voluntary, but that is called voluntary whose principle is in the agent himself. And therefore the more its principle is increased, the graver the sin also becomes; but the more an exterior principle is increased, the lighter the sin becomes. But passion is a principle extrinsic to the will, while the movement of the will is an intrinsic principle. And therefore the stronger the movement of the will has been toward sinning, the less" [the sin becomes]. S. Th. *de Malo*, q. 1. a. 11 ad 3.

But an act proceeding from consequent concupiscence is the more voluntary and the greater sin, the greater that concupiscence is. "If under concupiscence is included also the very movement of the will, then where there is greater concupiscence there is greater sin." S. Th. 1. 2. q. 73. a. 6 ad 2.

57. Does passion totally excuse from sin? - "It must be said that an act which of its genus is evil is totally excused from sin according to this alone, that it is rendered totally involuntary. Hence, if there is such a passion which renders the following act totally involuntary, it totally excuses from sin; otherwise not totally.... Passion sometimes indeed is so great that it totally takes away the use of reason, as is clear in those who become insane because of love or anger. And then, if such passion was voluntary from the beginning, the act is imputed as sin, because it is voluntary in its cause.... But if the cause was not voluntary, but natural, for example when someone from sickness or some cause of this kind falls into such a passion that totally takes away the use of reason, the act is rendered altogether involuntary, and consequently totally excused from sin. But sometimes passion is not so great that it totally interrupts the use of reason; and then reason can exclude the passion by turning to other thoughts, or impede it from attaining its effect, because the members are not applied to the work except through the consent of reason. Hence such a passion does not totally excuse from sin." S. Th. 1. 2. q. 77. a. 7; q. 6. a. 7 ad 3; q. 10. a. 3.

58. Are the first motions of evil concupiscence always sins, and of what kind? - There can be no doubt that the first motions of evil concupiscence are sins, and mortal sins, for there is question of a grave matter, if, when they arise, the will consents in the following time, and by consenting morosely delights in them, whether with a long, or short, and very brief delay. For the act is concerning a gravely base matter and is fully deliberate; and that first motion of concupiscence, although it was excited entirely independently of the will, once the consent of the will accedes, now begins to be a commanded act in its delay and permanence.

Likewise there is no doubt that the first motions of evil concupiscence naturally excited and independently of the will, which afterward dissents from and resists them according to its powers, are in no way sins. For the acts are altogether involuntary, and without the voluntary there is no sin. Indeed, merit is thence had for the will resisting. "The first motion," says S. Th. 2. d. 40. q. 1. a. 4 ad 3, "does not have the notion of fault except according as it is in some way in the power of the will. Hence, when the will does not resist, it has the notion of sin. But when the will already begins to resist, then man merits."

If finally, when the first motion of concupiscence arises, the will neither consents nor dissents, but permits it, not prohibiting it, such a motion already has the notion of sin, because in some way it is in the power of the will. For that motion is now not against and outside the will, which certainly does not intend it, but at least permits it. But the sin is not mortal, but light. For mortal sin is in aversion from God, which cannot be had without reason turning itself away from God through deliberation,

which aversion is not had here. Therefore that sin is not mortal, but venial. For it is sin, since it is a certain disorder against natural honesty. S. Th. 2. D. 24. q. 3. a. 2; *Quodl.* 4. a. 21; E. M.

59. Does fear cause the involuntary? - Fear is the trepidation of the mind because of present or future danger. L. 1. *Quod metus*, etc., Dig.

It is divided first into light and grave. The first is had either when the present or future evil is light, or when, although it is grave, nevertheless it is only little probable. The second is had when the evil is grave, very probable or certain. But an evil is grave either absolutely or relatively. Absolutely grave is that which strikes fear of itself even into a constant man, and it has place when the evil which is feared is grave in itself and is commonly reputed such, as death, mutilation, etc. Relatively grave is had when the evil which is feared is not grave according to itself, but is such with respect to this or that person.

Fear is furthermore divided into intrinsic and extrinsic by reason of the cause from which it proceeds. Intrinsic fear is that which arises from the intrinsic disposition of the subject himself, namely from each one's own weakness of body or soul. Fear of death excited by a grave illness is intrinsic fear, since it arises, as from a cause, from an infirmity which is in the very subject of the fear. Extrinsic fear is that which is excited by an extrinsic cause, whether this cause is natural or necessary, or whether it is a moral or free cause; as likewise fear of death from shipwreck, or from a robber encountered on the road. Extrinsic fear inflicted by a moral or free cause is subdivided into just and unjust, according as that cause has or does not have the right of inducing fear; as fear induced by a judge or by a highway robber. And whether fear has been inflicted justly or unjustly, such fear can be inflicted simply to obtain something, or to bring in some evil, as in robbers threatening death unless someone gives what he has, or in an enemy likewise threatening death in vengeance; and it can be inflicted in order to extort consent to some certain thing, for example, to betrothals, to marriage, to a contract, etc.

Fear by a special name is called reverential when there is fear lest a superior be offended, or by which someone fears to resist him to whom he is subject, namely father, mother, grandfather, father-in-law, husband, king, master, prelate, tutor, and curator; and likewise an uncle, or cousin, or older brother, if the one suffering the fear dwells with them and receives support from them. "Pontius deservedly says that reverential fear of itself is grave, because it is one thing to operate from reverence owed to a superior, another from reverential fear, which necessarily includes fear of some grave damage imminent from obedience not rendered, for example, long-lasting indignation, etc." L. 1. 3. n. 717. Certainly the indignation of a father, master, etc., is an evil; and if it is long-lasting, it is a grave evil. Therefore, even with other evils excluded, for example beatings, threats, etc., reverential fear of itself is grave. L. 1. 5. n. 20; l. 6. n. 1056; C. H. 1267; C. G. 111, 11112; C. I. 1111 ff.; C. L. 666. "It is one thing to do something with fear, another truly from fear; for the first states concomitance. Hence what is done in that way, although it is absolutely voluntary, nevertheless that voluntary does not arise from fear, but rather is opposed to and conquers the fear itself, which is a sign of a great will: as when Christ the Lord was advancing toward death, fearing it, He embraced it with the highest will, which did not arise from fear of the Father and of men, and therefore conquered natural fear. But to be done from fear signifies that the fear itself induces one to willing or doing something; and then fear is the cause of such voluntary, in the way in which among acts of the will intention is the cause of election, and love of good is the cause of hatred of the opposed evil. For in this way in the present

case, when someone fears death, he determines and intends to flee it; and by force of this decree he chooses this means, for example, to throw goods into the sea, and use or execution follows upon this election. Therefore from first to last fear was the cause exciting and applying the will to that efficacious act by which it commanded that exterior action." Suarez, tr. 2, d. 3, s. 1, n. 6.

Now those things which are done from fear are more voluntary than involuntary; for they are voluntary simply, but involuntary according to a certain respect. For each thing is simply such according as it is in act. But here the act, insofar as it is exercised here and now, is simply willed, because, although such an action considered in itself is not lovable simply, nevertheless here and now it is proposed as absolutely to be chosen, as a suitable means for avoiding a greater evil. Therefore under that notion it is here and now simply voluntary. For judgment concerning the voluntary must be made with the thing considered in particular with all circumstances, and not by abstraction or precision of the intellect. "But that what is done through fear is taken as existing outside this case, insofar as it is repugnant to the will, this is only according to reason, and therefore it is involuntary according to a certain respect, i.e., insofar as it is considered as existing outside this case." "Therefore that which is done through fear is voluntary without qualification, i.e., according as it is actually done; but it is involuntary under a condition, i.e., if such fear were not imminent." S. Th. 1. 2. q. 6. a. 6. "And because acts are in particulars, therefore it is voluntary simply, involuntary according to a certain respect." S. Th. Suppl. q. 47. a. 1; *Quodl.* 5. a. 10; Suarez, tr. 2, d. 3, s. 1, 2.

60. Note: Light fear is not regularly judged a cause of acting, because it can easily be repelled and contemned. Nevertheless sometimes it can well be a cause of acting. And thus a subject, not daring out of reverence to contradict a superior, is determined by him, unwillingly, to acting.

Those things which are done from fear are involuntary according to a certain respect when the thing is evil in itself, but good only in the present circumstances, as is clear in the example given of throwing goods overboard for the merchant, which is evil for him in itself, and good for him in the present circumstance of shipwreck. But if the thing is good in itself, so that it is such even abstracting from the present circumstances, then he who operates from fear can be borne into that thing with a perfect inclination of the will, so that the voluntary simply is had, without at the same time having the involuntary according to a certain respect. And thus one who from supernatural fear of Gehenna wills to abstain from sin has the voluntary simply without an involuntary mixed in, because the observance of the divine law is simply good in itself, even abstracting from that circumstance of fear of divine judgments.

Moreover, "he who wills to keep the precept from fear of hell, if he understands the force of that motive, cannot have a simple contrary affection: I would transgress the precept if there were no punishment; for by this very affection he would sin and incur the guilt of punishment, and consequently would act against his own motive. If therefore he is truly and efficaciously moved by that motive, and understands its force and the quality of his acts, it cannot happen that such an affection be present with that motive." Suarez, tr. 2, d. 3, s. 2, n. 6; L. 1. 6. n. 442, objection II.

61. Do importunate prayers constitute grave fear? - "Pontius, etc., affirms. But more truly it must be denied, unless the prayers are added to fear of reverence toward a superior; thus Sanchez, etc. And Sanchez well notes that not all assiduous prayers are called importunate, but only those which are most urgent and very often inculcated." L. 1. 2. n. 717.

62. Does grave fear excuse from fault? - Either the discussion is of those things which are not intrinsically and of themselves evil, or of those things which are from their nature intrinsically evil, as would be, for example, apostasy from faith, blasphemy against God. If the first, ordinarily speaking, grave fear excuses from all fault, because any positive law is not accustomed to oblige with a grave proportionate inconvenience, as is common. *Ordinarily speaking*, because if someone by grave fear were compelled to the violation of some positive law, which would yield to common harm, or to contempt of legitimate power, or of religion, with grave public scandal, then grave fear would not excuse from fault of transgression. For in the first, the common good must be preferred to private good; but in the second and third, there would already be question of a thing intrinsically evil from its own nature. Nevertheless in this second and third case, if the one suffering, when he violates the law, publicly protests that he does not act thus in contempt of the law or of religion, but only to decline the violence, in the presence of which he declares that law and religion no longer oblige, then, if public scandal ceases, and the aforesaid contempt ceases - which, practically speaking, seems altogether difficult - he would be excused from fault.

If the second, it is certain that fear, however grave, provided it is not such as to take away the use of reason, never excuses from all fault. For those things, since they include intrinsic and essential malice, if they are done voluntarily, can never lack fault. An example is in that Christian who, struck by fear of punishments or even of death, would deny the faith of Christ. Nevertheless it diminishes fault, since it diminishes the voluntary. But, ordinarily speaking, grave fear still leaves such cognition of the things which are done that it suffices for mortal sin. L. 1. 1. n. 175; l. 5. n. 21; S. Th. 2. 2. q. 125. a. 4; Elbel 43-52; Del Vecchio, vol. 1, n. 144.

63. You will resolve: Grave fear, for example of death, etc., often excuses not only from a positive precept, whether divine or human, even ecclesiastical, but sometimes also from an affirmative natural precept. And thus someone is not bound with danger to life to receive baptism, to confess integrally, to receive communion, to preserve a deposit, to fulfill a vow, or to aid a neighbor in extreme necessity of life. On the contrary, to avoid death a priest cannot violate the sacramental seal. Viva, *Opusc. de Act. hum.*, q. 4, a. 4; Lessius, q. 6, a. 6; L. 1. 1. n. 175.

64. Can the will suffer violence besides fear? - Force or violence is the impulse of a greater thing which cannot be repelled. Here it is commonly defined as that which is from an extrinsic principle, while the one who suffers force resists. *While resisting*, and accordingly it is against the inclination of the will, so that the one who suffers force cannot do the contrary, and entirely resists. Therefore two things are required for violence. The first, that it be from an extrinsic principle, because no one can properly be said to inflict violence on himself. Hence the distinction between violence and fear is clear, which can come both from an intrinsic principle, such as, for example, fear of death coming from illness, and from an extrinsic principle, such as, for example, fear of shipwreck, of hell, and of punishments. The second thing required is that the one suffering entirely resist, that is, according to his powers and positively; for if someone were only passive, then indeed he would not contribute to violence by acting, but he would contribute by willing to suffer. Nevertheless resistance altogether absolute and continual against the coercion inflicted is not always required for avoiding fault, namely when on the one hand it would be useless, and on the other on the other hand the matter concerns something less dangerous. Thus the martyrs, when led to pagan temples, did not sin, although they walked. But in every case resistance must be made as much as is required for averting the danger of

scandal or injury to religion. L. 1. 5. n. 15 seq. "As regards the proper act itself of the will (namely, the elicited act), violence cannot be inflicted upon it. And the reason for this is that the act of the will is nothing other than a certain inclination proceeding from an interior principle which knows.... But what is coerced or violent is from an exterior principle." S. Th. 1. 2. q. 6. a. 4. Therefore no one can will unwillingly, because he cannot will while not willing to will. By the hypothesis he would will, and at the same time he would not will, because he would be opposing himself as willing. S. Anselm, *De libero arbitrio*, l. 1, c. 6; L. 1. 5. n. 19. "As regards acts commanded by the will, the will can suffer violence, insofar as the exterior members can be hindered by violence from carrying out the command of the will." S. Th. 1. 2. q. 6. a. 4. The will can likewise suffer violence in the exterior members, even though the command of the will is not properly present, as, for example, if someone is seized against his will, bound hands and feet, cast into prison, etc. And this holds not only as regards the exterior members, but also as regards the interior faculties. For it is clear that the will can command not only the hand, for example, not to sign one's name on the promissory note of a fictitious creditor, and yet that hand, seized by force by him, must sign; but it can also command the intellect to think about and consider some matter, and yet the intellect, distracted, is carried off to thinking about other things; it can command the sensitive appetite to obey reason, and yet that appetite is moved contrary to reason. Likewise an extrinsic cause, for example the devil, can excite phantasms in the imagination against the will, etc. Suarez tr. 2. d. 2; Lessius on q. 6. a. 4; S. Th. 1. 2. q. 80, S. q. 47. a. 2; L. 1. 3. n. 430. 433; E. M.

64 bis. Note: The command of the will is not exercised in the same way over the senses as over the exterior members. When these are found in their normal state, the will exercises perfect command over them, according to their natural power. But as regards the senses and the sensitive appetite, it is not the same. "It must be said," says S. Th. 1. 2. q. 9. a. 3 ad 3, "that, as the Philosopher says, reason, in which the will is, moves by its command the irascible and concupiscible powers; not indeed by despotic rule, as a servant is moved by his master; but by royal or political rule, as free men are governed by one ruling, who nevertheless can move in a contrary direction. Hence both the irascible and the concupiscible can move the will in a contrary direction. And thus nothing prevents the will from sometimes being moved by them."

65. Does violence cause the involuntary? - Violence causes the involuntary as such contrarily. For "violence is directly opposed to the voluntary, as also to the natural. For it is common to the voluntary and the natural that both are from an intrinsic principle. And for this reason, just as in things which lack cognition violence makes something be against nature, so in things that know it makes something be against the will. But what is against nature is said to be unnatural; and similarly what is against the will is said to be involuntary. Hence violence causes the involuntary," S. Th. 1. 2. q. 6. a. 6; violence simply causes the involuntary simply, violence in a qualified sense causes the involuntary in a qualified sense; not indeed as regards elicited acts, but as regards commanded acts. For only as regards commanded acts, and not also as regards elicited acts, can the will suffer violence. S. Th. 1. 2. q. 6. a. 5 ad 1, S. q. 47. a. 1. - E. M.

66. You will resolve: Therefore when some passion is simply violent, namely because someone resists and opposes it by the will in every way he can, it is simply and contrarily involuntary, and therefore not human, nor imputable. But when it is only violent in a qualified sense, namely because it is not sufficiently resisted when it can be repelled or weakened, or because it is not wholly opposed when in

no way can it be repelled or diminished, then the notion of the voluntary is not taken away, and therefore neither is the notion of a human and imputable act; but it is only diminished, according to the greater or lesser force inflicted, and according to the greater or lesser resistance and opposition. Rom. 7:20; S. Aug. *De Civitate Dei* c. 16; L. 1. 3. n. 430. 433, 1. 5. n. 16.

66 bis. Note: "The involuntary is said in two ways, namely through ignorance and through violence. And therefore robbery has one notion of sin, and theft another. Therefore on this account they differ in species.... In other genera of sins the notion of sin is not taken from something involuntary, as it is taken in sins opposed to justice; and therefore where a diverse notion of the involuntary occurs, there is a diverse species of sin." S. Th. 2. 2. q. 66. a. 4. 9.

III. On the Morality of Human Acts

67. What is the division of the treatment of human acts in relation to the end? - We have spoken of human acts in relation to man, who through them orders himself to the ultimate end of human life, or beatitude. We must now speak of the same acts in order to the aforesaid end; or of the morality of those same acts. For the order of human acts to the common end of human life constitutes the moral order, or the morality of human acts. First, however, we must speak generally of morality itself; then of the various sources of this morality in human acts. S. Th. 1. 2. q. 21. a. 2 ad 2.

68. What is the generic and specific notion of the morality of human acts? - *Moral* is said from *mos*, which is a repeated mode of acting in free acts. Hence a moral act and a free, human, voluntary act are the same in reality, but not in notion. For morality adds to a free, human, voluntary act a relation or bearing toward the rule and norm directing it; and this norm, namely the supreme norm, is the end, the ultimate end of the whole of human life. Therefore human acts can be considered either generically, all of them, or specifically, these or those. If they are considered generically, insofar as they are human acts, they are capable of leading man to the end, namely to the ultimate end, in whose possession happiness and beatitude and his full perfection consist. For through them man orders and leads himself to the end. S. Th. 1. 2. q. 1. a. 1. 2; q. 2. a. 2.

If they are considered specifically as these or those acts, insofar as they are such acts, they actually order and lead, or do not, to the end, according as they are or are not conformed to the end. And thus, for example, knowledge of God, love of God, by their nature order and lead man to the end; ignorance of God, hatred of God, by their nature turn man away from and remove him from the end. If human acts are regarded in the first way, generally, they are called moral. If, in the second way, they are considered as constituted in a particular species, they are called morally good or evil, honorable or shameful. "Good and evil," says S. Th. 1. 2. q. 18. a. 5, "diversify the species in moral acts." Therefore morality constitutes the genus; goodness or malice the species.

69. What is the adequate nature of morality? - By morality is commonly understood the bearing of human acts toward their proper norm and rule, according to which they are ordered and directed. And thus also commonly, the genus being taken for the species, acts are distinguished as moral and immoral, to designate upright human acts and voluntary acts deficient from their proper rectitude. Now morality, according to its primary and fundamental concept, considered generically, can be defined as: the capacity which human actions have in themselves to be good or evil in order to the end of creation, that is, to be conformable or suitable, or not, for attaining this end; but considered

specifically, it is the notion of conformity or deformity which human actions have in themselves in order to the end of creation, as means to the end, namely insofar as they are suitable or unsuitable to lead man, or not, to his end.

For by the morality of human acts is commonly understood the notion of rectitude or non-rectitude of those same human acts; and since human acts are means to the common end of human life, the end is the rule and measure of that rectitude or non-rectitude. "Rectitude of the will... is nothing other than the due order of the will to the ultimate end." S. Th. 1. 2. q. 5. a. 7; *Ethic.* l. 6, lect. 2.

Again, by morality is understood that acts are according to reason or apart from reason: now reason manifests this and dictates that this is to be followed in human acts, namely that the end of creation is to be attained by acts congruent and conformable to it. Likewise by moral goodness or malice is commonly understood that human acts are ordered to that end, are according to right reason ordering one's proper acts to the aforesaid end, or apart from this right reason. Hence the goodness of acts exists insofar as they are useful for man's end. S. Th. 1. 2. q. 7. a. 2, a. 4 ad 2. And consequently from that end, and from the object ordered or not ordered to that end, the human act is constituted in the species of a morally good act or a morally evil act. S. Thomas 2. 2. q. 153. a. 2.

According to its primary and fundamental concept; for proximately and formally that conformity or suitability, deformity or unsuitability, is only from law, which is manifested through right reason. For by the very fact that law commands something to be done or omitted, it formally and proximately constitutes that thing in the notion of a means in order to attaining the end, the use of such a means producing an obligation in conscience. Hence rightly S. Alph. 1. 5. n. 3. 4 says: "The moral goodness of a human act consists in a certain conformity and suitability of the free act with right reason and law." S. Th. q. 18. 19. 20; Suarez tr. 3. d. 1, d. 2. s. 1. 2, d. 3. s. 2. 3, d. 7. s. 1-6, d. 10, d. 11.

"In those things," says S. Th., "which are done through the will, the proximate rule is human reason, but the supreme rule is eternal law.... Every voluntary act is evil by the fact that it departs from the order of reason and of eternal law. Hence it follows that a human act, by the fact that it is good or evil, has the notion of rectitude or of sin." 1. 2. q. 21. a. 1. "The rule of the human will is twofold: one proximate and homogeneous, namely human reason; the other is the first rule, namely eternal law, which is, as it were, the reason of God." 1. 2. q. 71. a. 6. "It must be said," says S. Th. 1. 2. q. 19. a. 4, "that in all ordered causes, the effect depends more on the first cause than on the second cause, because the second cause acts only in virtue of the first cause.

But the fact that human reason is the rule of the human will, by which its goodness is measured, it has from eternal law, which is divine reason. Hence in Ps. 4 it is said: Many say, Who shows us good things? The light of thy countenance, O Lord, is signed upon us: as if he were saying: the light of reason which is in us can show us good things and regulate our will insofar as it is the light of thy countenance, that is, derived from thy countenance. Hence it is manifest that the goodness of the human will depends much more on eternal law than on human reason." On human reason.

For since eternal law is unknown to us according as it is in the divine mind, yet becomes known to us through natural reason, hence reason itself too is a rule and norm of human acts, and indeed the proximate one, as presenting immediately to the will good or evil according to eternal law. But this proximate rule is subjective, merely proposing the object; law is the proximate objective rule, constituting rectitude. But what is said of eternal law must be understood of any law whatever: since

any law is an ordinance of reason, constituting the order and rectitude of human acts to the end; nor indeed are all human acts commanded or prohibited by eternal law itself.

Hence many human acts are commanded or prohibited only by positive law; and thus they are proximately and formally constituted in the notion of a necessary means to the end. Laws, "if indeed they are just, have the power of obliging in the forum of conscience from eternal law, from which they are derived, according to that saying of Prov. 8:15, By me kings reign and lawgivers decree just things." S. Th. 1. 2. q. 96. a. 4. - Lugo *De Incarn.* d. 5. n. 75; Less. *De Perfect. divin.* l. 13. c. 26; E. M. Wherefore "he who sins acts both against reason, and against human law, and against divine law." S. Th. 1. 2. q. 87. a. 1; and "that is licit which is prohibited by no law." S. Th. 4. D. 15. q. 2. a. 4. Wirceburg. c. 3. art. 3. 4. 5; E. M. 6. 69. 79.

70. Is the twofold assigned rule of morality universal? - The remote and fundamental norm of morality, namely man's ultimate end, embraces all human acts; otherwise it would no longer be the remote and fundamental rule of morality. The reason is evident, because all human acts are means to the end of the whole of human life. Yet not all have the same bearing toward this end; for some are ordered per se, namely by their intrinsic nature ordered to this end, as, for example, knowledge and love of God, love of neighbor, justice to be observed toward others, etc.; and these acts are called intrinsically good, and because they are good, namely intimately and necessarily consonant with the order of reason, therefore they are then commanded by the natural law. Others, on the contrary, are per se opposed, or by their intrinsic nature discordant from the common end of human life, as, for example, blasphemy, perjury, sacrilege, theft, etc.; and these acts are called intrinsically evil, and because they are evil, namely intimately and necessarily discordant from the order of reason, therefore they are then prohibited by the natural law. Finally there are acts which per se, or by their intrinsic nature, are not necessarily connected with the aforesaid end, and consequently with the order of reason, as, for example, to converse with a friend, to go into the country, etc.; and these acts are called intrinsically indifferent. Therefore by the necessity of attaining the end these acts neither must necessarily be placed, nor must necessarily be omitted; but if someone freely wishes to place them, he certainly must exercise them in such a way, by the very necessity of attaining the end, that he does not withdraw from the end, but always tends toward the end, since for this reason nature itself gave man the faculty of acting freely, that through free action he might lead himself to the end. Hence by the very fact that the act, namely the act in the concrete, is not opposed to the end, it is already at least in some way consonant with the end, and morally good. S. Th. 2. D. 40. q. 1. a. 5.

Likewise the proximate and formal rule, namely law, embraces all human acts: for it commands some, prohibits others; but those which it neither commands nor prohibits, but permits either positively or negatively, must, by the same commanding law, be performed in such a way that they are not opposed to the order and rectitude of reason; and thus acts of this kind are by that very fact morally good, since, if in effecting them the order of reason is observed, they are already suitable to reason, and morally good and honorable. E. M. 6. 69. 79.

You will resolve: 1. And from this it is clear what the order and rectitude of reason signifies, namely it imports the proportion of the means to the end, which reason does not make, but knows and proposes to the will. And thus A. D. says that moral good is that which is suitable to the order of reason; likewise honorable good, that which is suitable to the rectitude of reason. S. Th. 1. 2. q. 18. a.

8; q. 39. a. 2. The rectitude of human acts exists according as the human will is regulated by the divine will, S. Th. 1. p. q. 63. a. 1, or according as it has order to the end, 1. 2. q. 7. a. 2.

2. Therefore it must be concluded that those things are morally good or evil which are suitable to rational nature and to law, or unsuitable to it, in order to the ultimate end, to which the same nature is destined. Nor indeed is it necessary that they be informed by the motive of charity, or even that they be referred to God from a supernatural motive. E. M. 7. 54. 58. 69. 75. 79. - Likewise it must be concluded that it is wholly erroneous to assign as the supreme rule of human actions either human nature itself or even human reason itself, whose part is only to manifest the rule. For otherwise, if human reason itself were the rule of rectitude, it certainly could never decline from it. S. Th. 1. p. q. 63. a. 1.

71. Whether morality, or moral goodness or malice, is found only in the interior act of the will, or also in the exterior act? - Morality formally is only in the interior, free act of the will; materially, however, it is only also in the exterior act. For a twofold moral goodness or malice can be distinguished in the exterior act. First, the objective moral goodness or malice of the exterior act can be considered, which that act has of itself, namely from its proper object and circumstances, by which it is objectively affected, according to the right order of reason. Goodness or malice of this kind, which the exterior act has in itself because of due or undue matter and due or undue circumstances, is derived from reason, according as that object and those circumstances exhibit the rectitude of reason or a deviation from the right order of reason. This objective goodness or malice of the exterior act is prior to the goodness or malice of the act of the will. And thus the exterior act is the object of the will, insofar as it is proposed to the will by reason as a certain good apprehended and ordered by reason, or as departing from this order; and it causes moral goodness or malice in the will.

Second, moral goodness or malice can be considered in the exterior act in order to the end, according as this exterior act stands under the interior act of the will. For the end is the proper object of the will. And thus the notion of good or evil which the exterior act has from order to the end is found first in the act of the will, and is derived from it to the exterior act. Moreover, insofar as the exterior act consists in the execution of the work, it is an effect of the will and follows the will. The will is then compared to the exterior act as an efficient cause; hence the moral goodness or malice of the act of the will is the form of the exterior act, as existing in the acting cause, S. Th. 1. 2. q. 20. a. 1. Therefore "the goodness of the end redounds from the will into the exterior act, and the goodness of the matter and circumstances redounds into the act of the will," S. Th. 1. 2. q. 20. a. 3.

Now the exterior act and the interior act of the will, as they are considered in the genus of morals, are one human act, ib. If the human act is considered adequately in this way, the formal moral goodness or malice of the human act is intrinsically only in the interior act of the will, but in the exterior act only by extrinsic denomination. For the morality of a human act, formally considered, is found only in a free act, and freedom formally is only in the will. Likewise formal moral goodness is from order to the end, which is the proper object of the will, q. 20. a. 1. Hence it is clear that in the exterior act moral goodness of this kind, which is according to order to the end, depends wholly on the will, ib. a. 2.

But that "goodness of the exterior act which it has from matter and circumstances is other than the goodness which is from the end; it is not, however, other than the goodness of the will which it has

from the very act willed, but is compared to it as its reason and cause," q. 20. a. 4 ad 2. This is confirmed, "for however much the exterior act may seem good in itself and conformable to reason, nevertheless if it is commanded by an evil internal act or depraved intention and election, it is not good insofar as it is a human act. Therefore this is a sign that in the notion of a human act it is good only by denomination from the interior act. A similar argument is this: because the exterior act precisely and taken in itself does not add formal moral goodness to a man, nor render him more virtuous. For if we understand someone who, thinking that he can execute the exterior act of virtue, has an efficacious will to exercise such an act, he is upright and virtuous, whether he can really execute it or not, because virtue does not depend on a faculty which can be lacking to us unwillingly, but on the will, supposing that the will is equal.... This doctrine concerning external acts proceeds in the same way in acts of the intellect and of the sensitive appetite." Suarez tr. 3. d. 10, s. 1. n. 6. 11. "What is clearer than that the will is reputed as the deed, where necessity excludes the deed?" S. Bernard Ep. 77; Gen. 22:16; Matt. 5:28. The will, namely a will efficacious of itself. E. M. 6. 71. 72.

72. Does the external act add morality in some way to the internal act? "It must be said first, that the exterior act of itself does not bear an increase of goodness or malice, if the other things are equal, in the interior act. Thus D. Th. 1. 2. q. 20. a. 4.... because the exterior act does not have a goodness distinct from the interior, and necessarily follows from it if it is in our power; but if it is not in our power, it does not diminish the goodness of the will.... Second, it must be said that external action is sometimes necessary for the goodness of the will, or for such goodness.... For when it is in man's power to execute an external action, he cannot have a perfect interior will unless he executes the exterior action, because the exterior act is the term and end of the interior, and because an absolutely perfect will is one that acts when it can.... Third, it must be said that accidentally the exterior act can increase goodness or malice simply.... For 1. because of the exterior act a man often endures and perseveres more in the interior act; indeed he often multiplies interior acts, and in this way it is morally worse to kill. 2. Because the exterior action itself both kindles the affection, and thus contributes to the interior act, in the way in which vocal prayer is accustomed to contribute to interior devotion. 3. External actions are useful for moderating the passions and habituating the body, so that it may more easily serve justice.... It must also be added that good external acts are useful for the effect of satisfaction for temporal punishment due for sin, because satisfaction is taken not only from goodness, but especially from the penal character of the act; but the exterior act of itself brings its own pain and sorrow. Finally it must be added that exterior acts are necessary for certain effects of grace, which are conferred either *ex opere operato*, or from a special privilege; such as are the effects of the sacraments and the effects of martyrdom, and any others that are similar, because, since these effects do not depend on the mind alone of the one acting, they have been promised to one exercising such a work not only in affection, but also in effect; and in the same way on the contrary, evil external acts, or even their effects, are necessary for incurring certain punishments or censures, which are not incurred by the internal act alone." Suarez tr. 3. d. 10. s. 2. n. 2. 3. 4. 6; Wirceburg. c. 3. a. 1; L. 1. 2. n. 42; S. Th. 1. 2. q. 13. a. 5 ad 1, q. 20. a. 5, 2. D. 40. a. 3; E. M. 71. 72.

73. Can the same exterior act be good and evil? - "It must be said that nothing prevents something from being one according as it is in one genus, and multiple according as it is referred to another genus.... And according to this nothing prevents some act from being one according as it is referred to the genus of nature, which nevertheless is not one according as it is referred to the genus of

morals.... For continuous walking is one act according to the genus of nature; yet it can happen that there are many according to the genus of morals, if the will of the walker is changed, which is the principle of moral acts. Therefore if one act is taken as it is in the genus of morals, it is impossible that it be good and evil by moral goodness and malice; and yet if it is one by the unity of nature and not by the unity of morals, it can be good and evil." S. Th. 1. 2. q. 20. a. 6.

74. Are there indifferent human acts, that is, acts which are neither morally good nor morally evil, neither honorable nor shameful? - If human acts are considered in the abstract, or according to their species, which they have intrinsically from their proper object, abstraction being made from the end and from determining circumstances, then there certainly are indifferent acts, namely those which from their species are neither evil nor good, just as man considered in himself, or according to his species, is neither virtuous nor vicious. And the reason is that every object has some goodness or malice, at least natural; yet it does not always import moral goodness or malice, which is considered by comparison to the order, namely of reason. For not every object of a human act includes something pertaining to this order of reason: indeed not all actions are per se necessarily connected with the ultimate end, nor are all commanded or prohibited by law, but many are merely permitted, such as to walk, to go into the field, to lift a straw from the ground, and the like. Therefore such acts according to their species are indifferent. S. Th. 1. 2. q. 18. a. 8.

But if human acts are considered in the individual, or concretely, namely according as they are determined both by particular circumstances and by the end, the Scotists affirm that indifferent acts are given in the individual. The reason is that no certain law commands that they be directed to the ultimate end of human life, namely God, nor that one always act from a higher motive of honorableness and virtue; but, given human frailty and weakness, God himself permits man to act from this very weakness and frailty for the necessity and convenience of nature itself, as, for example, sometimes to eat more sumptuously, to arrange banquets, to be refreshed by the sight of the sky, the field, etc. Therefore these and other similar actions can be exercised from a merely indifferent end. And the same should be said of a greater good which is often omitted; this omission is neither good nor evil, but indifferent. From this, however, it follows that there are human acts which are not moral.

The Thomists, on the contrary, deny that there are indifferent acts in the individual, and more truly. The reason is that either someone does a thing necessary, useful, suitable to rational nature, namely to the soul, the body, or external things ordered to both; or he does a thing wholly useless and idle. If the first, this action tends to an end naturally good, and is good. If the second, he does a thing unsuitable to rational nature, as being at least superfluous; for reason dictates that entities are not to be multiplied without necessity, or utility, or some suitability. Besides, since it is proper to reason to direct and order to a due end human acts which are done from deliberation, either a human act is actually ordered to the due end, and has the notion of good, or it is not ordered to the due end, and then by this very fact it is opposed to right reason, and has the notion of evil. Certainly the indifferent will cannot pursue something indifferent, but good, either according to reason or according to sense. From this it follows that there are no human acts which are not at the same time moral. "For moral acts and human acts are the same." S. Th. 1. 2. q. 1. a. 3, 2. D. 40. q. 1. a. 5; Suarez tr. 3. d. 9. s. 3.

And from the reason adduced it is brilliantly clear that those indifferent acts of the Scotists are not really such, but are morally honorable; for if they are done because of necessity, utility, suitability, they are according to the order of reason, and consequently morally honorable. Indeed both to eat more sumptuously at times, and to arrange banquets, and to be refreshed in mind and body, are acts according to reason, if these things are kept within due limits. Therefore those acts are truly done from the motive of honorableness and virtue, although they are done from natural frailty, necessity, utility, suitability: since honorableness and virtue consist in this, that the rectitude of reason be preserved. They are moreover also ordered to God, at least implicitly, although not explicitly, as we shall explain more shortly, since by the very fact that they are according to reason and good, they are referred to God by their own nature. Therefore the omission also of a greater good, which takes place because of the good work which someone does, with no evil circumstance mixed with it, is not evil, nor is it indifferent; but good. "And he who joins his virgin in marriage does well; and he who does not join her does better." 1 Cor. 7:38. Good, namely if someone, acting well, adverts to the aforesaid omission; otherwise it is neither a human act nor moral, consequently. S. Th. 1. 2. q. 18. a. 9, q. 24. a. 2, q. 39. a. 2, 2. 2. q. 23. a. 3, q. 141. a. 6 ad 2, q. 145. a. 1. 3, q. 168. a. 3 ad 3, q. 169. a. 1 ad 1, S. q. 49. a. 2 ad 6; L. tr. *De Act. hum.* XLI seq.; Wirceburg. c. 3. a. 2; E. M.

75. Is it necessary for the moral goodness of human acts to direct all actions to the glory of God; and do human acts, insofar as they are good or evil, have the notion of merit or demerit before God? - R. To the 1st: The more common and truer opinion affirms it. The reason is most clearly evident from what has been said; since every moral action, in order that it be good, must tend to the ultimate end and be ordered to it by reason. But if a human action tends and is ordered to the ultimate end, it is already directed to the glory of God. Therefore it is as necessary to direct all actions to the glory of God as it is necessary for them to be morally good. "The goodness of the will depends on the intention of the end: but the ultimate end of the human will is the highest good, which is God. Therefore it is required for the goodness of the human will that it be ordered to the highest good." S. Th. 1. 2. q. 19. a. 9. "The whole that man is, and what he can and has, must be ordered to God." S. Th. 1. 2. q. 22. a. 4 ad 3. - 1 Cor. 10:31.

Hence it is enough to direct them to God virtually on the part of the work, or by the very act exercised, namely by acting for the end of some virtue, or for what is honorable and consonant with rational nature; for such an act tends to the glory of God from its intrinsic nature. To the point S. Th. 1. 2. q. 8. a. 3 ad 2: "Whenever someone wills those things which are for the end, he wills the end by the same act; but not conversely." And q. 21. a. 4: "He who does an evil act not referable to God does not preserve the honor of God which is due to the ultimate end." Cajetan on the same q. 8. a. 3: "one who always seeks what is for the end seeks the end, not habitually, but actually, as actually extends itself to virtually. For virtually to use something is within the breadth of actual use; otherwise that precept would never be fulfilled: Do all things for the glory of God; for to do imports to operate actually."

Much more, moreover, is it enough to direct all actions to God virtually on the part of the one operating himself, who by an act of charity has ordered his whole life to God and remains in habitual charity. Cajetan says this on 1. 2. q. 8. a. 3: "Between the movement of the will toward something habitually and actually, there is the middle movement of the will toward it virtually.... For when one having charity sins venially, he indeed habitually loves God, but not actually, as is clear, nor virtually,

because sin is not directable to God. But when one having charity walks or preaches, and whatever else he does not do evilly, although he does not actually think of God, nevertheless that act is not only an act of such virtue, but of charity, and the will then is borne virtually toward God, and not only habitually, which belongs to one sleeping and to one sinning venially." S. Th. 2. D. 10. q. 1, a. 5; E. M.

R. To the 2nd: A human act has the notion of laudable or blameworthy, or of fault, from the fact that it is from the power of free will: "For to be praised or blamed is nothing other than to impute to someone the malice or goodness of his act." S. Th. 1. 2. q. 21. a. 2. It has the notion of good or evil from the fact that it is suitable or unsuitable to right reason. It has the notion of rectitude from the fact that it has order to the end. It has the notion of honorable or of sin from the fact that it is conformable or deformable to law. Finally it has the notion of merit or demerit according to the retribution of justice toward another, from the fact that it is performed in service of another. Retribution is made to someone from the fact that he acts for the advancement or harm of another. By giving something from those things which are in our dominion, we acquire for ourselves a certain right to receive something from another's. S. Th. *De Verit*. q. 29. a. 6. Therefore from the fact that a human act is referred to God as to the ultimate end, and consequently promotes his honor and glory, and God is the governor and ruler of the whole universe, to whom it belongs to make retribution for those things which are done well or badly in it, human acts have before God the notion of natural merit or demerit. For a human act considered precisely according to its moral goodness, in the present order of divine providence, is not formally meritorious of grace and eternal life; for grace is necessary for supernatural merit, by which it is elevated to a supernatural condition. Materially, however, such an act is capable of becoming meritorious of supernatural reward, presupposing divine ordination and grace being added. For if these are removed, there is had only natural merit toward a merely natural reward, from the fact that good works yield to God's service. S. Th. 1. 2. q. 5. a. 7, q. 21. a. 2. 3. 4, q. 114. a. 1. 2; Wirceburg. c. 3. a. 3; E. M. 75. 89.

IV. On the Various Sources of Morality

76. What are the sources of morality? - As has already been said, the morality of human acts, and their moral goodness or malice, is from a bearing toward the ultimate end of human life and law, from suitability or unsuitability with that same end and law. Now this bearing, this suitability or unsuitability, in a human act which is completed by an exterior act, is derived from the exterior act and from the end of the will, as was indicated in n. 71. But a human act is not always perfected by an exterior act, but is often contained in a merely internal act.

Hence generally the aforesaid bearing toward the end can arise from a threefold head, namely from the end of the same act, from its object, and from the circumstances, which are also brought back to the object. For this reason it is commonly said that the human act takes its moral goodness or malice from this threefold head; namely particular, specific, and individual goodness or malice. For not all good acts are in the same species, nor likewise are all evil acts in the same species. Moreover, the object, the circumstances, and the end can have an order and a diverse order to man's ultimate end and to law. But in this order of human acts to the ultimate end and law, morality consists. Here the question concerns only the morality of human acts, and not their supernaturality and merit before God. Hence for their goodness, besides a good object, end, and circumstances, neither the motive of faith nor charity and grace is required. E. M. 6.

77. What is an end, and how manyfold is it? - By end here is properly understood that which the agent further intends through such or such an act, as the reason on account of which he acts. This is that end which is called the end of the one acting, and it is an end extrinsic to the act. "It must be said," says S. Th. 2. D. 36. q. un. a. 5 ad 5, "that some act has a twofold end, namely the proximate end, which is its object, and the remote end, which the agent intends." But if the agent does not intend another end diverse from the intrinsic end itself of the action which he does, then the end of the one acting coincides with the end of the work, as appears in one who wishes to steal in order to steal, that is, in order to become rich from another's goods. The intrinsic end of the work cannot be wholly excluded by the one acting if he knows the nature of the work, for that end is intrinsic to the work. And thus if someone blasphemes the divine Name, he cannot exclude the injury inflicted on God. Hence what the uneducated say is of no force, namely that they blasphemed God not to inflict injury on God and to sin, but for mere relief; that they fornicated not in order to sin, but to experience natural pleasure. Yet sometimes the one acting can by his intention exclude the very moral exterior action, when it depends on this, for example, if someone goes to church not to hear Mass, but so that he can commit theft.

The end of the one acting can be considered in two ways: 1. with respect to the intention of the will, that is, with respect to the act of the will intending it; 2. with respect to the act itself which is commanded as a means to that end. Under the first consideration, the end is properly the object of the will, indeed the chief object, since the end is that which moves the will to the means. Under the second consideration, the end is a mere circumstance of the commanded act, and thus it is usually numbered among the circumstances. He who steals, for example, in order to commit adultery, chiefly wills adultery; this he intends and efficaciously procures. And from this adultery comes the principal malice of the will. But the act commanded for that reason by the will of adultery, namely theft, for example, has the substantial malice proper to itself from its proper object, that is, from taking another's property against the owner's will; but that it is referred extrinsically by the one acting to such or such an end is altogether accidental to it, not from its own nature, but from the choice of the one acting.

Therefore the end which is a circumstance of the act is not the end of the work itself, which gives species to the act, but some joined end; just as that the brave man acts bravely on account of the good of fortitude is not a circumstance; but if he acts bravely for the liberation of the city, or for Christ, or something of this sort. S. Th. 1. 2. q. 7. a. 3 ad 3, q. 18. a. 6 ad 2. The intrinsic end is always the proximate end, as is clear; but the extrinsic end can be proximate and remote and ultimate. The proximate is what is immediately intended, the remote what is intended mediately, the ultimate that in which one rests.

78. Is there one sole end of a human action? - "The same act numerically, according as it proceeds once from the agent, is not ordered except to one proximate end, from which it has its species; but it can be ordered to several remote ends, of which one is the end of another." S. Th. 1. 2. q. 1. a. 3 ad 3. According as it proceeds once from the agent: for there can be several ends of the act according as it is continued and repeated; for example, to take another's property so that someone may grow rich from another's; to retain another's property, or to take it again, so that it may be preserved for the owner. To one proximate end, that is, of the act or work itself. Cf. S. Th. 2. 2. q. 66. a. 4 ad 2. From which it has species: for there can be several ends, even proximate ends, of the work, of one and the

same act, but one is the primary end of the work, from which there is, as it were, the substantial species of the act; the others are accidental and rather take on the nature of circumstances. Thus, for example, if someone undertakes a pilgrimage in order to celebrate Mass in the Sanctuary of the Most Sacred Heart of Jesus, the sacrifice of the Mass is the proximate end of the work, from which the celebration of Mass itself intrinsically takes its species; but to celebrate in that Sanctuary in honor of the Most Sacred Heart of Jesus is also the proximate end of the work of the celebration itself, but as a certain extrinsic circumstance, not giving species to the act, namely the first species, or substantial species of the act. S. Th. 1. 2. q. 18. a. 2, a. 7 ad 1.

Therefore it is possible "that one act according to the species of nature be ordered to diverse ends of the will. Just as this very thing, to kill a man, which is the same according to the species of nature, can be ordered as to an end to the preservation of justice and to satisfying anger (either by the same person in diverse acts, or by diverse persons). And from this there will be diverse acts according to the species of morals, because in one way it will be an act of virtue, in another way an act of vice. But moral ends are accidental to a natural thing; and conversely the notion of a natural end is accidental to the moral; and therefore nothing prevents acts which are the same according to the species of nature from being diverse according to the species of morals, and conversely." S. Th. 1. 2. q. 1. a. 3 ad 3.

The end, whether proximate or remote, of the one acting, to which the act of the will is ordered, can itself give a moral species to the act. And if it is the ultimate end in some series, it is that which most especially gives species to the act, because it is prior in intention, and all other ends depend upon it, since all those others are subordinated. And thus he who commits adultery in order to steal, and steals in order to commit homicide, is rather a homicide than an adulterer and a thief: because homicide is the formal and motive reason of the other acts. "When many acts differing in species are ordered to one end, there is indeed diversity of species on the part of the exterior acts, but unity of species on the part of the interior act." S. Th. 1. 2. q. 18. a. 6. The end, whether proximate or remote, of the one acting can be multiple, and indeed primary; for example, if someone goes to the house of an enemy in order to kill him and at the same time steal his goods, and is determined to go even though he can accomplish only one or the other in act. Primary is that which moves and determines to the act. It is therefore distinguished from the secondary, which only impels to the act and by itself alone does not suffice to move efficaciously to acting.

79. Does a human action take goodness and species from the end; and does this differ from the goodness and species which is taken from the object? - R. To the 1st: "The end is the most principal cause of the act, insofar as it moves the agent to acting; hence also the moral act has species especially from the end." S. Th. 1. 2. q. 7. a. 4, q. 1. a. 2. 3; Matt. 6:1. 2. 22.

To the 2nd: "The end is the object of the will, but not of the other powers. Hence, as regards the act of the will, the goodness which is from the object does not differ from the goodness which is from the end, as it does in acts of the other powers; unless perhaps accidentally according as the end depends on the end and the will on the will"; S. Th. 1. 2. q. 19. a. 2 ad 1, namely when several ends per se subordinated and willed are present together, as when someone wills curative medicine for the sake of entering military service, for the sake of victory: the formal goodness of the object, say, to be healthy, differs from the goodness of another end, say, of military service; and when the will of one end, say adultery, depends on the will of another end, say theft, as when someone wills to commit

adultery in order to steal, the malice also of the object, say adultery, differs from the malice of the end, say theft. But both are accidental; for it is accidental to the end that it be subordinated to another, and it is also accidental to the will that it depend on another, otherwise this would belong to every end and every volition. Cajetan on this place.

Moreover, a human act is human insofar as it is voluntary. But in a voluntary act a twofold act is found: the interior act of the will and the exterior act. And each of these has its own proper object. "But the end is properly the object of the will. That about which the exterior action is concerned is its object. Therefore, just as the exterior act receives species from the object about which it is concerned, so the interior act of the will receives species from the end as from its proper object. But that which is on the part of the will is related as formal to that which is on the part of the exterior act, because the will uses the members for acting as instruments; nor do exterior acts have the notion of morality except insofar as they are voluntary. And therefore the species of a human act is considered formally according to the end, but materially according to the object of the exterior act. Hence the Philosopher says that he who steals in order to commit adultery is, speaking per se, more an adulterer than a thief." S. Th. 1. 2. q. 18. a. 6. For adultery is first intended and more voluntary than theft, which is chosen only as a means to it. Yet the primary species of the work is theft rather than adultery, for that is taken from the object. And thus also he who gives alms in order to satisfy God for his sins is rather penitent and just than merciful; but that action of distributing alms is rather a work of mercy than of penance and justice. S. Th. 2. D. 38. q. 1. a. 4 ad 4; Wirceburg. c. 3. a. 1; E. M.

80. Can the intention of an extrinsic end intrinsically change the nature of the exterior work? - R. Negatively. The reason is: 1. Because the intrinsic nature of things cannot be changed. 2. Because the intention of the one acting adds nothing to the work; indeed it does not even touch it, since it is wholly extrinsic to it. - Therefore our good intention cannot render an evil work good, nor can our evil intention render evil what is good, nor intrinsically transfer what is evil into another species of malice.

But this does not prevent, as is clear, that where the question concerns an object indifferent of itself, the extrinsic end of the one acting can confer moral goodness or malice. For this is not to change the intrinsic nature of the exterior work itself, but to determine its intrinsic indifference, insofar as it is a human work; and in morals this determination is only from intention. And thus, although the depraved intention of a judge to harm the accused cannot intrinsically change the nature of a just sentence and constitute it an unjust damaging, nevertheless the intention of taking another's property determines the very taking, according as someone takes another's property in order to preserve it for its owner, or in order to take it for himself and steal. - L. 1. 3. n. 584. 636.

81. Is an act good if it has a twofold end, one good, the other evil? - R. Affirmatively, if the evil end relates itself merely antecedently or consequently, that is, merely precedes the whole act or accedes to an act already preexisting, or even if it relates itself merely concomitantly, that is, contributes nothing to the being of the act itself, but is only joined to it. The reason is that then it is wholly extrinsic to the act constituted in its whole being. For it is not the reason on account of which the act itself is done, but is only the reason of another act, for example, of a certain simple complacency which precedes, accompanies, or follows the deliberate act. But this simple complacency can exercise its own influence even without infecting the act, so that someone may be moved more easily to a good

act, for example, if almsgiving were proposed to someone as contributing to eternal life, and to this were joined a simple complacency in the esteem to be had thereby among men. S. Th. 1. 2. q. 19. a. 7.

R. Negatively, if the evil end relates itself truly causatively, and influences the substance of the act. The reason is that then someone wills the good at least inadequately under the notion of evil, which is to will evil. "For the will to be good, it is required that it be of good under the notion of good, that is, that it will the good and on account of the good." S. Th. l. c. ad 3. Except unless the end is only lightly evil, and is not the primary end, and not even inadequately the end moving and determining. The reason is that then the only lightly evil and secondary end, merely impelling, does not influence the substantial being itself of the act, but the extrinsic accidental being of the act; and therefore the whole substance of the act remains good. And thus almsgiving will be good, even if a light ostentation has extrinsically crept into that act and truly influenced it, so that someone gave it more promptly and easily, in such a way that there is a multiple act in the genus of morals, although one in the genus of nature. This, as is clear, falls back into the preceding case. Nevertheless there are not lacking those who hold that one and the same act can be at once substantially good and lightly evil. Yet this appears difficult; for then there could be an act not only morally good as to its substance, but even supernatural, which nevertheless would be lightly evil and displeasing to God. Cf. 73. - S. Th. 1. 2. q. 18. a. 4 ad 3; Suarez d. 8. s. 1. n. 14 seq.

82. Does he sin who acts for the sake of delight? - R. Affirmatively, if he acts for the sake of delight alone, namely by positively excluding the further honorable end of the work; and this sin, speaking per se, does not exceed venial sin. Negatively, if he simply acts for the sake of delight. The reason of the first is that delight is for the sake of operation, not conversely, namely so that man may be enticed to the operations necessary or useful to human life. Therefore delight is not the end of action, "but a means for exercising the action more constantly, more easily, better." S. Th. 1. 2. q. 4. a. 2. Confirmed from prop. 8, condemned by Innoc. IX. The reason of the second is that since delight is not evil of itself, but good, unless someone constitutes his ultimate end in it, which without doubt would be grave, there is no grave disorder in human action. The reason of the third is that delight is not evil of itself, but good, and it is consonant with the very order of nature that man be enticed by delight to operating. S. Th. C. G. l. 3. c. 26. n. 6. 7. Therefore if someone, although he expressly thinks nothing about a further honorable end, is moved by delight to an action which he apprehends as consonant with nature, or in which he finds nothing contrary to the order of reason, for example, to taking food, playing, etc., he does not sin at all.

S. Th. 2. 2. q. 141. a. 1 ad 1; E. M. Although he expressly thinks nothing about a further honorable end, for example, about the preservation of his own life by eating and drinking. For to act honorably it suffices that someone apprehend the act as licit, or, what is the same, that he not apprehend it as illicit. For by willing an act consonant with reason he implicitly wills all those things on account of which that act is suitable to reason, although he does not expressly think about them, indeed even if he is ignorant of them.

83. What is understood by object? - By the object of a human act is not understood here whatever is proposed to the will; for in this way both the end and the circumstances would also be its object. Rather, it is understood as that thing which someone immediately or directly and per se wills. The object is not considered here physically, namely as it is some existing thing. About the same object physically considered, moral acts diverse in species can be concerned. And thus, for example,

concerning the same wife there can be an honorable conjugal act and a shameful act of adultery. The object is considered here morally, namely as it stands under the rule of morals, or under law commanding, prohibiting, permitting. And thus the object of theft is not another's property precisely insofar as it is a thing, but insofar as right reason forbids that it be taken away against the owner's will. Hence A. D. says 1. 2. q. 19. a. 2 ad 3: "it must be said that the good is represented by reason to the will as object, and insofar as it falls under the order of reason it pertains to the genus of morals and causes moral goodness in the act of the will." S. Th. q. 18. a. 5, S. q. 41. a. 3 ad 5.

84. Do human acts take moral goodness or malice from the object? - R. Affirmatively. The reason is that acts are intrinsically specified from the object. For the object is said to be that which we will. That which we will; not, to whom we will. Therefore as they have species from the object, so they also have goodness and malice. "The good and evil of an action," says S. Th. 1. 2. q. 18. a. 2, "as also of other things, is considered from the fullness of being, or from its defect. But the first thing that seems to pertain to fullness of being is that which gives species to a thing. But just as a natural thing has species from its form, so an action has species from its object, as also motion from its term.

And therefore, just as the first goodness of a natural thing is considered from its form, which gives species to it, so also the first goodness of a moral act is considered from a suitable object. Hence it is also called by some good from the genus, for example, to use one's own thing. And just as in natural things the first evil is if the thing generated does not attain the specific form, for example, if a man is not generated, but something in place of a man, so the first evil in moral actions is that which is from the object, as to take another's property. And it is called evil from the genus, the genus being taken for the species, in that way of speaking by which we call the whole human species the human genus." Hos. 9:10; Wirceburg. c. 3. a. 1.

85. Is an act good if the object is good, but the end evil? - R. Negatively. For he who acts for an evil end, although he wills the good, nevertheless wills it under the notion of evil, and therefore according as it is willed by him it is evil. S. Th. 1. 2. q. 19. a. 7. Hence S. Alph. 1. 5. n. 38 says: "if the object is good, but the end of the one acting is evil, the human act is wholly evil from the malice of the end, which destroys every goodness." Except unless the end is lightly evil, not chief and moving to acting, but secondary and impelling, for example, if someone preaches the word of God and is also impelled by vainglory. For there is a certain light disorder, which does not corrupt the substance of the action from its object and end, but is joined extrinsically by another act. Cf. 81. S. Th. 1. 2. q. 18. a. 4. 6, 2. D. 38. q. 1. a. 4; Suarez tr. 3. d. 6. s. 1. 2, d. 8. s. 1. n. 13.

86. Is an act good if the object is evil, but the end good? - R. Negatively. The Apostle condemns those saying: let us do evil things, that good things may come. Rom. 3:8. But the reason is that the intention of a good end, as extrinsic to the very willed object, if this is evil, does not prevent someone from really willing evil. Since the substance of the act is from the object, if this is evil, it is impossible for it to be made honorable from a good end, or even from good circumstances. - S. Aug. l. *Contra mendac.* n. 18; Suarez tr. 3. d. 4, d. 8. s. 1. n. 20 seq.

87. What is understood by circumstances? - By the circumstances of a human act are understood all those aspects which are accessory to the willed object, and, as it were, accidental to the substance of the act, and which are willed only concomitantly or consequently. "The name of circumstance," says S. Th. 1. 2. q. 7. a. 1, "is transferred to human acts from those things which are in place. But in local matters something is said to stand around which is indeed extrinsic to the thing, yet touches it or

approaches it according to place. And therefore whatever conditions are outside the substance of the act, and yet touch the human act in some way, are called circumstances. But what is outside the substance of a thing, yet pertains to the thing itself, is called its accident. Hence the circumstances of human acts must be called their accidents."

As with the object, so circumstances are not considered here insofar as they are certain accidents physically affecting the act, but insofar as they are accidents of the human act, morally affecting it in moral being, already constituted from the object. Morally affecting, that is, insofar as they pertain to morals. Indeed it makes no difference to the moral being of an act that someone, for example, struck another with the right hand or the left, or stole with the right hand or the left. But jurists and theologians consider circumstances differently. For the former consider them rather insofar as they disturb society; the latter insofar as they offend God more gravely. - S. Th. 1. 2. q. 7. a. 2; Suarez tr. 2. d. 5.

88. Do human acts also take their moral goodness and malice from circumstances? - R. Affirmatively. For since they tend not toward an abstract object, but toward a concrete one, or one determined by its individuating circumstances, just as they take specific moral goodness and malice from the object, so also they take accidental moral goodness and malice from circumstances; and they put on various accidental qualities from them, just as man has the notion of his species from the soul, but something accidental belongs to an individual man according to his individual accidents. And certainly, since good is convertible with being, just as being is said according to substance and according to accident, so also good is attributed to something both according to its substantial being and according to its accidental being, both in natural things and in moral actions. - S. Th. 1. 2. q. 18. a. 3. 9, 2. 2. q. 154. a. 1; Wirceburg. c. 3. a. 1.

89. You will resolve: 1. A human act can have a threefold moral goodness or malice, whether within the same species, or even of diverse species. Thus, for example, if someone were to steal a sacred thing in order to give it as a gift to a prostitute for obtaining fornication from her, such an act from the object would be theft; from the circumstance of the sacred thing, sacrilege; from the end, fornication; and therefore it would have a threefold malice diverse in species.

2. The intrinsic and essential moral goodness or malice of the act is taken from the object. For from the object the will is moved first and per se, or directly, to the act. Hence, although for a human act to be good simply it is required that it have no evil circumstance, nevertheless it is not required that it always have proper objective circumstances, from which it receives accidental goodness or an increase of goodness, as is clear in an act concerning an altogether simple object, such as love of God. Objective circumstances are mentioned, or those on the part of the object, for circumstances on the part of the act itself are always at least in some way found, which confer upon it some goodness or malice. And thus always, at least morally speaking, which is enough in the present matter, there is in an act some intensity, pertaining to the circumstance *how*, by reason of which the act has some goodness or malice, which can be called accidental, insofar as the species of the act could be preserved without it.
3. In order that circumstances confer their moral goodness or malice upon an act, they must be willed either after the manner of an object, or at least after the manner of an act; because an object does not confer moral goodness or malice upon a human act except insofar as it is

intended and willed. Objective circumstances, that is, those which hold themselves on the part of the object, must be willed after the manner of an object, because circumstances of this kind affect the object itself and the act indivisibly attains the object, not as though naked, but as though clothed with its circumstances. But circumstances which hold themselves on the part of the act must be willed either after the manner of an object, if that circumstance is extrinsic to the act itself, as is, for example, the circumstance *who*, for the one acting can regard himself as the object of his own will, and will the dignity or condition of his person to be applied to the work; or after the manner of an act, if that circumstance is intrinsic to the act itself, as is, for example, the circumstance *how* or *when*. And thus, in order that the goodness or malice of the act of the will be increased from intensity or duration, it is enough that the intensity and duration be voluntary after the manner of an act, namely insofar as the intense, lasting, etc., act itself is voluntary. S. Th. C. G. l. 3. c. 138, 1. 2. q. 18. a. 4. 6. 7; Suarez tr. 3. d. 4, d. 5, d. 6. s. 3.

90. Can a circumstance intrinsically change the nature of the exterior work? - R. Affirmatively. The reason is that a circumstance is intrinsic to the work itself, regarded in the concrete, and by no means extrinsic, as the end of the one acting is with respect to the exterior work. Therefore it can change the external work itself. It can change it. For not every circumstance always modifies the external work in such a way that it also intrinsically changes its nature. And thus, if a pastor recites the breviary at the time when he ought to minister the sacraments to a dying person, the intrinsic nature of the recitation of the breviary is not changed. Hence it is also enough to confess only the aforesaid omission of the administration of the sacraments. Nor indeed is that intrinsic change to be understood in such a way that an external work, indifferent, good, or evil from the proper intrinsic nature belonging to it, or in such a species by reason of its proper object, becomes by its nature determined as to malice or goodness, evil, good, or in another species. For a circumstance, since it is something accessory to the object, if the object by reason of itself is indifferent or good or evil and in such a species, remains indifferent and good and evil and in such a species under that respect, although it can also intrinsically become evil, be changed into evil, and assume another species by reason of a circumstance. Thus, for example, eating is of itself an indifferent action, but eating on a fast day after another meal has been taken is a grave sin, and therefore the action is evil not by reason of eating, but by reason of the fast day, and by this evil circumstance of time it becomes evil. To use marriage is an honorable action, but to use marriage after a vow of chastity is a gravely sinful action, not by reason of the use itself of marriage, but of the vow; and by this circumstance of the vow it is changed from good into evil. To steal is an evil action against justice, but to steal a sacred thing is an evil action also against religion from that circumstance of the sacred thing, whence to the malice of theft is added the malice of sacrilege.

91. How are the various circumstances distinguished? - Certain circumstances are those which change the nature of the work or act merely accidentally, namely within the same species, increasing or diminishing moral goodness or malice; and therefore they are called aggravating or diminishing, and these can be either simply such, or notably, or greatly aggravating or diminishing. Circumstances of this kind are all those which do not have goodness or malice according to themselves, but through order to another condition of the act, which has that goodness or malice according to itself. Hence they increase or diminish the aforesaid goodness or malice. And thus, for example, the intensity and

remission of the act, the long or short delay of the act, does not according to itself have moral goodness or malice, but only through order to the good or evil act, of which consequently it constitutes only an accidental diversity. Thus also to take something in a greater or lesser quantity does not according to itself regard the order of reason in good or evil, but presupposes some other condition through which the act has malice or goodness, for example, this, that it belongs to another, which according to itself is opposed to reason. Hence to take another's property in a greater or lesser quantity does not diversify the species of sin. S. Th. 1. 2. q. 18. a. 11.

But there are other circumstances which essentially change the nature of the work and act and are called species-changing. Circumstances of this kind are those which according to themselves regard a special order of reason. Thus, for example, to take another's property has its species from the notion of what belongs to another, for from this it is constituted in the species of theft. And if on top of this place or time is considered, these will have the nature of a circumstance. But because reason can also order concerning place or concerning time and other things of this sort, it happens that a condition of place concerning the object is taken as according to itself contrary to the order of reason; for example, because reason orders that injury is not to be done in a sacred place. Hence to take something belonging to another from a sacred place adds a special repugnance to the order of reason. And therefore place, which was previously considered as a simple circumstance, is now considered as a principal condition of the object repugnant to reason. Hence S. Th. q. 18. a. 10 ad 2: "a circumstance," he says, "remaining in the notion of a circumstance, since it has the notion of an accident, does not give species; but insofar as it is changed into a principal condition of the object, according to this it gives species."

Circumstances which change a sin only from venial into mortal, under one respect, are only aggravating; and they are called aggravating infinitely: namely if mere opposition to such a virtue is considered, as may be seen in light and grave theft; for both are opposed to the same virtue of justice. Under another respect, they are species-changing, namely if opposition and repugnance with the general rule of morals is considered, namely with the law and the end to be attained. Circumstances which confer a new species upon an act already constituted in some moral species are properly species-adding. Thus, if someone bound by a vow sins against chastity, to the malice of the sin against chastity is added another malice against religion. But if the malice of the new species is not grave but light, then that circumstance is either held as simply aggravating, or as indeed adding a species, but with the addition, lightly: for then the whole specific substance of the act still remains intact, nor, morally speaking, does any substantial change of the act accede. Thus as regards a merely internal sin against chastity committed in a church, if the malice of sacrilege is present in it, it is only light, and therefore it is not a circumstance strictly and properly adding a species, but aggravating. But circumstances which first render an act simply good or evil are properly species-conferring or species-changing, for example, if someone undertakes a journey from the end of exercising a work of charity, that journey, indifferent of itself, first passes into an act of virtue; if someone gives alms only from vainglory, that act, although good in itself, then becomes evil. S. Th. 2. D. 38. q. 1. a. 4.

92. Is an act good if the circumstance is evil? - R. Affirmatively, if the question concerns one and the same act in the genus of nature, and one which is multiple in the genus of morals. The reason is that then a bad circumstance of this kind is altogether extrinsic to the good act itself. And thus in the celebration of Mass, a priest consecrating in the state of grace places a good act; then, sinning gravely

by adhering to a shameful thought, and taking a sacrilegious communion, he places an evil act. - R. Negatively, if the question concerns one and the same act of the will in the genus of morals. The reason is that the act of the will, which embraces all these things together, namely the object and the circumstances, is one most simple act, and therefore, if it is not good from every side, it will be evil.

Hence, if there is a circumstance which is only lightly evil and extrinsic to the object, which the will embraces concomitantly, this lightly evil circumstance does not corrupt the good act, since it is altogether extrinsic and accidental to the substance of the act constituted in itself. And thus an affection toward venial sin in Communion does not corrupt Communion in its substance, although it renders it less fruitful. But if the lightly evil circumstance is intrinsic to the object itself, then the whole act is evil. Therefore the action of a religious giving alms against the vow of poverty or against the precept of a Superior, or from another's property, is evil, although the unlawfulness by reason of the vow or precept is only light. Suarez tr. 3. d. 8. s. 1; Wirceburg. c. 3. art. 1.

93. How many circumstances of human acts are numbered? - Seven, and they are: who, what, where, by what aids, why, how, when. "The reason of this enumeration can be taken thus. For a circumstance is said as something existing outside the substance of the act, yet in such a way that it touches the act itself in some way. But this can happen in three ways. In one way insofar as it touches the act itself. In another way insofar as it touches the cause of the act. In a third way insofar as it touches the effect. But it touches the act itself either after the manner of measure, as time and place; or after the manner of quality of the act, as the manner of acting. On the part of the effect it is when what someone has done is considered. But on the part of the cause of the act, as to the final cause, *why* is taken; on the part of the material cause or object, *about what* is taken (which is comprehended under *what*); on the part of the principal agent, *who acted* is taken; but on the part of the instrumental agent cause, *by what aids* is taken." S. Th. 1. 2. q. 7. a. 3.

94. How are the aforesaid circumstances to be considered? - They are not to be taken insofar as the substance of the act depends on them, but insofar as they accidentally affect it. Otherwise they would no longer have the notion of circumstances. - Therefore:

1. *Who* does not signify the substance of the one acting, but his quality or condition, for example, that he is bound by a vow, joined in marriage, a public magistrate, etc. To this circumstance Lugo, *De Poenit*. d. 16. n. 200, brings back the habit of sin; for through it is explained how someone is disposed to sin more easily. The circumstance of person, generally speaking, does not transfer sin into another species, unless the sin is directly opposed to a union, office bringing a special obligation, vow, or state; as if a priest fornicates, it passes into sacrilege, but if he blasphemes, he is guilty only of blasphemy, just as another blaspheming. Malach. 2:1. 8; C. Trid. sess. 22. C. 1 *de R*.; S. Th. 2. 2. q. 45. a. 4, q. 110. a. 4 ad 5; Lugo *De Poenit*. d. 16. s. 4.
2. *What* and *about what* likewise does not express the substance of the effect or object, but its quality or quantity, for example in theft it does not denote that the stolen thing belongs to another, for this pertains to the very substance of the act, but that it is sacred or profane, of great or small quantity, with damage thereby to a poor person, to wards, to girls to be married, with scandal of many, etc. The circumstance *what* and *about what* can easily be species-changing. But *what*, that is, the effect, when it is foreseen and willed, draws into its own species. To this circumstance can be brought back *how often*, or the multiplication of acts.

Nevertheless S. Th. did not count it among the circumstances. And the reason is that circumstances are around the same act. But the number of operations does not stand around one and the same operation. For a second theft is not a circumstance of the first, or conversely; nor the third of the second, and so on. From this it follows that, because someone is no less bound to confess the second sin than the first, and no less the hundredth than any other, it is not enough to say that he stole many times, but he must explain how many times he stole, if he remembers the number; and if he does not remember, he must express how frequently, so that a probable number may be had. Lugo l. c. s. 4. § 7. s. 5. 6. 9.

3. *Where* does not signify bare place; for it is certain that every act of man happens somewhere; but the quality of the place, for example, that it is public, whence scandal arises; that it is sacred, whence sacrilege is had, etc. The circumstance of a sacred place, although it aggravates all sins accidentally, nevertheless draws only those into the species of grave sacrilege which are directly opposed to the sanctity of the place, or to the immunity annexed to it, such as effusions of blood or of human seed, which impede the divine worship to be exhibited there, for which the place is directly sanctified, and violent removals, which are contrary to immunity. Lugo l. c. s. 10.

4. *By what aids* signifies accidental instruments, or means, which the one acting used, for example, if someone used sacred vessels for poisoning, employed the aid of the devil, induced other men by command or counsel to the execution of sin. Although this circumstance sometimes seems to relate to sin merely materially, nevertheless sometimes it also changes the species. Lugo l. c. n. 475. 476.

5. *Why* denotes not the intrinsic end of the work, for this pertains to the substance of the act, but the extrinsic end, and that of the one acting, as if someone steals in order to get himself drunk. *Why* can manifestly give another species to an act. Lugo l. c. n. 477 seq.

6. *How* designates the accidental mode by which the interior act of the will is done, for example, intensely or remissly, from contempt, from levity, from ignorance, from fear, from passion. It also designates the mode of the exterior action, for example, that you killed by poison, by the sword, with cruelty and savagery, etc. *How*, although ordinarily aggravating or diminishing sin, can sometimes also give species. - Lugo l. c. n. 497 seq.; Laym. l. 3. *de Iust.* tr. 3. p. 3. c. 4. n. 1; Tambur. *Meth. Confess.* l. 2. c. 6. n. 2; S. Th. 2. 2. q. 66. a. 3 ad 1, a. 4.

7. *When* signifies the quality or quantity of time, for example, on a feast day, of Communion, of Holy Week; for a long time, for a short time. The circumstance of sacred time aggravates sin, but does not add the grave species of sacrilege, unless it is done in contempt of the sacred time. Lugo l. c. n. 515 seq.; Lessius on q. 7; Cajetan on the same q.; L. 1. 6. n. 923; S. Th. 4. D. 32. q. 1. a. 5, q. 4. Sol. 2.

On Conscience

I. On the Nature of Conscience

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

96. What is the intrinsic nature of moral conscience? - Law regulates human actions in order to their moral honorableness or shamefulness by means of conscience. For in order that it regulate them, it must be applied to the action to be effected here and now, so that it may be seen whether such an action is commanded, prohibited, permitted by law, or counseled; from which application a judgment is then formed concerning such or such an action, to be effected or omitted here and now, and this practical judgment is conscience. Therefore conscience is nothing other than the practical judgment by which we pronounce a thing to be done or omitted here and now as good or evil; and this after the manner of a precept, or counsel, or simple permission.

Therefore in order that we may form this conscience, we make a syllogism. In this syllogism the major proposition states the law generally. But the minor proposition of the same syllogism compares the action which we wish to do here and now with the law. Finally the consequent, from the conformity or deformity of such or such an action with the law affirmed in the premises, pronounces that such or such an action is to be effected here and now as good, or to be omitted as evil; and this judgment or dictate is called conscience. Dictate, for to dictate is to command, to ordain; and conscience is like an interior law which binds man. Judgment, since as dictate it concerns only those things which ought to be done or omitted, but as judgment it also concerns those things which can be done or omitted. Therefore conscience differs altogether from synderesis, which is the natural habit of the first principles of things to be done, which natural principles are of natural right. S. Th. 1. p. q. 79. a. 12. 13, 1. 2. q. 76. a. 1, *De Verit*. q. 16. a. 1, q. 17. a. 1. 5, 2. D. 24. q. 1. a. 4, q. 2. a. 4; Suarez tr. 3. d. 12. s. 1; L. 1. 1. n. 1. 2.

97. What are antecedent and consequent conscience? - Moral conscience, whose nature we have already described, and about which we are speaking at present, is called antecedent conscience, to be distinguished from another moral conscience, which is called consequent; and this is the one which reports that an action already done was morally good or evil. But to avoid cavils about that former conscience, namely that it should not be called conscience, since it bears judgment about a thing not done but to be done, for conscience reports internal facts, we briefly note that usage has already obtained that it be so called. But usage in this matter is a sufficient reason. Now the formal goodness or malice of human acts is to be taken not from consequent conscience, but from antecedent conscience. Hence those who study moral theology are sometimes deceived, because they think that

after gaining knowledge they had sinned in many things; since they lacked that knowledge when they acted, and were then acting in good faith. The same should be said of the uneducated and all others who, after hearing a sermon, after reading a pious book, begin to be involved in anxiety as regards past operations. - S. Th. 1. p. q. 79. a. 3, *De Verit*. q. 17. a. 1. 2.

98. What are the divisions of moral conscience? - If in that syllogism which must be formed in order that conscience may be had, the major proposition, or law, always stood with evident certainty, and the minor proposition, or that this or that action is contained in the law, also always stood with evident certainty, there would be only one conscience, certain and right conscience. But since both the law and the application of the law often must be gathered by the force of difficult reasoning, hence there are various species of conscience.

Therefore it is divided: 1. Into right and erroneous conscience. Right conscience is that which dictates what is true; erroneous, that which dictates as true what is false. Erroneous conscience is either vincibly or invincibly such, according as the error morally could and ought to have been avoided, or morally could not have been avoided. 2. Into certain, probable, doubtful, strict, lax, and scrupulous conscience, according as it is founded on a certain, probable, doubtful, stricter, laxer, or altogether empty motive. Conscience only subjectively certain, namely one which is thought to be such, and therefore with certainty taken more broadly, as also probable and doubtful conscience, can be objectively right or erroneous. But scrupulous, strict, and lax are brought back to erroneous conscience. For without sufficient reason, the scrupulous conscience fears sin where there is no sin; the lax bends judgment in favor of liberty, either to avoid the law simply, or to lessen its obligation; but the strict affirms either an obligation which is not present, or one more grave than actually exists. Suarez t. 3. d. 12. s. 2;

S. Th. 1. 2. q. 19. a. 3, a. 6 ad 2, *Quodl.* 3. a. 26.

II. On Certain Conscience

99. What is certain conscience; and what is its directive force? - Certain conscience properly is that conscience which rests upon a certain motive; and consequently judges concerning the honorableness or shamefulness of the action to be done without fear of erring. Less properly, however, it is that which judges simply without any fear of erring concerning the honorableness or shamefulness of an action. This latter is only subjectively certain; the former is also objectively certain. It can likewise be certain strictly and broadly, or morally. Strictly certain excludes every doubt, both prudent and imprudent. Broadly or morally certain excludes only every prudent doubt. Its directive force is declared by the following propositions.

100. It is unlawful to act without conscience subjectively certain concerning the honorableness of the action. - Proof. He who acts without this conscience wills an action concerning whose honorableness or shamefulness he is uncertain. But to will an action concerning whose honorableness or shamefulness someone is uncertain is nothing other than to will it whether it is good or evil. But again, to will an action whether it is good or evil is illicit; for this is a will consenting to evil. Therefore. S. Th. 1. 2. q. 19. a. 3. 5, *Quodl.* 3. a. 27 ad 2, *Quodl.* 8. a. 13; L. 1. 1. n. 3; Suarez tr. 3. d. 12. s. 3; E. M.

101. Note: 1. Sin, precisely because it is against conscience, does not have a special malice, unless it is done so that conscience may be conquered. The first reason is because this is intrinsic and common to every sin, that it is against conscience. The second reason is because then there is had a directly willed contempt of the rule of every good operation, and thus someone exposes himself to the danger of all crimes, which, as is clear, is a special and most grave disorder of the will, against the natural inclination of the will toward good. - Lessius on q. 19. a. 6. d. 3; S. Th. 2. 2. q. 14. a. 1. 4.

2. Likewise it is a special sin if someone sins from certain malice through contempt, by casting aside and removing that which could impede the election of sin; and it is a sin against the Holy Spirit. - Six species of this are enumerated: desperation, presumption, impenitence or the resolve not to repent, obstinacy or the resolve to cling to sin, attacking acknowledged truth so that one may sin more licentiously; envy of fraternal grace, by which someone envies not only the person of his brother, but also the grace of God increasing in the world.

102. Only conscience subjectively certain is the rule of morals. But morally certain conscience suffices. Proof of the 1st part. For, as is clear from the preceding proposition, n. 100, without this conscience no one can act. Besides this conscience no other subjectively more perfect conscience is given. Therefore with this alone can someone act; and therefore this conscience alone is the rule of morals. Proof of the 2nd part. 1. From the common opinion of doctors and universal practice. 2. Because most often another certainty cannot be had; and no one necessarily sins. 3. Because, while this moral certainty stands, someone acts prudently, for moral certainty, although it does not exclude every doubt, both prudent and imprudent, nevertheless excludes every prudent doubt. Therefore. Rom. 14:23; C. *Litteras* 13 *de Restit. spoliat.*; S. Th. 2. 2. q. 70. a. 2.

103. It is lawful to act according to a certain conscience which is nevertheless invincibly erroneous. - Proof. He who acts in this way wills, as much as is in him, a good action, and consents only to a good action. But it is right to will this action. Therefore. The major is proved, for nothing is willed unless first known. Therefore, while an invincibly erroneous conscience stands, he who acts according to it wills, as much as is in him, a good action, and consents only to a good action. - L. 1. 1. n. 5; Elbel 126.

104. It is unlawful to act against a certain conscience which is nevertheless invincibly erroneous. - Proof. He who would act in this way would will an action which he judged prohibited; he would not will one which he judged commanded. But it is unlawful to have this will, because it is a will consenting to evil. Therefore. "It must be said that simply every will discordant from reason, whether right or erring, is always evil." S. Th. 1. 2. q. 19. a. 5, 2. D. 39. q. 3. a. 3, *Quodl.* 3. a. 27; L. l. c.; Cajetan on 1. 2. q. 19. a. 5; Suarez tr. 3. d. 12. s. 4.

105. It is lawful to act according to a certain conscience, even though vincibly erroneous. - Proof. Because when the action is judged honorable or shameful with certainty, the will acting according to this conscience pursues the honorable and flees the shameful, which is altogether licit. But that this conscience is vincibly erroneous does not make it so that, when someone actually acts according to it, he sins; rather, it makes it so that the fault is only in the cause, whence also it is that judgment about its gravity or lightness must be made not from the grave or light effect, but from the grave or light negligence in seeking the truth. Now when someone actually acts, if in no way does he attend to the erroneous conscience which he has, and has no suspicion about it, since by hypothesis the conscience

is certain here and now, he is already acting not from a vincibly erroneous conscience, but from an invincible conscience. La-Croix l. 1. n. 42. 43. 757. 760; Kenrick ed. 2. Mechl. 1860. n. 36.

106. It is unlawful to act against a certain conscience which is nevertheless vincibly erroneous. - Proof. Because then someone would act against a certain judgment; and would will the action which he judges prohibited, and would not will the action which he judges commanded; which will is evil, for it is affected toward evil. Therefore. S. Th. 1. 2. q. 19. a. 5. 6; Suarez tr. 3. d. 12. s. 4; Elbel 122. 137. 138; L. 1. 1. n. 4; La-Croix l. 1, n. 42. 43. 757. "And therefore it must be said that every conscience, whether right or erroneous, whether in things evil per se or in indifferent things, is obligatory; so that he who acts against conscience sins." S. Th. *Quodl.* 3. a. 27, *Quodl.* 8. a. 15.

107. Note: "A sin committed against conscience has its species from the particular matter in which it is thought to be concerned; or from order to the particular precept which it is thought to oppose. For example, if you think the thing which you take is not yours, yet in fact it is yours, it will be the sin of theft; if you think it is against the obligation of a vow, it will be the sin of sacrilege. The reason is that sins receive species from the object either of the external action or of the will. Nor does it matter whether this object is evil in reality, but whether it is apprehended as evil, because the will is borne toward it according as it is proposed by reason." Lessius on q. 19. a. 6. d. 3; S. Th. 1. 2. q. 19. a. 5 ad 3.

108. Can someone labor under an invincibly erroneous conscience as regards depraved desires and other merely internal acts, namely if no exterior action follows? - Speaking explicitly and generally about desire, Elbel has this, n. 127: "That many, at least among the more uneducated and less instructed, can inculpably persuade themselves that desires of this kind are not evil unless they are completed by deed, seems sufficiently certain; and Sanchez, Stoz, and La-Croix expressly teach this." This opinion, says S. Alph. 1. 1. n. 9, "I have never been able to judge probable.... With other learned recent authors I judge it little probable." The reason for this opinion is that if someone certainly knows the malice of the external action, and nevertheless wills to execute it, he already knows that he wills evil. How then will he be excused from sin? But as regards simple delectation, that invincible ignorance can more easily be present; for the tendency of the will toward evil is not so evident as in desire efficacious of itself. And the same also seems to have to be said of inefficacious desire.

109. Can there be an invincibly erroneous conscience concerning the precepts of natural law? - "It is certain that in the first principles of natural law, as also in the proximate conclusions and certain obligations of one's own state, invincible ignorance is not given, because by the very light of nature such things are known to all, except to him who closes his eyes lest he see them.... On the contrary, however, the unanimous opinion of theologians is... that in mediated and obscure conclusions, or those remote from the principles, invincible ignorance is indeed given and must be admitted." L. 1. 1. n. 8. 170 seq.; Struggl tr. 3. q. 1. n. 10-13; S. Th. *Quodl.* 3. a. 36, *De Verit.* q. 17. a. 2; *De Malo* q. 3. a. 8; Rom. 2:14. 15. In the first principles of natural law, for example: good is to be done, evil avoided; the highest good is to be loved, evil detested; what you do not wish for yourself, do not do to another; thanks are to be given to benefactors, etc. In proximate conclusions, for example: God is to be worshiped, parents are to be honored, theft is not to be committed, etc. In remote conclusions, for example: private revenge is not to be exercised, abortion is not to be procured, etc. Eternal law, existing in the divine mind, most perfectly exhibits the order of things. Natural law, which is the

application of eternal law, exists in the human mind. Therefore natural law, by the very fact that it is manifested through human reason, falls short of the highest perfection of eternal law.

Hence it happens that not always what we think and judge, in more difficult matters, corresponds to the rules of the divine mind, and remains obscure and unknown to us. Whence that thing, although materially and in itself it pertains to natural law, nevertheless does not pertain formally and as regards us, since it has not been sufficiently promulgated to us by the natural light. - Wirceburg. *De Actib. hum.* c. 1. a. 3.

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

III. On Probable Conscience

111. What is probable conscience; and what is its directive force? - "Probable conscience is that by which someone, relying on some probable opinion, forms for himself a practical dictate of reason from certain reflex, or concomitant, principles for acting licitly." L. 1. 1. n. 40. Thus, for example, Titius, a confessor, relying on a probable opinion, judges that he probably has jurisdiction. Then, however, he says, and this is the reflex principle: But while jurisdiction is truly probable, the Church certainly supplies it. Therefore, he concludes, and this is the practical dictate of conscience: I can validly and licitly absolve in this case; and he absolves. Its directive force is declared by the following propositions.

112. Note: 1. "That diverse species of probabilities are given.... A tenuously probable opinion is one which rests on some foundation, but not such as avails to draw to itself the assent of a prudent man.... Probable is that which rests on a grave moment, either of intrinsic reason or extrinsic authority, which avails to draw to itself the assent of a prudent man, although with fear of the opposite. More probable is that which rests on a graver foundation, but still with prudent fear of the opposite, so that the contrary is also judged probable. Most probable is that which rests on a most grave foundation, and for this reason the opposite is judged either tenuously or doubtfully probable.... An opinion or sentence morally certain is one which excludes every prudent fear of falsity, so that the opposite is reputed altogether improbable. Finally a safe opinion is one which withdraws from every danger of sinning; but the safer is one which withdraws more from such danger, although it may not rest on stronger reasons." L. l. c. But S. D. speaks more exactly about a most probable opinion, H. A. tr. 1. n. 65: "Unless we wish to confuse a most probable opinion with an absolutely certain opinion, it is necessary to say that the opinion contrary to the most probable is not tenuously probable, but doubtfully probable." The reason is that a most probable opinion "is within the limits of probability," and therefore "does not exclude every prudent fear." "But tenuous probability is not true probability, and therefore does not bring with it a prudent reason. But doubtful

probability brings some prudent reason, although not altogether certain and stable." Cf. also *Op. Mor.* l. 1. n. 85. But lest there be quibbling about words, as far as concerns us, we recognize no opinions, as regards doctrine, within the limits of true probability except the probable opinion, the more probable, and the most probable. Below the probable there is only the non-probable, the improbable, of which there can indeed be various grades; above the most probable there is only the certain. The probable is immediately opposed, by an opposition of comparison, to the more probable; but mediately to the most probable; and likewise the most probable is immediately opposed to the more probable, but mediately to the probable, unless someone wishes really to confuse the most probable with the certain.

2. Various moral systems: Tutiorism: A moral system which establishes that in doubt the safer part is to be followed practically. One kind is absolute, and is Rigorism, which establishes that the safer part must always be followed. Another is mitigated, which establishes that the safer part must be followed unless the other part favoring liberty is most probable. Probabiliorism: It is a moral system which establishes that it is licit to follow an opinion favoring liberty only when it is more probable than the opposite favoring the law. Therefore according to this system a doubtful law obliges, against the most common opinion and against reason. Equiprobabilism: It is a moral system which establishes that it is not licit to follow the less safe opinion unless it is equally or almost equally probable as the opposite. It is indeed a right norm of acting, but not to the exclusion of probabilism, which is a moral system containing an altogether right norm of acting, embracing all the cases of a true probable opinion favoring liberty, when the question concerns merely the subjective honorableness of an action. Probabilism: It is a moral system which establishes that it is licit to follow a truly probable opinion favoring liberty, although the opposite in favor of the law is more probable, whether a little or much more probable, where nevertheless the question concerns only the liceity of a human action. The reason is that when there is a truly probable opinion against a law, the law is doubtful, and a doubtful law does not oblige. Laxism: It is a moral system which establishes that it is licit to follow an opinion even doubtfully and tenuously probable against the law. It was condemned by Innocent XI, proposition 3, condemned March 2, 1679.

113. With a practically probable conscience, which proximately directs the action really to be placed here and now, it is altogether unlawful to operate. - For only a subjectively certain conscience is the rule of morals. And in this sense that saying is consequently false: He who acts probably, acts prudently. L. 1. 1. n. 58. 69. 80. Therefore the whole question here concerns a speculatively probable conscience, which only remotely directs the action, stating the probable existence of a law: namely whether by means of some reasoning we can lawfully make the step from a speculatively probable conscience to a practically certain conscience, or, what is the same, whether, while a probable opinion stands concerning the honorableness of some action in general, we can form for ourselves a certain conscience concerning the honorableness of such an action in a particular and individual case, and thus licitly follow in practice a speculatively probable opinion. To resolve this question we establish the following propositions.

114. It is not licit practically to follow a tenuously probable opinion, the safer one being left aside. - The proposition is against lax probabilists. This is clear first from proposition 3 condemned by Innocent XI. Moreover, a tenuously probable opinion is an opinion resting on a slight motive; but a

slight motive is a motive by no means sufficient to move a serious or prudent man to assent, and therefore it is not truly probable. Indeed that opinion is called truly probable which rests on such a motive that it is sufficient to move a prudent man to assent. But if such an opinion is insufficient to move a prudent man to judgment about the non-existence of the law, it is impossible to form for oneself a conscience concerning the liceity of the action. L. 1. 1. n. 40; E. M.

115. You will resolve: From the cited proposition condemned by Innocent XI, both because it deals with even tenuous probability, and because it asserts too generally that we always act prudently when, trusting in probability, we do something, nothing can be drawn against probabilism. For tenuous probability is not true probability. Nor indeed is probabilism extended to a case where the question concerns the truth of a thing and an end to be obtained absolutely. Nor indeed is it licit practically to follow a doubtfully probable opinion. For a doubtfully probable opinion is an opinion resting on a doubtful motive, namely one about which it can prudently be doubted whether it is sufficient to move a prudent man to assent. But it is an evident thing that a prudent man in matters of grave moment does not rely on a motive of this kind; whence, if the matter does not in fact turn out well, all would rightly and deservedly accuse him of imprudence.

But the moral goodness or malice of human acts is a graver matter than any other temporal business. Moreover, while this doubtful probability stands, it is impossible to form for oneself a morally certain practical dictate concerning the liceity of the action. Therefore to an opinion tenuously probable is opposed an opinion gravely probable, or simply probable; to an opinion doubtfully probable is opposed an opinion certainly probable, or simply probable. There are not lacking those who confuse a doubtfully probable and a tenuously probable opinion with each other. Practically indeed they are often confused; but speculatively, given the nature of the thing, they are altogether distinguished from each other. Cf. 112; La-Croix l. 1. n. 126.

116. It is not licit to follow a probable opinion concerning the objective truth itself of the thing, where the question concerns an end to be obtained absolutely, the safer one being left aside. Proof. He who is absolutely bound to the end is bound to choose those means which in no way bring into danger the end to be obtained. But a probable opinion, since it can be false, brings the danger of frustrating the end to be obtained absolutely. For the objective truth or existence of the thing will certainly not be had if the opinion concerning it is probable but false. Therefore. L. 1. 1. n. 42. To be obtained absolutely, "namely when someone is bound from justice or charity to avoid damage which is present in the thing itself," Suarez apud S. Alph. *Op. Mor.* ed. Rome, 1757, l. c. n. 33, or the danger of it. Then indeed "in doubt the safer way is to be chosen." C. *Illud* 5 *de Cler. exc.* The case must likewise be added in which someone is bound to the safer thing from some special positive law or precept, or contract, or vow. Suarez tr. 3. d. 12. s. 5. n. 8, s. 6. n. 10; L. 1. 2. n. 10, l. 6. n. 918 p. ult.

117. You will resolve: It is not licit to follow a probable opinion, but we must altogether choose the safer one in all those things which are necessary with the necessity of means for salvation, where the fact itself, or the truth of the thing, alone is attended to. Hence we must embrace the safer religion. Prop. 4 condemned by Innocent XI; L. 1. 1. n. 43. In the conferral of the sacraments, the minister is bound to follow the safer opinion, unless necessity is present or the Church supplies; for here again the question concerns the truth of the thing. For sacraments would not be had unless those things were really placed which Christ instituted for their validity. Prop. 1 condemned by Innocent XI.

Unless necessity is present; "for in extreme necessity we can well use any opinion, not only probable, but even tenuously probable, for the value of the sacrament... provided the sacrament is conferred conditionally: because the condition sufficiently repairs the injury of the sacrament, if perhaps it is conferred invalidly, and on the other hand necessity is a sufficient and just cause for conferring the sacraments conditionally." L. 1. 1. n. 49. Unless the Church supplies; for "we can licitly use a probable opinion where the Church is presumed to supply, as can happen in the sacrament of matrimony to validate a contract only probably valid, if perhaps that contract is null because of an impediment which the Church removes by supplying, and in the sacrament of penance to supply the jurisdiction of the confessor, if perhaps it is lacking."

L. 1. 1. n. 50. A physician is bound to apply the safer medicines which can be had in the case; for here the question concerns the objective effect itself, that is, the health of the sick person, to be obtained absolutely. And certainly the physician is bound not only from charity, but also from justice, by reason of his office and tacit contract, to provide in the better way for the health of the sick person, from whom he receives a stipend. L. 1. 1. n. 44. A judge cannot judge according to the less probable opinion; for he is bound by divine and human precept to render to each his right. Prop. 2 condemned by Innocent XI; L. 1. 1. n. 47.

A hunter who probably judges that an object hidden in the woods is a man cannot strike, although he judges more probably that it is a beast. For on the one hand the neighbor has a certain right to his life; on the other hand greater probability does not make it so that, if it really is a man, he will not perish by the blow. L. 1. 1. n. 52, H. A. tr. 1. n. 33. When scandals and more grave evils threaten, the safer part is to be chosen, by which they may be avoided, so that the utility of all may be consulted. C. *Illud* 5 *de Cler. exc.* - Generally the safer things are to be chosen when, as regards charity, the danger of sinning formally must be avoided, and as regards justice, the damage must be avoided of him who is in certain possession of his certain right. E. M.

118. It is licit to follow the most probable opinion, and even the more probable, the safer being left aside, where the question concerns only the honorableness of the action. - The proposition is against rigid and mitigated tutiorists. The honorableness of the action, about which the question here concerns, is quite diverse from the effect itself of the action, or from the truth of the thing, about which in the preceding proposition. The honorableness of a human action depends on the dictate of conscience, which is the proximate rule of human acts; the effect of the action, or the truth of the thing, depends on the very fact of the action. The former is subjective, the latter objective. Proof of the 1st part from proposition 3 condemned by Alexander VIII in 1690: "It is not licit to follow an opinion even the most probable among probables"; the author of this proposition was John Sinnich (+ Oct. 8, 1666), a Louvain doctor and defender of Cornelius Jansen, whom other Jansenists followed. Hence it is clear that the rigid tutiorism of the Jansenists had already been reproved by the Church. And certainly no obligation is given of doing what is safer; for it suffices to do what is safe. Likewise no obligation is given always to forestall the danger of materially sinning, nor can it be given, for this would be morally impossible; only the obligation is present to avoid the danger of formally sinning.

Proof of the 2nd part. If it were not licit practically to follow an opinion in favor of liberty unless it is most probable, then either this most probable opinion is taken as morally certain, or, as the word sounds, as probable in the highest degree indeed, but not certain. In the first case mitigated tutiorism

would fall back into condemned rigid tutiorism; in the other case it would fall into false doctrine against the Apostle saying that all that is not from faith, that is, from a certain persuasion of honorableness, is sin, Rom. 14:23. Thus among the milder rigorists are counted Antoine, *De Consc.* c. 4. q. 4, Gazzaniga, *De Consc. prob.* n. 140. 141, requiring for operating direct truth, or an opinion certainly and very probable, and much more probable, or more probable by many degrees, and far excelling. Proof of the 2nd part by the same reasons as the following proposition. - L. 1. 1. n. 40. 54; Suarez tr. 3. d. 12. s. 6. n. 8; E. M.

119. It is licit to follow a truly probable opinion, the safer being left aside, whether equally probable or even truly more probable, where the question concerns only the honorableness of the action, by forming for oneself a conscience not directly, but from reflex principles.

The proposition is against probabiliorists and equiprobabilists. The first part is proved. Probabiliorism and equiprobabilism are refuted.

Proof 1. The system of the probabiliorists and equiprobabilists is not practical. For it is very difficult even for the doctors themselves to establish which opinion is more probable, which notably more probable. What appears to one more probable or notably more probable appears to another less probable and notably less probable. Indeed, what to one and the same person previously appeared more probable, far more probable, afterwards, the matter having been weighed better, seems less probable and much less probable.

Proof 2. For either the probabiliorists and equiprobabilists say that it is licit to act from the immediate judgment of the more probable or notably more probable opinion; or they say that it is licit to act from a mediate judgment, namely by force of the principle: a doubtful law does not oblige; an uncertain law does not produce a certain obligation; the will without knowledge of the law cannot be bound by its obligation. The first cannot be said, for although the opinion is more probable or notably more probable, nevertheless it is not certain; and without a certain conscience it is not licit to act. But the other, as is clear, leads not into probabiliorism or into equiprobabilism, but into simple probabilism. For where there is true probability against the law, the law is already doubtful and uncertain, and knowledge of the law cannot be had.

Proof 3. For we would be bound to follow the more probable or notably more probable opinion insofar as these approach more closely to truth. But this is false; for an opinion simply probable can approach more closely to truth, and a sentence can be false which bore before itself a certain greater appearance of truth. Moreover, here the question does not concern speculative truth but practical truth; the question does not concern adhesion of the intellect simply to truth, but the obligation of the will, which is not bound by the obligation of the law unless the law is certain and knowledge of the law is had.

The second part is proved. Simple probabilism is proved.

Proof 1. The proposition established is clear from the authority of very many and very grave theologians, who not only hand it down, but also affirm it as common doctrine, such as Suarez, Lugo, Struggl, La-Croix, Pignatelli, Vasquez, Elbel, Castropalaus, Sporer, etc. Cf. these *Instit. Mor.* ed. 4. Hence S. Alph. in *Dissert. de usu moderato opinionis probabilis in concursu probabilioris*, 2nd ed., Naples 1755: "We undertake to prove the last, more benign, and most common opinion, namely that it is licit to use a probable opinion even in concurrence with a more probable one in favor of the law,

whenever that opinion has a certain and grave foundation." And certainly, although many after the Jansenists defended probabiliorism, nevertheless by far the greater part of theologians embraced probabilism. But he who in practice follows a doctrine which very many and very grave theologians teach, and which the doctors commonly hand down, acts prudently; but he who acts prudently acts honorably. For this reason, in the Dissertation just cited, S. D. immediately adds: "Add to these especially the argument, namely that if the benign opinion had been false, it certainly would by no means have been commonly received everywhere by doctors as it truly was received; or at least the Church would not have tolerated it, permitting souls commonly to walk by this way of perdition, as the adversaries cry out, deceived by such blind guides." And, as the same S. Alph. has it l. 6. n. 460, par. *Haec autem*, "nor is it an obstacle that several opinions which are circulated are not condemned by the Church, and yet by others more commonly are reputed lax; for the Church does not condemn all opinions which regard particular cases, although it does not approve them; but opinions which regard the universality of consciences, the Church does not approve nor keep silent about, as S. Aug. said, Epist. 119: The Church of God tolerates many things, and yet those things which concern faith or good life, it neither approves nor keeps silent about." Cf. L. 1. 3. n. 669 toward the end, *Hoc unum*, etc.; Bouquillon *Theol. Fund. de Consc.* c. 2. a. 1. § 2.

Proof 2. He who in practice follows an opinion which stands within the bounds of right reason and prudence acts prudently, and consequently honorably. But he who in practice follows a truly probable opinion, the more probable and safer being left aside, follows an opinion which stands within the bounds of right reason and prudence. Therefore. - The major is clear of itself. For what is more honorable than to follow right reason and prudence, which is right reason concerning things to be done? And Benedict XIV, C. *Apostolica Constitutio* § 21, indeed hands down this rule of acting, namely that we should follow the opinion which reason persuades and authority confirms. Moreover, it is by no means consonant with right reason, and especially with divine goodness, to wish to oblige man to perform somehow that which remains prudently uncertain to man himself after diligent inquiry, whether it is required by the order or not; especially since doubts of this kind are very frequent because of the weakness of the human intellect itself. This would be to impose unbearable burdens. L. 58. 86; S. Th. 1. 2. q. 19. a. 10 ad 1. But the minor is clear from the very nature and definition of a truly probable opinion, which is not changed by the concurrence of another opinion, although more probable and safer. And this S. Alph. himself openly affirms in the definition of the more probable opinion; for he says that its contrary is judged probable. Cf. 112. Muzzarelli *Dissert. de Regul. mor. opin.*, Rome 1807, p. 30 seq.; L. 1. 1. n. 79.

Proof 3. S. Alph. says this in his *Op. Mor. Theol.*, 6th ed., Rome 1767: "There are two principles on which, relying, I defend the licit use of a probable opinion. The first, that a doubtful law, in the conflict of two equally probable opinions, does not oblige, because a doubtful law is not sufficiently promulgated. The other, that an uncertain law cannot introduce a certain obligation, because the obligation of law is posterior to liberty, with which man has been endowed by God." Each of these principles is explained and proved at length by S. D. l. 1. n. 66 seq., H. A. tr. 1. n. 37 seq. But when a truly probable opinion is present, although it is in concurrence with another more probable and safer one, each principle is still verified, namely that the law is uncertain if the question concerns its existence, or that it is doubtful if the question concerns its interpretation, because it is obscure; and therefore neither does the law have the power of actually obliging, since it has not been sufficiently or certainly promulgated; "for then the doubt whether the law exists is sufficiently promulgated, but the

law is not promulgated," L. 1. 1. n. 70, Turin ed. 1846; nor is man, having certain possession of his liberty, bound to reckon himself despoiled of it because of an uncertain law: for antecedently to every law, each possesses his own liberty, since man must first be conceived as free, and then the law which is imposed on man. Therefore. L. 54 seq.

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

Hence S. D. l. 6. n. 604, raising the question: "Whether a penitent can be absolved who wishes to follow an opinion contrary to that which the confessor holds," responds: "The common and to-be-followed opinion teaches that the confessor not only can, but is also bound under grave sin (where the question concerns grave matter, H. A. tr. 16. n. 118), to absolve a penitent who wishes to follow a probable opinion, although the opposite seems more probable to the confessor.... This common opinion standing, strengthened by so many authorities and reasons, I do not see how a confessor can with a safe conscience deny absolution to one wishing to follow an opinion which appears probable to the penitent himself, indeed perhaps more probable, if not directly at least reflexively, as probabilist authors commonly think, who by following a probable opinion in concurrence with a more probable one judge that they embrace an opinion reflexively more probable, as being confirmed by graver foundations and by the most common authority of doctors." S. D. has the same doctrine in his last work, H. A. tr. 16. n. 118; and to this opinion he adds no limits except the following: namely that "the opinion of the penitent have some probability, so that the confessor, although he does not hold it as solidly probable, nevertheless does not repute it altogether false... evidently erroneous." Cf. also l. 1. n. 87, where S. D. after Gerson says: "Theological doctors ought not to be quick to assert that some things are mortal sins where they are not most certain about the matter: Note, WHERE THEY ARE NOT MOST CERTAIN." Lugo *Resp. Mor.* l. 1. d. 26. n. 3; Pignatelli *Cons. Can.* tom. 8. cons. 15.

Proof 4. In order that law certainly oblige, it must be sufficiently promulgated, S. Th. 1. 2. q. 90. a. 4. But sufficient promulgation of law is not had if the law is not certain and manifest. Hence in canon law it is generally established: "In these things, concerning which the law is not found expressed,

proceed, equity being preserved, always inclining toward the more humane part, according as you will see persons and causes, places and times, to require." C. *Ex parte tua* 11 *de Transact*. And in civil law it is decreed: "Whenever the interpretation of liberty is doubtful, response must be made according to liberty." L. 20 *de R. I.* "In a doubtful matter, to follow the more benign interpretation is no less just than safe." L. 192 *de R. I.* But the reason is that law imposes moral necessity, and therefore must necessarily bind the will. But it cannot necessarily bind the will except through knowledge. Therefore, knowledge of the law being excluded, the will remains morally free. S. Th. *De Verit*. q. 17. a. 3. Now if a most probable opinion is present against the law, it is evidently clear that knowledge of the law is lacking. For certainty and evidence cannot be had with the greatest opposite probability; indeed not even with simple probability. Hence S. Alph. says: "To constitute a doubtful law, true probability to the contrary suffices." L. 1. n. 57, ed. 1762. 1763.

Confirmation 5. By the authority of S. Thomas. Law is a certain rule and measure. In order that a rule direct and a measure measure, it must be applied to the thing which must be directed and measured. S. Th. 1. 2. q. 30. a. 4. Therefore law must reach the subjects whom it directs; but it reaches them through knowledge. S. Th. *De Verit*. q. 17. a. 3. Accordingly law must be certain and evident. Therefore, if the law is uncertain, namely if its existence is not established, if the law is doubtful, namely if the meaning of the law is obscure, the obligation of the law ceases; a precept does not bind except through knowledge. S. Th. l. c. Hence those axioms: An uncertain law cannot introduce a certain obligation; A doubtful law does not oblige. For the effect cannot surpass the cause. These things S. Thomas says altogether generally, nor does he distinguish between a law having against it a less probable, or equally probable, or more probable opinion. Therefore the whole question from the Angelic Doctor is this: whether a law having against it a more probable, equally probable, or less probable opinion can be said to reach man through knowledge, to bind him by means of knowledge, through knowledge, through the power of knowledge. But knowledge is not given if true probability is against it. Hence every question about mortal sin is determined dangerously unless the truth is had expressly. S. Th. *Quodl*. 9. a. 15. And S. Alph. l. 3 after n. 139, *Epist. Resp.*: "But in order that some action be affirmed absolutely to be a mortal sin, a probable opinion is not enough, nor even a more probable one; for the more probable does not exclude rational fear of erring; whence it does not bring about that the law does not remain doubtful, and that the opposite cannot be true, if it is truly probable."

Confirmation 6. Innocent III allowed a spouse suffering from impotence a three-year trial, C. *Laudabilem* 5 *de Frig.*, and did not prescribe that it must first be seen whether potency was more probable, or at least equally probable. In the eighteenth century, when certain Indians in the Kingdom of Paraguay who had been converted to the faith had several wives, and questions arose concerning the validity of their marriages, Urban VIII responded to John de Lugo, afterwards Cardinal: "Where the opinions of doctors concur as probable on each side, those opinions are to be followed which, for the condition of places and barbarian men, are more favorable." Urban did not say that the more probable opinions were to be followed, nor did he say where equally probable opinions concur, but absolutely where probable opinions concur. Carden. *Cris. Theol.* Diss. 2. § 553. E. M. 119.

Nor indeed is it of any force, in order to overturn all the aforesaid things in almost one word, to object against them that probabilism has already been condemned by Innocent XI. For Innocent XI

only commanded that liberty be given to the Fathers of the Society to defend probabiliorism and to refute probabilism, if they wished. Cf. E. M.; Wirceburg. *De Actib. hum.* c. 4.

120. Is the proposition established above, n. 116, some exception to probabilism, as though a true case of probabilism? - R. Negatively. For if probabilism is true, it must always be true, and must be verified in every case. And certainly probabilism regards the formal or subjective honorableness or shamefulness itself of an action; by no means the objective or real existence or non-existence of the effect of such an action. Now that thesis precisely regards this objective effect to be obtained or not obtained.

Therefore if someone in that case, in which the effect must be obtained absolutely, uses a probable opinion, he will certainly sin; but he will not sin precisely because he uses a probable opinion concerning the liceity of the action, but because he uses a probable opinion concerning the validity of the act, exposing himself to the danger of frustrating the effect to be obtained absolutely.

Then this would be a case of probabilism, when there were a probable opinion that it is licit by one's action to expose to danger an effect to be obtained absolutely; but that is not a probable opinion, but a false and erroneous one. And thus, for example, a minister of the sacraments who follows in their administration a probable opinion as regards their value indeed sins, certainly not because he follows a probable opinion as regards the liceity of the action; rather on the contrary, because he follows an altogether improbable opinion as regards the liceity of the action; because, since the effect of the sacrament certainly to be obtained, namely remission of sins and infusion of grace, depends on true matter and true form, someone using doubtful matter or form exposes it to the danger of lacking such effect, and therefore inflicts harm on his neighbor, and consequently sins. - L. *Op. Mor.* ed. Rome, 1757, l. 1. n. 33; Laymann l. 1. tr. 1. c. 5. § 2. 3; Lugo *De Iust. et Iure* d. 16. n. 97; D'Annib. ed. 4. p. 1. n. 266.

121. Note: An exception, and a true and illogical exception of probabilism, is the limitation which some probabilists and equiprobabilists add to probabilism from the principle of possession: In doubt the condition of the possessor is better. Therefore, they say, a doubtful law, in doubt about the existence of the law, does not indeed oblige, because liberty possesses. But a doubtful law in doubt about its cessation obliges, because the law possesses. Hence if it is probable that you did not emit a vow, you are not bound by the vow. If you certainly emitted a vow, and it is probable that you satisfied it, you are still bound to satisfaction.

But thus to admit probabilism halfway concerning the existence of the law, and not concerning the cessation of the law, is to admit the principles and deny the conclusions. If a doubtful law does not oblige, precisely because it is doubtful, whenever it is doubtful it will not oblige. Now the law is as doubtful in doubt about its existence, namely about its first existence, as it is doubtful in doubt about its cessation; for if its cessation is probable, by that very fact the existence itself of the law becomes doubtful. But the law obliging is not a law which existed, but one which exists; nor is it the law which exists in the abstract, but one which binds us in the present by its certain obligation.

But if a probable opinion is had concerning the cessation of the law, however that may be understood, its obligation becomes doubtful, and its existence likewise becomes doubtful; namely again, not the very existence itself of the law in the abstract, but its force of obliging in the concrete, in the particular case, here and now. L. 1. 1. n. 63. 78. And thus, although it is certain that a vow was

emitted and at some time existed, if you probably satisfied it, that certain vow, insofar as it once existed, becomes doubtful insofar as it binds you here and now; and that saying has force: A doubtful law does not oblige.

Possession indeed constitutes a prevailing right insofar as he who possesses is shown by possession itself, or at least is presumed, to be the owner of the thing which he possesses. But how can that be either demonstrated or reasonably presumed when the opposite is established by true or grave probability? For then it is established by true and grave probability that the possession is not legitimate, which alone can constitute a prevailing right. For if the fact alone of possession, without legitimate title, at least reasonably presumed, constituted that prevailing right, then all thieves and robbers could retain another's property by the prevailing right of possession. Cf. 157. 4; Troplong, *Della Prescrizione* c. 2 *del Possesso* a. 2228; D'Annib. ed. 4. p. 1. n. 260. 268.

The material fact itself of possession by no means constitutes a prevailing right in the internal forum, as regards the very right of dominion and ownership of the thing, but only as regards proof in the external forum, which must be instituted by the plaintiff against the possessor, because of the aforesaid presumption of dominion. But presumption yields to truth. Hence if someone has possessed in bad faith, even for a very long time, he must restore the thing even spontaneously and without proof or petition by the plaintiff. D'Annibale himself, who ed. 4. p. 1. n. 264 seq. follows the rule of possession, asserts n. 256 note 5: "Justice forbids giving damage to him who is in certain possession of his right....

I said, who is in certain possession of his right; for if the right of another is uncertain, either the condition of the possessor will be better, or at least because no certain right of another is violated, there will be no obligation of restitution." Behold how D'Annib. himself requires certain and legitimate possession, so that it really constitutes a prevailing right. And the same D'Annib. l. c. n. 259 note 18 also asserts: "Namely, certainty against true probability is not given." How therefore will the obligation of the law be certain, if it is probable that that obligation already ceased long ago?

See also ibid. n. 169. 181. 203. - Cf. 143. S. Alph. l. 3. n. 112 par. *Secundo* says: "When it is probable that the obligation of the law never began, or that it has been abolished, then the presumption in favor of the law ceases, and liberty possesses." Behold, the limitation of probabilism through the principle of possession is finished; and from S. D. also, it has no value except from presumption. S. D. joins indifferently the two cases, that the law never began, or that it has been abolished, and when each is probable, from S. D. the obligation of the law is not present. - Likewise n. 290 he says that probable custom suffices for excusing from the law. Behold again, no account is taken by S. D. of possession of the law.

And then, distinguishing well altogether between doubt and probability, he says: "that in doubt about custom the precept possesses, whence a dispensation must be sought; otherwise, if it is probable that custom is present." Cf. L. 1. 3. n. 325, par. *Infirmi*, n. 483, l. 4. n. 47. Besides, D'Annibale asserts the law of possession in a threefold case, namely in doubt 1. whether it receives a restrictive interpretation, 2. whether it is just, 3. whether it has ceased. P. 1. n. 262. And in the preceding n. 261 note 30 and n. 263 note 1, he affirms that S. Alphonsus perpetually used this rule of possession. - Now D'Annibale himself, cited n. 262 note 35, says: "except the 2nd case, in which all agree, Cf. here 157, in the others even those who seem to profess it depart from our rule."

And among these he expressly cites and reports only S. Alphonsus! And while the praised author notes this against Probabilism, that it must use exceptions which his rule of possession does not need, l. c. n. 266, he then candidly admits that his rule is not perpetual, and that it fails in several cases which he enumerates, l. c. n. 269 note 30. - But the alleged exceptions of Probabilism, namely when the question concerns not only the honorableness of an action, but an end to be obtained absolutely and the objective truth of the thing, l. c. n. 266, 256 note 5, are not really exceptions.

Cf. here 120. What he likewise says, l. c. n. 267, that the probabilist is forced to give contradictory responses, is in no way true. Cf. here 128. And it is certainly surprising that the learned theologian found a contradiction, cited n. 267, as regards that same case in which he himself had expressly affirmed a little before, namely n. 263, that it is licit to follow each of two contrary probable opinions. - Finally he asserts n. 264 that that rule of possession enjoys a better right, and n. 269 that it is better than the others not only as to the truth of the thing, but also as to practice; but in the following n. 270, immediately afterward, he affirms that it is licit to follow opinions truly and gravely probable; and n. 263, after he has set forth the various systems and also established his own rule n. 262, he says, let it be licit for each one to choose what pleases him more.

Perhaps to avert contradiction it can be said that the illustrious D'Annibale regarded that rule of possession not for the case of true probability, but for the case of doubt, which he seems sufficiently to suggest n. 269; and thus it is altogether true that theologians most commonly teach that rule, n. 268, and in this sense we also admit it and diligently explain it. Cf. here 143 seq. And certainly that rule is stated in doubt.

122. What is the force of extrinsic probability? - There is no doubt that extrinsic probability constitutes an opinion truly and sufficiently gravely probable. "Someone of small knowledge," says S. Th. 2. 2. q. 4. a. 3, "is made more certain about that which he hears from some learned person than about that which seems to him according to his own reason." This probability therefore has force, because someone is not judged to speak without grave foundation. L. 1. 1. n. 79. Hence, if someone does not rest in authority alone, but weighs this foundation, then extrinsic probability is resolved into intrinsic. But sometimes this extrinsic probability itself constitutes intrinsic probability, namely when the question concerns a matter which greatly depends on the estimation of the wise, L. 1. 3. n. 1032, namely a matter rather of fact than of law, for example, what is grave matter in the canonical hours, in fasting, etc.

An extrinsically probable opinion is usually designated by common, more common, most common opinion. Concerning these Sanchez, *De Matr.* l. 3. d. 44. n. 3, has these things, from which one can make a judgment about a common, more common opinion, etc.: "That opinion is not called common which has many doctors asserting it, with no preceding discussion, but superficially, and as they say, following it in passing....

Therefore Navarrus very well says that he regards as more common an opinion approved by six doctors treating the matter professedly, than by fifty who are led almost by the authority alone of the former. To these add Ioannes Lupus... saying that doctors are not to be believed, however much they excel in doctrine, when they lack foundation." - La-Croix l. 1. n. 164. 165; Muzzarelli *Dissert. de Regul. mor. opin.*, Rome 1806, p. 21 seq.; E. M. 122. 131.

123. Note: From the common opinion of theologians "one must not easily depart in a practical matter." Lugo *De Iust. et Iur.* d. 16. n. 106. Yet this must not be taken too scrupulously, and much less extended. Hence S. Alph. does not hesitate to affirm that he "departed from the opinions of many grave authors," l. 3. n. 547, and ibid. below he says: "Where reason convinced me, I did not refuse to go against several authors." Cf. also l. 6. n. 257. 427, where S. D. departs even from the most common opinion. Indeed an opinion is not therefore probable because it is taught by several authors, if they do not bring to it a grave reason. La-Croix n. 136 seq.; L. 1. 6. n. 657.

124. You will resolve: Therefore we make the step from a speculatively probable conscience to a practically certain conscience by the following reasoning. What is forbidden by no certain law is licit. But such or such an action, which truly probably is prohibited by no law, is by that very fact forbidden by no certain law. Therefore such an action is licit. Since the major and minor of this syllogism are certain, the conclusion too will be certain. And hence again it is clear that an opinion both tenuously and doubtfully probable is altogether excluded from probabilism. But the conclusion contains the judgment or dictate of conscience. The same transition can be made by force of another reasoning. He who acts according as prudence dictates, acts honorably. But he who acts according to this or that probable opinion acts according to the dictate of prudence. Therefore, he who acts according to this or that probable opinion acts honorably. Since again the major and minor of this syllogism are certain, the conclusion will also be certain. L. 1. 1. n. 67. 68. 69. 84; Muzzarelli *Dissert. de Regul. mor. opin.*, Rome 1807, p. 30 seq.

125. Does the authority of one doctor suffice for the probability of some opinion? - R. Negatively, ordinarily speaking. The reason is that if it is of some ancient author and has been deserted by all, by this very fact it ordinarily lacks a sufficient foundation. But if it is of some more recent author, either he brings a grave reason, or not. If the first, his opinion is ordinarily handed down also by others. If the second, he cannot render his opinion probable to others, since he brings no sufficient reason for this. Ordinarily speaking: for if some grave author treats some question which others have not treated, and brings a grave reason, or if he sustains an opinion against the common opinion, but sustains it by some new reason unknown to others, nothing prevents him, even alone, from rendering his opinion probable; but soon several others will adhere to it, if that doctrine is publicly spread. And thus "the Salmanticenses, etc., note that the statement of an excellent doctor, even a modern one, asserting that a law has been abrogated, suffices so that we are disobliged from the law." L. 1. 1. n. 107. And certainly the Holy See expressly declared that a confessor is not to be disturbed who follows the doctrine of S. Alphonsus on account of his authority alone, without having weighed his reasons. S. Poenit. July 5, 1831; E. M. 131.

126. Note: Proposition 27 condemned by Alexander VII: "If a book is by some younger and modern author, the opinion ought to be judged probable, so long as it is not established that it has been rejected by the Apostolic See as improbable," was altogether rightly condemned, because the proposition is general, and can be understood of any author whatever, even of humble reputation, and affirms an opinion to be probable by the very fact that it is not established that it has been rejected by the Apostolic See as improbable. E. M.

127. Is there an opinion speculatively, but not practically, probable? - R. Negatively, speaking per se; for the reasoning established above, n. 124, can always be made if the opinion in itself, or speculatively, is truly probable, by which we may advance to practical conscience itself. - R.

Affirmatively, accidentally, namely if, when that opinion is brought into use, there is always or almost always some extrinsic circumstance which renders the use of such an opinion illicit, for example, danger of fall, scandal, hallucination, etc. - Pignat. *Cons. Can.* t. 8. cons. 15; Lugo *Resp. Mor.* l. 1. d. 26. n. 3, *De Iust. et Iur.* d. 10. n. 165. 189.

128. Can someone licitly follow in practice diverse probable opinions favorable to himself, although those opinions are opposed to each other? - No one is prohibited from using now one probable opinion, now the contrary also probable one. For if it is licit for you to follow one, and for me the other, it will also be licit for each of us to follow each; for by no means does the fact that someone has used one make the other cease to be probable and safe. In one and the same matter it is not licit to follow the probable opinion where it benefits; but where it harms, not that one, but the contrary. For, as is clear, it is an open contradiction. And thus, for example, since some affirm that a testament lacking legal formalities is valid, and others deny it, he would act illicitly who, on account of this twofold opinion, wished to acquire an inheritance for himself from a less solemn testament, and did not wish from the same testament to provide the legacies. It is not licit to use at the same time a twofold probability of the non-existence of a twofold precept, when the transgression of either one is certain. And thus, for example, the law of abstinence urges today; I wish tomorrow to approach communion; but it is probable that midnight has already elapsed, and the opposite is also probable; certainly it is not licit to eat meat and at the same time to approach holy communion. - Elbel *De Act. hum.* 190 seq.

129. Is it expedient to prefer stricter opinions to more benign ones? - "Where the question concerns removing the penitent from danger of formal sin, the confessor ought, generally speaking, and insofar as Christian prudence suggests, to use benign opinions; but where benign opinions render nearer the danger of formal sin, as are some opinions of authors, for example, as regards avoiding proximate occasions, and others of this kind, then it is always expedient that the confessor use, indeed I say that he, as a physician of souls, is bound to use the safer opinions which conduce to preserving penitents in the state of grace." L. 1. 1. n. 87, l. 3. n. 547.

Where the penitent is prepared to follow the dictate of the confessor, whatever it may be, then "it belongs to the prudence of the confessor to weigh whether the use of the safer or less safe opinion will be profitable to his penitent... because although that is of itself safer and more perfect, nevertheless it will be more dangerous to impose on many the obligation of always acting according to the stricter opinions." L. 1. 6. n. 605. - Generally in practice, as far as can be done, the confessor ought rather to be benign than rigid with penitents. L. l. c. The same is clear by the authority of the Fathers and theologians, whom you have cited apud S. Alph. l. c. and l. 1. n. 86 par. *Ego*, and n. 89 toward the end, *Praeterea res*, H. A. tr. 1. n. 79.

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

IV. On the Doctrine of S. Alphonsus Concerning Probabilism

131. Since the authority of S. Alphonsus is very great in moral matters, and several more recent authors deny that S. D. stands for probabilism simply so called, but affirm that he teaches equiprobabilism, and rejects probabilism as lax doctrine; hence here especially we raise the question about the mind of the holy Doctor, although in the preceding article we have almost constantly used his opinions and even his words to establish the doctrine of probabilism.

E. M. Lest there be doubt in this matter, and that we may faithfully set forth the mind of S. D., we take his doctrine from the tract on Conscience in his work H. A., which he himself there, n. 79, declares that he wrote when near death. Now these things are had in n. 33. 77: "The third opinion, which is ours, says that when the opinion which favors liberty is equally probable as the opinion which favors the law, without doubt it can be followed licitly.... Here it is necessary that I warn something concerning my system, which must altogether be warned, and it is this: that when it is doubted whether the opinion favoring the law is equally probable or a little more probable, then the same principle has place, that a doubtful law does not oblige; for in such a case, the law itself does not cease to be strictly doubtful. For then, although some greater probability for the law might be present, since it is doubted whether this greater probability is present or not, the preponderance will be so slight and minimal that it must be counted for nothing before that saying commonly admitted by the adversaries themselves, that a little is reputed as nothing. But it would be otherwise when the excess were evident and certain, because then the opinion favoring the law will be certainly and much more probable; and therefore then, as was said from the beginning, the law is already morally promulgated, and therefore obliges, and is without doubt to be observed."

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

133. As regards the first, the holy Doctor refers himself back to those things which were said at the beginning. At the beginning, n. 31, these things are had: "But whether it is licit to operate with a probable opinion, there are three opinions, the first of which is that someone can licitly follow an opinion even less probable in favor of liberty, although the opinion in favor of the law is certainly more probable. Authors of the past century held this opinion almost commonly, but we say that it is lax and cannot licitly be embraced. The reason is that when the opinion in favor of the law is certainly more probable, then the law is no longer doubtful by a strict doubt, as happens, as we shall explain later, when the opinions both in favor of the law and in favor of liberty are equally probable; but it is morally certain, since it has in its favor a certain foundation that it is true, whereas on the contrary the less probable opinion, which favors liberty, has such a foundation that it is not true, so that it remains tenuously, or at least doubtfully, probable before the safer opinion; and therefore it is not prudence, but imprudence, to wish to follow it. For when it certainly appears to the intellect that the truth stands more for the law than for liberty, then the will cannot prudently and without fault follow the less safe part: for then it would not operate from its own judgment, or its own belief, but from a

certain effort which by its will it will make upon the intellect, removing it from that part which seems truer to it, and bending it toward that part which not only seems to it not true, but does not even show that it has a certain foundation by which it could be true."

Now from these things it is openly clear that S. D. by an opinion certainly more probable really understands an opinion morally certain. For he says that then the law 1. is not doubtful by a strict doubt, but is morally certain; 2. that the same law then has in its favor a certain foundation that it is true; 3. again, that the said law has against itself only an opinion which has such a foundation that it is not true; 4. that the less probable opinion opposed to the law is tenuously or doubtfully probable; so that it is imprudence to wish to follow it, and that it not only seems not true, but does not even show that it has a certain foundation by which it could be true.

Now a tenuously probable opinion is not a truly probable opinion; and the same S. Alph. teaches this, n. 65: "tenuous probability is not true probability, but is only a certain false or vain appearance of probability." Likewise a doubtfully probable opinion is not truly and properly probable, which we contend it is licit to follow even in concurrence with the more probable. For if it is doubtfully probable, it participates in the nature of doubtful probability, and therefore properly speaking is not probable. And certainly a truly and properly probable opinion is defined by the same S. Alph., l. c. n. 21, as "that which rests on some grave foundation apt to incline the assent of a prudent man." Therefore a doubtfully probable opinion will be an opinion which has a doubtfully grave foundation, and therefore does not merit the assent of a prudent man, who would be exposed to the danger of acting imprudently. "Doubtfully probable," says S. Alph. l. c. n. 65, "which no one can follow, but if it is not probable, it has only some prudent reason that it is true... the doubtfully probable has some prudent reason, although not altogether stable, that it is probable."

And hence it is clear that that opinion which it is imprudence to wish to follow, and which not only seems not true, but does not even show that it has a certain foundation by which it could be true, is not a truly and properly probable opinion. Therefore if the less probable opinion opposed to the certainly more probable is not truly and properly probable, the certainly more probable opinion by no means remains within the limits of probability, but already reaches certainty. The same is confirmed from the Dissertation inserted in *Op. Mor.* l. 1. n. 55 of the sixth and seventh editions, and related in the edition of P. Gaude p. 25 as a commentary on the doctrine of S. Alphonsus in the text, and in the Turin edition of 1846, where he thus explains that phrase "certainly more probable." "I said," he says, "certainly more probable, because when the opinion in favor of the law is certainly and without any hesitation more probable, then that opinion cannot be anything except notably more probable. And in that case the safer opinion will no longer be doubtful (understand concerning doubt strictly taken... Cf. here 138), but is morally or quasi morally certain; at least it can no longer be called strictly doubtful, since it has in its favor a certain foundation that it is true. Hence then it happens that the less safe opinion, which lacks a certain foundation, remains either tenuously or at least doubtfully probable with respect to the safer; and therefore it is not prudence, but imprudence, to wish to embrace it," etc.

Note first that from S. D., if an opinion is certainly more probable, it is notably more probable, because a small excess either is not perceived by the intellect, or is not perceived without fear of erring. Hence, if an opinion is certainly more probable, it is also notably more probable. - Then note as regards that phrase, quasi morally certain, that to the holy Doctor in this matter, where the

question concerns a certain moral estimation, a little is reputed as nothing. Moreover S. D. is not speaking of any probability whatever, but of that which appears certainly to the intellect, and he is speaking of one who, if he departed from this probability, would depart from his own judgment through a certain effort of the will, and would act against his conscience; to whom he therefore applies that saying of the Apostle, Rom. 14:23: What is not from faith is sin. Ibid. and H. A. tr. 1. n. 31. Finally S. D. calls that opinion lax which defends even a less probable opinion in favor of liberty without any distinction, namely one which has only some foundation of reason and authority; and therefore he distinguished by saying that someone cannot follow this less safe opinion when there is a great and certain preponderance in favor of the safer. *Apolog. cont. il P. Patuzzi* anno 1765. But the true doctrine of probabilism, which we follow, does not defend any probable opinion indiscriminately, but one certainly and gravely probable, which alone is truly probable. Likewise S. D. calls that doctrine lax which authors of the past century almost commonly handed down, namely in the latter part of that century, in which several lax opinions of probabilists were condemned by the Holy See; but certainly not Sanchez, Suarez, Lessius, Palaus, Laymann, Lugo, Pallavicini and very many others, whom S. Alph. himself, not only in his Moral Works, but in that very Dissertation on his moral system, approves and praises for his opinion. He himself defends this and repeatedly champions it, not against probabilists, but against rigid tutiorists, and affirms that for a series of many years it had without doubt been common among all. *Breve Dissertaz. dell'uso moderato dell'Opin. Probab.,* Naples 1762, p. 48; *Op. Mor.* l. 1. n. 59. 68-73. 84.

134. As regards the other point, it is an evident thing that if S. D. by an opinion much more probable understands an opinion morally certain, or quasi morally certain against a tenuous or doubtful probability, by an opinion a little more probable he understands simply an excess of mere probability. For otherwise the holy Doctor himself could certainly not admit that a probable opinion can sometimes retain its probability and that someone can follow it, although the opposite is notably more probable, as he himself really admits several times. Cf. *Comment. de Consc. et de Probabilismo* n. 104 seq. But if it is asked why S. D. then designates that excess by saying "a little more probable," and not simply by saying "more probable," the reason is that S. D. considers the matter practically rather than speculatively, given the nature of the thing and the principles, and also the rigor of words, and thus distinguishes between a small and a notable excess of probability. A notable excess, truly such, of probability is had when it is evident and certain; and then, from S. D., probability reaches certainty. And this is indeed so, at least practically and regularly speaking; for such probability, at least practically, is confused with moral certainty, which in a certain broader sense is certainty. And in fact S. D. is speaking of a much greater probability that is certainly and evidently such. Certainly and evidently to whom? Not only certainly to the one opining, since all know well that one and the same opinion appears less probable to one and more probable to another, indeed even to the same person in diverse circumstances; but to all, or by the common judgment of the wise. And in fact if a proposition is much more probable certainly and evidently to all, or by the common judgment of the wise, it already really is, practically speaking, morally certain. For in things to be done we often use most probable and more probable opinions as though true, and as though morally certain, when greater certainty cannot be had. Every other excess, although perhaps notable, nevertheless if it is not so evident and certain, really cannot properly be called notable, since then there is doubt concerning such a notable excess, and the proposition which to one seems much more probable to another perhaps, indeed perhaps even to the same person, the matter having been weighed better, as S. Alph.

himself confesses of himself, l. 1. n. 86, H. A. tr. 1. n. 78, appears much less probable. Therefore, if that notable excess of probability is so evident and certain, then it already reaches certainty, and by right and deservedly the opposite can only be tenuously or doubtfully probable. But if, although notable, it nevertheless is not so evident and certain, that excess really cannot as regards us be held as notable, but remains within the limits of equal probability or of a little greater probability. Certainly, if to the one opining alone a sentence seems notably more probable, or if doctors fall into various opinions concerning it, can it prudently be held as certainly and evidently more probable? Certainly not. Hence again it is clear that by that "a little greater" excess S. D. really understands simply an excess of probability.

Not only to the one opining. "Such an appearance (of greater probability)," says S. D., "cannot constitute a certain rule of operating, since it can deceive in many ways. For not rarely some opinion which will appear more probable to someone will appear less probable to another; indeed to the same person an opinion which yesterday was less probable will today appear more probable." Therefore that opinion which appears more probable to someone cannot be a true rule of acting, because "the law would be particular only for him to whom that opinion appears more probable. But this would certainly be against the nature of law, which for the common good must necessarily be universal and universally proposed, lest the people, who are bound to observe it, be frequently divided and perplexed concerning the truth to be embraced, while each preacher or confessor, from the diversity of opinions and according to his own sense, would often instruct the faithful." Nor is it of force to say that by following the benign sentence (namely the probable even in concurrence with the more probable in favor of the law), disparity can also intervene, since the same opinion can seem probable to one, improbable to another. It is not denied that this can happen; but it will always be true that, when some opinion is strong with solid probability and rests on a certainly grave foundation, it will be regarded as probable among the greatest part of the wise. And this will already be enough to preserve the universal uniformity of observance of the law, notwithstanding that among some particular person that opinion is not probable; for that which happens rarely does not take away universal conformity. Yet this does not happen concerning the estimation of more probable opinions, because since greater or lesser probability depends on moral motives, namely on the judgment and weighing of reasons, which some draw from one principle, others from another, it happens not rarely but commonly that what appears stronger to one appears weaker to another.... But that we become certain that some opinion... is truly more probable or has the required preponderance, this is morally impossible. For either that preponderance is small, and who will be secure that the opinion is truly more probable? For since the excess is moderate, it can with difficulty be perceived certainly. Or the preponderance is great, and who will be able to judge that it reaches a sufficient measure, so that the opposite is judged false or tenuously probable? And thus we would always have to act with practical doubt. Either I am bound to follow opinions more probable in themselves, and then when shall I know which opinion is truly more probable in so many cases, where grave reasons and authorities occur opposed on each side? Or opinions more probable to me, and the straits would be increased; for often I would have to judge my opinion to be probable against another opinion of several wise men. And then who will render me safe that my opinion is certainly more probable and more notable, with that notable preponderance which some of the adversaries require? How shall I become certain that I have understood the opposed reasons well and solved them well? that the dictate of conscience which I have formed for myself is sufficiently certain and safe? that I have not been deceived by my

own sense, so that if I err, my error is truly invincible and inculpable?" S. Alph. Dissertation anno 1755, n. 3. 17. 42. 43. 48. 50.

And if it is asked why S. D. made this distinction between a little more probable and notably, much, evidently, certainly more probable, the reason is that S. D., as is clear from l. c. H. A. n. 31 and from the *Apologia contra Patuzzi* 1762, wished to oppose himself to those probabilists who extended probabilism even to tenuous and doubtful probability, and therefore contended that it is licit to act when any apparent reason is present, but not firm reason, or authority. Hence from the opposite S. D. established that someone must then follow the opinion certainly, evidently, notably, much more probable, which, as is clear, in comparison with the tenuously or doubtfully probable is by right and deservedly called morally certain by S. D. Therefore, since S. Alph. designated such an opinion in comparison with the doubtfully and tenuously probable by "notably more probable," what remained was that he designate any other more probable opinion in comparison with the truly probable by "a little more probable." Cf. *Breve Dissertaz.* etc. cited above at the end of n. 133, p. 51, *Op. Mor.* ed. Rome 1757, l. 1. n. 33. Behold the words of S. D. in the Apology of the year 1765: "I did not contend nor do I contend to found new systems, and I know well that no probabilist of solid doctrine hands down as licit the use of a tenuously or doubtfully probable opinion. But because many probabilists without distinction say that it is licit to follow a less probable opinion when it has some foundation from reason or from authority, therefore I wished to distinguish, establishing that it is not licit to follow the less safe opinion when the excess of probability in favor of the safer is notable and certain, because then the less safe opinion cannot be called certainly probable."

135. Omitting the treatise on Conscience in the work entitled H. A., and the moral Dissertation on this matter inserted in the *Theologia Moralis*, if we consult these very works of the holy Doctor, we shall certainly see that S. D. pursues with the greatest diligence not only the more common and more probable opinions, but also the less and much less probable and common opinions. Cf., for example, l. 3. n. 404, where after S. D. says that the negative is far more probable to him, he says that the affirmative is sufficiently probable. And ibid. n. 649 he says: "This second opinion seems to me certainly and far more probable. But whether the first is probable... I dare to call it neither probable nor improbable." Therefore S. D. thinks that there can be a probable opinion whose opposite is to someone certainly and far more probable. Cf. l. 6. n. 868 dub. 3, l. 3. n. 293, n. 520 q. 4, n. 547 par. *Ceterum*, n. 529, n. 700 q. II, where S. D., after in a certain question of justice he has called the first opinion more common and indeed very probable, but concerning the second opinion has very modestly said that it does not lack its probability, undertakes to demonstrate that probability broadly and diligently; finally resolving the objection, he openly affirms that this serves for practice; for he says: "For this is probability of right... which the debtor can well use." Cf. also here n. 136. Therefore if someone still wishes to contend that S. Alph. speculatively champions another system, diverse from true probabilism, he must certainly confess that practically S. Alphonsus is a true probabilist. And certainly, if, so that we may be bound to follow the more probable opinion from the system of S. Alph., that excess of greater probability must be commonly evident and certain, H. A. tr. 1. n. 77, you will hardly find perhaps one or another such opinion in moral matters, since, as we have already observed, where the question concerns probability, the judgments of the gravest theologians are very diverse, and therefore the excess then cannot prudently be held as evident and certain. Indeed, as Ithur. observes, Cas. 44. n. 5, "hardly any question is treated among doctors in which there are not

both probabilists who against other probabilists embrace the stricter opinion, and probabiliorists who against other probabiliorists embrace the more benign opinion." - L. 1. 3. n. 293, n. 930. d. 1.

Therefore the doctrine which S. Alph. holds as lax is not true probabilism, which stands within the limits of true and proper probability; but it is that probabilism which passes beyond these limits and extends itself even to tenuous and doubtful probability. Hence S. D. does not say absolutely that that doctrine is commonly held, but almost commonly by authors of the past century; for in fact it was then held by several; but it would altogether wrongly be confused with the doctrine of true probabilism, truly commonly, indeed most commonly, handed down. Hence the same S. Alph. called this most common and most probable, *Dissert. de Usu moder. opin. probab.* 1755, which for almost two centuries exhausted the labors of so many wise men, which, if it had been false, the Church would not have tolerated.

And, if the matter were not so, where is that moral system which, in the Catholic Church, Clement XIII in the year 1791 answered to S. Alphonsus himself could be defended catholically? l. 1. n. 84. 85, p. 66, ed. P. Gaude. For before S. Alphonsus there was nothing middle between true probabilism and tutiorism or probabiliorism; nor then was equiprobabilism even counted among moral systems. But S. D. perpetually refuted tutiorism or probabiliorism. But S. D. asserts that he hands down only the common doctrine, l. 1. n. 59. 84. But S. D. perpetually taught: In order that there not be grave sin, it suffices that true probability be had; I understand that which rests on a foundation not tenuous, etc., l. 3 after n. 139, *Epist. Resp.* Therefore one must immediately note that S. D. very rarely employs this note, certainly, notably more probable, etc., which the *Vindic. Alph.*, Appendix 1, *Clavis Operum*, etc., themselves noted; which indeed would be very strange if his system had been so little practical. On the contrary, nothing would have had to be expressed more frequently and more clearly in individual questions. The holy Doctor does not reject true and proper Probabilism, but broad Probabilism, namely extended even to tenuous probability, which the Church certainly did not tolerate. Cf. 136.

136. Are all opinions which S. Alphonsus reports and does not expressly reject, although he does not expressly approve them, held as probable by S. Alphonsus? - On this matter S. Alph. himself thus declares his mind: "I judged that the *Medulla* of Hermann Busembaum should be set before, not now that I might approve all the opinions of that author, but only that I might follow his method, which among the methods of other doctors seemed to me very suitable for setting forth moral matters.... Besides, kindly reader, I wish you to be warned not to think that I approve those opinions from the fact that I do not reprove them; for sometimes I shall faithfully set them forth with their reasons and patrons, so that others according to their prudence may judge of what weight they are. Then note that when I call some opinion truer, then I do not hold the contrary as probable, even if I do not expressly condemn it as improbable. Moreover, when I call one of the opinions more probable, no judgment having been given about the probability of the other, or I use this phrase, I do not dare to condemn, I do not therefore understand that I am calling it probable, but remitting the matter to the judgment of the more prudent." *Monit. auct. ad lect.* at the beginning of the work. And again l. 5. n. 76: "And here again I repeat what I protested at the beginning, namely that when I call some opinion uniquely more probable, I do not therefore understand that I call the contrary probable. Likewise, when I say of some opinion that I do not dare to condemn it, or to call it improbable, I do not therefore admit it as probable, but doubt concerning its probability. Likewise, when I call some opinion truer, I understand that the opposite does not seem to me to be strong with solid probability,

although I do not altogether reprove it." Nevertheless it can in no way be denied that certain opinions are really held by S. D., at least implicitly, as sufficiently probable, which he not only reports, but also weighs their reasons, and even seems himself to add strength to them, if, after enumerating grave theologians, he says, for example, the Salmanticenses judge it probable, etc., or adds at the end, indeed Palaus says, Lugo adds, notes, etc. S. D. also holds as sufficiently probable opinions which he says are not improbable, l. 3. n. 1012. - E. M.; A. S. S. v. 1. p. 467 seq.

136 bis. Note: The oath of following the doctrine of S. Thomas does not obstruct the doctrine of S. Alphonsus M. de Ligorio being followed and handed down. S. Poenit. Dec. 13, 1855. E. M. 131.

V. On Doubtful Conscience

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

138. How manyfold is doubtful conscience? - "Doubt is divided into negative and positive. Negative doubt is when probable reasons occur on neither side. Positive is when for each side, or at least for one, there is present a grave motive sufficient for forming a probable conscience, although with fear concerning the opposite; therefore positive doubt almost always coincides with probable opinion." L. 1. 1. n. 20. Likewise one doubt is strict, another broad. Strict doubt is had when the mind does not determinately embrace one part by its assent, but adheres waveringly to each; broad is when the mind adheres to one part, yet does not furnish it an altogether firm assent.

In the former sense is to be understood what S. Alph. has apud Aertnys n. 70 at the end: "Where two equally probable opinions concur, neither remains probable, but only doubtful." Certainly the mind can remain doubtful, that is, suspend assent; but it can also well adhere determinately to one before the other, and even to each, if the motives are not contradictory but disparate, with an assent indeed not certain and firm, but probable, not without fear of the opposite. Therefore strict doubt can arise from the fact that on each side the reasons are equal or almost equal; or also from the fact that for neither side are there reasons, or only slight reasons are present for each. And just as when reasons are present on each side, although equal, reason can be moved by them to assent, so when no reasons or only slight reasons are present, then the doubt is to be scorned, and consequently does not impede opposite probability or certainty. In the present we are not treating of conscience positively and broadly doubtful, or probable, about which we have already spoken; but our discussion will be only about conscience negatively and strictly doubtful.

Moreover, doubt is divided into speculative and practical. Speculative doubt is that by which someone doubts about the truth of a thing or about the liceity of a thing in general, or universally, for example,

whether baptism with distilled water is valid, whether painting on a feast day is servile work. Practical doubt is that by which someone doubts about the liceity or honorableness of an action in particular, to be exercised here and now, for example, whether on this feast day in these circumstances it is licit for me to paint, whether it is licit to baptize this child with distilled water. To be exercised here and now: for otherwise, although the action is considered as circumscribed by several circumstances, speculative doubt can still be had concerning it, if the question does not concern an action to be exercised and directed by conscience in the present. Practical doubt always arises from another speculative doubt, either of law concerning the law, or of fact concerning some particular thing. Hence conscience speculatively doubtful, and practically doubtful. L. 1. 1. n. 21; S. Th. 1. p. q. 79. a. 13.

139. What is the directive force of doubtful conscience? - The response is clear from the following propositions. - With a practically doubtful conscience, whether the action is licit or illicit, it is illicit to act. For only a certain conscience is the rule of morals. Cf. 102. Hence that saying: In doubts the safer part is to be chosen. The safer, namely that which stands for the observance of the law. C. *Inquisitioni* 44 *de Sent. exc.*; L. 1. 1. n. 22. 79, l. 7. n. 347; S. Th. *Quodl.* 8. a. 13; Suarez tr. 3. d. 12. s. 5; *De Censur.* d. 40. s. 6. n. 3. 9; E. M.

140. With a speculatively doubtful conscience it is licit to operate, provided a practically certain conscience can be formed. For as is clear from what has been said n. 102, certain conscience, however finally it has been formed, if it at least rests on moral certainty, is a sufficient rule of morals, indeed the sole rule of morals. It is licit to operate: namely where the question concerns only the licit or illicit. For where the question concerns the truth of the thing and an effect necessarily to be obtained, if it is illicit to act with probability, it is consequently illicit to act with doubt. Cf. 116; L. 1. 1. n. 25; Suarez d. 12. s. 5.

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

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

143. In doubt the condition of the possessor is better. C. 6 *de Praescript*. This axiom in the external forum, both ecclesiastical and civil, has been received as a certain rule of judgments. For it is to be presumed that he who possesses a thing possesses it by right, unless the contrary is clear. The same certainly has force in the internal forum of conscience. For certain and legitimate possession produces moral certainty concerning the dominion of the thing, L. 1. 1. n. 35, l. 4. 210, l. 6. n. 905. 927; and the reason is that, given human customs, no one is, morally speaking, negligent; indeed on the contrary all are diligent and very diligent in guarding their own things. Moreover, where one does not proceed from a false supposition, the right of the external and internal forum is the same; for each forum is founded on the principles of natural justice and equity. Hence theologians commonly admit the aforesaid rule for the forum of conscience. L. 1. 1. n. 26. Now some say that this axiom has force only in the matter of justice. "Yet I," says S. Alph. l. c., "do not know how it can be denied in all matters." And this certainly is by far the more common and truer opinion. The reason for this extension also to other matters, with due proportion, is the same as in the matter of justice. For no one can justly be despoiled without sufficient reason of a good which is his own. But man naturally, and therefore certainly and altogether legitimately, possesses his liberty, which certainly is some good and right of his own. Therefore this good also pertains to justice, and he who unjustly either takes it away or weakens it violates justice. Without injustice a free man cannot be subjected to servitude. But there can be no doubt that in doubtful laws liberty is always in prior possession of itself. For upon whom is law imposed except a free man? Whence it is that what is licit is not whatever the law permits, but what the law does not prohibit, L. 28. § 2 *Ex quib. caus. maior.*, and therefore this prohibition must be manifestly proved, C. 23 *de Verb. signif.* - Suarez tr. 3. d. 12. s. 5. n. 8; Lugo *De Iust. et Iur.* d. 17. n. 87, d. 23. n. 110. In doubt: that is, in negative doubt, and the reason of the axiom is then clear, because possession stands for the possessor, and therefore moral certainty; for the petitioner no prudent reason is had. Cf. Lugo *De Iust. et Iur.* 23. n. 110. But in positive doubt, or probability, if probability is present on each side, so that on one side possession and probability of right stand, and on the other only equal or almost equal contrary probability of right, the condition of the possessor is again better, as is clear of itself. But if on one side indeed possession stands, but on the other contrary probability of right; or on one side possession and at the same time probability of right, and on the other far greater contrary probability of right, then certainly the condition of the possessor is not better, but doubtful. Indeed the first opinion holds that the judge is bound to adjudge the thing to the plaintiff, because the right of possession prevails in an equal cause, but not in a less probable cause. For Rule 65 of the Law in the Sixth has it thus: "In equal fault, or cause, the condition of the possessor is stronger"; and in L. 128 ff. *de div. Reg. Iuris* it is said: "In an equal cause the possessor ought to be held stronger." But the second opinion holds that the condition of the possessor is still better, and that the judge cannot despoil him of possession. The reason is that "it is certain that legitimate possession gives to each a certain right of retaining the thing, until the right of another is not established, as they say most commonly... a certain right, which cannot be overcome except by the certain right of another through certain convincing reasons." For possession is defined: the right of insisting in a thing not prohibited to be possessed. L. 1. 1. n. 36; Ithur. Cas. 1. n. 2. Cf. L. 1. 3. n. 547. 562. 711, etc.

Therefore the possession about which the present saying speaks is certain and legitimate possession. It is called certain, that is, that the fact of possession is certain; legitimate, that is, begun and continued in good faith, and likewise begun and continued by a just title, at least apparent, or at least

thought to exist, or presumed, such as, for example, donation, purchase, inheritance, and similar things, through which ownership of some thing is usually acquired. Therefore if possession is doubtful, or begun with doubtful faith, or by a doubtful title, it by itself does not exhibit to the possessor a special prerogative and presumption against which no contrary probability has force. L. 1. 1. n. 36. 47, l. 4. n. 210.

Probability of right, which can be only on one side or on each side, is the probability of a real just title, or of one actually existing, from which true and real dominion and ownership of the thing arise. For for legitimate possession, about which the axiom speaks, it suffices that the just title at least appears, because, for example, a donation or purchase intervened from him who was thought to be owner, although he was not; or at least was thought to exist, because the action signified by the title is thought to have intervened, although it did not intervene, as happens when someone thinks that the thing was given to him or bought by him, and nevertheless this was not done; or at least presumed, because, for example, because of length of time in peaceful possession or other circumstances, it is prudently thought that some title intervened, although the possessor cannot allege any determinate one. Therefore this probability of right, as is clear, is altogether outside possession itself, which only gives the right of insisting in the thing, or of holding it, although perhaps its dominion and ownership does not belong to you, since a just title was not really present. Now the probability of a real just title, or of one actually existing, can be in two ways: 1. Probability of the justice of the title for beginning or continuing possession and ownership of the thing, for example, a testament lacking legal formalities. 2. Probability of the reality or existence of a just title for the same effect, for example, of donation, when it is also probable that the thing was taken by theft. The former probability is called of right; the latter is called of fact. Where this latter is treated, "when the fact is not plainly proved, it is not probable that the accused can be condemned, since laws never permit the accused to be condemned unless the crime or debt is fully proved; but it is not proved fully and sufficiently for a sentence when, although two or three witnesses testify, nevertheless other witnesses testify the contrary; for through these the testimony of the former is destroyed or diminished, and therefore the sufficient proof required for full proof and condemnation does not remain." Lugo *De Iust. et Iure* d. 16. n. 100. Cf. also d. 23. n. 100, d. 16. n. 34. 96. 99.

144. You will resolve: From the aforesaid axiom several practical cases of negative doubt can be resolved, in which every true probability is lacking, namely whether the time of the obligation of a law has arrived or passed. "In doubt of beginning, for example, whether you have completed 21 years, you are not bound to fasting, because then possession is for liberty. Otherwise in doubt of passing, for example, whether on Saturday the hour of midnight has passed, you cannot eat meat, for then the law possesses. Thus also, if you doubt whether you have 16 years for profession, or 25 years for priesthood, you cannot profess or be ordained. Thus commonly." L. 1. 1. n. 99. 32.

145. In doubt one must stand for that for which presumption stands. For presumption, taken from things ordinarily happening, or from other circumstances of the person and the thing, produces moral certainty, or at least probability. "In obscure matters one is accustomed to look at what is more likely, or what usually happens." L. 114 *de R. I.*; R. I. 14 in 6. It is a certain anticipated proof of a thing from indications, before direct proofs. Therefore presumption exhibits a thing as true and stands for that side which is not bound by itself to prove the contrary fact, but transfers that burden of proving to the other side. For whenever something is known to preexist which by its nature perseveres until

it is taken away by some contrary fact, that thing is thought to persevere as long as that contrary fact is not established, which consequently must be proved by the adverse side.

Hence, if you are accustomed at such a time diligently to recite the breviary, and you doubt whether you have recited some part, presumption favors you and exempts you from the obligation of reciting or repeating. If an insane person, but one who has lucid intervals, makes a vow and afterward doubts whether he made the vow while master of himself, he is not obligated so long as it does not appear that he was master of himself. L. 1. n. 26. Nevertheless in the forum of penance, in which, as S. Thomas says 4.

D. 17. a. 3. q. 3, one must stand by the word of the penitent for himself and against himself, presumption yields to the truth affirmed by the penitent. - Cf. 204; Lugo *De Poenit*. d. 20. n. 17. 19; L. 1. 3. n. 270, l. 6. n. 600 par. *Limitant*. Likewise in the case of doubt, the baptism of spouses is not presumed in relation to a marriage, if the non-Catholic party or parties had parents belonging to a sect which rejects baptism; on the contrary it is presumed if they had parents belonging to a sect which admits baptism, and they were zealous in that sect. S. O. Aug. 1, 1883; Collect. S. C. de P. F. n. 662; E. M. n. 1016.

146. Note: Where the question concerns obedience to be furnished to a superior in doubt, presumption stands, speaking per se, always for the superior. L. 1. 1. n. 93. 98. 99. Speaking per se always: for accidentally it can sometimes happen that presumption is not present for the superior, for example, in doubt about the liceity of the thing, even with the precept of the superior acceding, for example, when the superior "is accustomed rashly and imprudently to command at pleasure things which are not licit... also when, with the precept of the prelate acceding, the thing remains in doubt (as regards its intrinsic liceity); nor does the authority, doctrine, probity, or prudence of the prelate suffice for putting aside the doubt, which case is possible." Lugo *Resp. Mor.* l. 3. d. 19. n. 11; L. 1. 3. n. 617. Cf. here 157.

147. In doubt a fact is not presumed, but must be demonstrated. L. 10 C. *de Non numer. pec.* - For no reason must be given for non-being, but for being; because non-being does not have its cause, but being does. But understand this of the principal fact, if it is doubtful: because, if the principal fact is certainly established and there is doubt about an accessory fact, then other principles have force: In doubt every fact is presumed rightly done; In doubt the fact which by law had to be done is presumed; In doubt one must stand for the value of the act; always excluding unjust damage to oneself or another or the community. For every being naturally tends toward its perfection and good. Therefore if nothing is established as obstructing, nature continues to pursue its course. The fact of a completed Confession is established; you doubt concerning the right, whether you confessed rightly with sorrow, with purpose; you can acquiesce. These three latter principles have force both for liberty and against liberty.

For liberty, if a contrary and certain presumption or the common good does not obstruct; for no obligation is to be imposed unless it is certainly established. Against liberty, namely if a contrary and certain presumption or the public good obstructs; for the common good prevails over private good. L. 1. 1. n. 26. 27. 137. 182. 251, l. 3. n. 201, l. 6. n. 505; L. *Quoties* 12 *de Reb. dub.* ff.

148. You will resolve: In doubt whether you took some food or drink, and likewise in doubt whether you took food or drink after midnight, you can receive the Eucharist. For unless the fact is proved in

each case, liberty possesses. L. 1. 1. n. 38. 39; Elbel 166. 167; Amort. *Theol.* t. 2. d. 5. 9. 4, who observes these things at the end: "Yet I say that he would sin at least venially who, for the pleasure of mere drinking, should thus traffic around the laws of the Church, exposing himself to the danger of at least material transgression; and if he does this from custom or from a resolve always to operate in this way, no other reasonable cause concurring, for example, thirst, infirmity, he will sin mortally, because such a resolve argues interpretative contempt and a defect of charity toward God and the Church, whose honor he stains."

Busemb. apud La Croix, l. 1. n. 470. VI. Indeed, although it is licit to use a probable opinion against a law, it is nevertheless not licit to act in fraud of the law, voluntarily procuring a state of doubt against the law, lest someone be bound to observe the law. Doubtful baptism, in order to a marriage already entered or to be entered, is held as valid; and therefore a marriage is pronounced valid or invalid according to various circumstances.

The marriage of one doubtfully baptized with one not baptized must be held invalid. On the contrary, the marriage of two doubtfully baptized persons, and of one doubtfully baptized with one baptized, must be held valid. S. O. Nov. 17, 1830; Sept. 9, 1868; Sept. 18, 1872; July 7, 1880; Sept. 18, 1890; Apr. 12, 1899; Collect. S. C. P. F. n. 1872; E. M. n. 1016. But a doubtful marriage, because of the common good, is commonly held as valid. But because of the most excellent good of religion, the doubtful marriage of polygamous infidels who are converted to the faith is declared invalid. Collect. S. C. de P. F. n. 1301. 1304. 1332. 2184.

149. In doubt no one is presumed evil, unless it is proved. - This axiom is a corollary of the preceding. For since facts and consequently crimes are not presumed, but must be demonstrated, neither ought anyone to be presumed evil, but he must be proved. Indeed no one is evil for nothing.

150. Hatreds should be restricted and favors should be broadened. R. I. 15 in 6 - For no one desires to be hated, but all desire to be pleasing. Therefore favors are to be preferred to hatreds. Favor is understood as whatever indulges liberty or grants grace. R. 122 *de R. I.* Hatred is whatever restricts liberty, establishes a punishment, or injures some right. But since it sometimes happens that what is a favor to one is hatred to another, the particular case must be considered, so that it may be determined whether favor is to be preferred to hatred, or hatred to favor. Hence there arises the general principle: In obscure matters the minimum is to be followed, R. I. 30 in 6, L. 9 *de Reg. Iur.*, and therefore the interpretation of law is to be made less burdensome and more benign to liberty. Whence there is another general principle: Always in doubts the more benign things are to be preferred. L. 56 *de R. I.* And likewise another: Unless you have been certain of the mandate, you will not be compelled to execute what is commanded. C. *Cum iure* 31 *de Off. et pot. iud. del.* L. 1. 1. n. 97.

151. You will resolve: Therefore it is false that where generally the discussion concerns speculative doubt about the liceity or illicitness of an action, in doubts the safer part must be chosen. And certainly in this Rule of Canon Law the question does not concern speculative doubt, in which by means of a reflex principle someone can form for himself a certain conscience, and thus choose a part altogether safe; but the question concerns either practical doubt, namely a practically doubtful conscience, with which it is not licit to act, or else the question concerns those cases in which the end must necessarily be obtained. But the question is above all about the external forum, in which often there is a special reason for following the safer course, in order to remove scandals, abuses, and

offenses of the faithful; or about honorableness and the greater degree of merit, not about the necessity of salvation. L. 1. 1. n. 68. 79, H. A. tr. 1. n. 39; Struggl tr. 1. q. 5. n. 17.

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

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

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

155. You will resolve: If the one acting chooses that which seems to him the greater evil, he sins according to the excess of the evil apprehended, since he freely chooses this excess.

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

But if the doubt is positive, it is controverted. The first opinion, which S. Alph. 1. 1. n. 26-29, 1. 3. n. 700 par. ult., 1. 6. n. 477, *quaest. reform.*, recent retract. q. 1 and 18, etc., altogether holds and thinks must be held, and several others hold, affirms. The reason is 1. because a certain obligation is not satisfied by a doubtful fulfillment; 2. because since in doubt the condition of the possessor is better, and the law certainly existing possesses against liberty, it prevails over liberty, and will always have it obligated to itself until the law has certainly been fulfilled. Cf. besides L. 1. 1. n. 20. 39. 99, 1. 3. n. 112. 290.

The second opinion, which we judge most probable both intrinsically and extrinsically, denies that such an obligation is present. The reason is the very fundamental reason of probabilism, which the

holy Doctor cited above explains most learnedly and most expertly, namely: a doubtful law does not oblige. For law does not oblige in the abstract and universal, but in the concrete and particular case, L. 1. 1. n. 78. But although the existence of the law according to itself is certain, nevertheless the same law as obliging in such a concrete and particular case is uncertain, and is altogether prudently pronounced uncertain, if it is truly probable that satisfaction has already been made to it. Therefore either it must be said that the obligation of satisfying the law again in the aforesaid case is null, or it must be said that the aforesaid principle, a doubtful law does not oblige, is not universally true but suffers an exception; which would not be fittingly said. For what is true is always true, and for every particular contained in the universal. But from this reason it appears that the obligation really is not certain, which is assumed in the first reason of the opposite opinion, if it is probable that the law has already been satisfied. For against certainty there cannot be probability. As regards the second reason, as is clear from what has already been said, possession prevails in merely negative doubt; but for it certainly to prevail even in positive doubt, it must be certain and certainly legitimate possession. Now when in a particular case it is truly probably established that the law has been fulfilled, the possession of the law for that concrete and particular case becomes prudently doubtful; for if you really satisfied it, liberty in fact possesses. Besides, it is certainly not legitimate, since probably the just title of obligation is lacking; for you can probably believe that you have already satisfied, and therefore the just title, at least presumed, probably is not present. Moreover, several and very grave theologians hold this opinion. Indeed the same S. Alph. 1. 1. n. 99 has these things: "What in doubt whether you have fulfilled the law? In negative doubt you are bound to fulfill; otherwise in positive." Cf. also 1. 4. n. 150. And thus indeed S. Alph. himself thought, 1. 1. n. 76, edition of the year 1757; and S. D. called this opinion common, and himself deduced it from the very principles of probabilism. Finally S. D. 1. 6. n. 505 says, "it must be carefully noted that penitents are not to be compelled to repeat confessions unless it is morally certain that they were invalid, as La-Croix, etc., rightly say." - D'Annib. ed. 4. p. 1. n. 169.

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

Therefore law can be doubtful: 1. As regards its very existence and promulgation, concerning which S. Alph. says: "In order that law oblige, it must not only be promulgated, but also promulgated as certain. And this point must firmly be established here," 1. 1. n. 63 seq. and 97. And, to pass over others, these things are from the distinguished Doctor apud S. Alph. 1. 1. 66: "As long as there is a probable judgment that there is no law prohibiting the action, such a law is not sufficiently proposed to man; whence since the obligation of law is of itself burdensome, it does not urge until it is more certainly established." C. 31 *de Off. iud. deleg.*

2. As regards its understanding and obvious interpretation, and whether it is obscure or ambiguous. For since law must be sufficiently proposed in order to oblige, the legislator is not

judged to wish to oblige beyond that which is clearly and determinately expressed in the law. R. I. 30. 57 in 6; L. 9 C. *de Leg. et Const.*; Suarez in 1. 2. tr. d. 12. s. 5. n. 7. Obscure: for example, whether regular prelates, since they too have their own sheep, ought to apply Mass for them on feast days. This question, twice proposed before the Holy See, has not yet been solved. Giraldi *Expos.* I. P. p. 2. s. 85. t. 3. Ambiguous: it is provided that a beneficed cleric not reciting the canonical hours after six months from obtaining the benefice does not make the fruits his own; nevertheless the fruits are to be understood not of the earlier and later time, but only of the later.

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

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

5. Whether the law is just or unjust; and here a threefold case can occur. The first is that the justice of the law is doubted because the legislator himself is doubted, whether he is a legitimate superior. Now in this case, if the doubt about the legitimacy of the superior is positive, about which we are treating, namely it is truly probable that he is not a legitimate superior, by that very fact the non-existence of the law becomes truly probable, and therefore it does not oblige. Cf. L. 1. 1. n. 98. 121. - But if the doubt is merely negative, the law must be obeyed, "whenever the superior is in peaceful possession of his power; for then his condition, as already possessing the right of commanding, is better." L. 1. 1. n. 98, 1. 4. n. 47. The other case is that the justice of the law is doubted because it is doubted whether the superior exceeds his power. In positive doubt, or true probability concerning excess of power, the same must be said as in the preceding case. For by the very fact that it is truly and manifestly probable that the superior exceeds his power, the non-existence of the law becomes truly probable, and therefore it does not oblige. Cf. L. 1. 3. n. 617. - But if the doubt is merely negative, presumption, speaking per se, always stands for the superior.

The third case is because the liceity of the thing commanded itself is doubted. In positive doubt or true probability, the law is not doubtful, and therefore obliges. For the superior then commands a thing probably licit, indeed certainly licit; for he commands that the subject embrace some probable

opinion in practice, which is certainly licit. Therefore he commands licitly and by right. Therefore the subject is bound to obey. Lugo *Resp. Mor.* l. 3. d. 19; L. 90, l. 1. n. 93. 99. 124, l. 4. n. 47; Wirceburg. *De Legib.* c. 1. a. 1. "But the doctors commonly limit the aforesaid opinion, and say that the subject is not bound to obey, 1. if the thing is very difficult and troublesome.... They limit it 2. when by obeying the subject would expose himself or another to the danger of undergoing grave inconvenience in life, reputation, honor, or goods." L. 1. 4. n. 47, l. 3. n. 617, l. 1. n. 31. "The reason is that the subjection and obedience due to the superior does not take away your right and possession, or that of another, concerning the good of honor, reputation, body, or fortune. Therefore you are not bound to deprive yourself of this certain possession in a matter of such great moment; rather it seems consonant with equity that greater account be taken of your certain possession, and that this be preferred to the right or possession, in some way doubtful, of the superior." Elbel 173; Laymann c. 5. n. 12; Suarez tr. 3. d. 12. s. 5. Moreover, because then in the case of a very difficult or harmful thing it can deservedly be doubted whether the superior exceeds the limits of his power, and therefore the existence of the law becomes doubtful; or legitimate epikeia can then also have place, according to the various circumstances of the particular case. But if the doubt is merely negative, presumption, as has already been said, Cf. 146, always stands for the superior. Cf. Suarez *De Relig.* t. 4. l. 4. c. 12 seq.; Lugo *Resp. Mor.* l. 3. d. 19. Besides, as regards practice more, "the opinion of all theologians, both recent and ancient, is common: they teach that in obscure matters the superior must be obeyed where sin is not certain; and thus all have taught who have treated this matter. Thus also all the masters of mystical theology with S. Ignatius of Loyola in the Letter on the Virtue of Obedience." L. 1. 1. n. 100. 194; Lugo l. c. n. 3; Suarez tr. 3. d. 12. s. 5.

VI. On Scrupulous Conscience

158. What is scrupulous conscience? - A scruple is an empty apprehension, and from this arising fear and anxiety, that sin is somewhere where it is not; or that there is grave sin where there is only light sin. Therefore scrupulous conscience is that conscience which from some vain cause doubts about the honorableness of some action, and therefore fears sin. Fear of this kind can very well stand with a determinate judgment concerning the honorableness of the thing; for it rests only on a light and empty motive. But if that fear is with a determinate judgment that something is sin which in reality is not, this judgment, insofar as it proceeds from an empty motive and afflicts and anxiously troubles the soul, can certainly be called a scruple, or scrupulous conscience, speaking broadly; but properly it is vincibly erroneous conscience. Likewise there can be a scruple with true practical doubt whether this is sin or not, from an empty motive, suspecting perhaps that it is sin, without any determinate judgment that it is or is not sin.

And thus again it is a scruple or scrupulous conscience broadly so called, but properly it is doubtful conscience. Ferraris Supplem. v. *Scrupulus*. Scrupulous conscience differs from tender conscience; for the latter is a conscience recognizing, fearing, and fleeing both grave and light sins, and even simple imperfections, as much as with divine grace it can, strives to avoid.

159. Is it licit to operate with a scrupulous conscience? - The response is clear from the two following propositions in this number and the next. - It is licit to operate with a scrupulous conscience, while the scruple remains, provided it is judged to be a scruple and is despised as such. Nor indeed is it necessary that this express judgment, that it is a scruple, be formed for each

individual act; but it suffices that someone act against it from a judgment of experience of past acts. - The first reason is that such a scrupulous person has a prudent motive for despising the dictate of scrupulous conscience; because a scruple proceeds from a light foundation and consequently does not take away a judgment otherwise certain or probable; and because confessors and theologians commonly say that scruples are to be put aside, or, if they cannot be put aside, are to be despised. The second reason is that then there is had at least a virtual judgment of that contempt of scruples. - Suarez tr. 3. d. 12. s. ult.; L. 1. 1. n. 18. 19; Wirceburg c. 4. a. 1.

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

161. From where do scruples proceed? - The causes of scruples, dispositive, permissive, effective, occasional, are some intrinsic and others extrinsic. The intrinsic causes of scruples are: 1. The natural constitution of the body, very much disposed to suspicions and fears, as is a melancholic disposition. 2. Weak health of the head, especially in women. 3. Ignorance, by which someone does not well perceive the precepts of God and the Church. 4. Hidden pride, by which someone trusts too much in his own judgment. 5. Excessive abstinence and immoderate vigils, by which, the head being weakened, the soul is easily disturbed. 6. Immoderate and indiscreet fervor.

But the extrinsic causes of scruples are: 1. God, who permits scruples in the just so that thus purified they may advance more; in the tepid, so that they may perform the offices of Christian piety more fervently; in penitents, so that they may pay the penalty of past sins. Scruples are judged to be from God if those agitated by them become better. 2. The devil, who, "God permitting, can move melancholic humors in man, through which the imagination can either err or be disturbed to inordinate fear." S. Anton. I. p. t. 3. c. 10. Scruples are thought to come from the devil if the scrupulous person feels himself being brought to tepidity, drawn back from virtue, and especially inclined to despair. 3. The society of the scrupulous, especially if the scrupulous moderate themselves by their counsels and frequently converse with them about matters of the soul; for those with whom we associate, we imitate most easily. 4. Reading of books which are too rigid, "establishing harsher precepts which the human condition cannot sustain"; S. Ambrose on Ps. 118; little by little without sensing it we assent to those opinions to which we give study.

162. What are the signs of a scrupulous conscience? - "1. Pertinacity of judgment, by which the scrupulous person refuses to obey the counsels of the wise, consults various persons, but acquiesces in the judgment of none; indeed the more he hears many, the more perplexed he becomes. - 2. Frequent change of judgment from light motives, whence arises inconstancy in acting and disturbance of mind, especially in external operations, for example in the celebration of Mass, etc. - 3. To have irrelevant reflections about many circumstances which were present or could have been present in the action." L. 1. 1. n. 11. 4. If he thinks that he sins in that in which pious men find no sin at all; if he recites his prayers anxiously and continually begins them anew; if he does not make an end of examining conscience, and explains every least thing, and often also repeats it in Confession. 5. If he uses ridiculous signs, gestures, and other modes for putting aside scruples. 6. If the confessor, or another prudent man, has judged him scrupulous. La-Croix 1. 1. n. 515 seq.

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

It will also be useful to know the privileges of the scrupulous: 1. that the scrupulous person is not bound in acting to employ examination and diligence except very moderate diligence, and not so much as others; and that, while a scruple torments and counsel is not available, he can freely do what he wishes, unless it is certain and evident that it is sin. Cf. Vasq. on 1. 2. d. 57. 2. That he is bound to repeat nothing from past Confessions, unless he certainly knows that it is mortal and that he has not been duly confessed. But he is not certain as long as he doubts. Hence Laymann advises that the scrupulous person never confess doubts and scruples. And Sa, v. *dubium*, and others say that he is not bound to confess except those things which he could swear are mortal and have never been confessed. The reason for each privilege is that in the scrupulous person, by excessive fear of sinning, reason is disturbed, so that he cannot examine the matter rightly. Hence, although he perhaps did not confess some things, nevertheless he is not bound with so much harm and danger of perpetual anxiety to procure the integrity of confession, since lesser difficulties often excuse from it. L. 1. 6. n. 476. 477. - 3. "Indeed sometimes someone can be so tormented by scruples that, although it seems certain to him that he did not say some things, still he is not bound to confess them." L. 1. 1. n. 16.

164. What ought to be the manner of acting of a confessor with the scrupulous? - It is contained in these rules: 1. Let him be patient and full of charity, since the care of the scrupulous is long and arduous, and their condition most wretched. 2. Let him be discreet, so that he rightly knows what is the origin of the scruples in the penitent, and whether he is scrupulous in all things or only in one, so

that he may be able to remedy the evils congruently. 3. Let him be prudent, namely in prescribing rules, which ought indeed to be general; for the scrupulous almost never are able to accommodate themselves to particular rules, because they cannot apply them to themselves. Indeed they always doubt whether the case was sufficiently explained and understood, whether the rule prescribed to them was well accommodated to that case. 4. Let him be brief and dictatorial in his responses; and, as far as he can, let him define everything promptly and firmly; otherwise the penitent would be confirmed in his anxiety by the authority of the confessor himself.

Especially let the confessor notice that for the most part scruples are concerned about three things: 1. that assent is given to any evil thought whatever which appears to the mind, for example, against faith, chastity, charity; 2. that past Confessions were null, or even sacrilegious, either because of defect of integrity or because of imperfection of sorrow; 3. that in every action sin or the danger of sin seems to be present.

If the first, let him command the penitent to despise fears of this kind altogether, and teach him that not depraved thoughts, but depraved consents are sins. Often it will also be expedient to impose on the scrupulous person that the penitent abstain from Confession of thoughts of this kind, unless he knows so certainly that he consented to them that he could immediately swear it. "Nor is there reason for us to be frightened because of length of time or vehemence of thought, for these things also are often natural and involuntary, and sometimes afterward appear greater from fear than they really were." Suarez d. 12. s. ult. "Nevertheless take care diligently to note that the devil or sense itself sometimes injects temptations into certain persons, especially the scrupulous, under an expression declaring consent, in this or a similar way: I wish to sin, I wish to consent; although nevertheless no consent of the will is present, which is not to be drawn from incidental words, but from the proper act itself of the superior will." Ithur. Cas. 18. n. 5; Elbel *De Act. hum.* 226 seq.

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

If the third, let the confessor impose that he act freely and despise scruples; indeed that he operate against them whenever evident sin does not appear; because, generally speaking, such persons, because of reason disturbed from that slightest fear, think there is sin where there is none. Hence it is necessary to enjoin a precept on them that they conquer scruples, lest they become useless both to themselves and to others; and that afterward they in no way accuse themselves in Confession of such actions. "For a scruple ought not to be exploded speculatively, but practically, and not so that it is not felt, but so that consent is not given to it by a determinate judgment." Suarez l. c. n. 4. In this matter it must be noted that even if it can happen that sometimes they err materially in acting so,

nevertheless they will not sin formally by reason of the obedience which they furnish to the confessor; because then they obey not man, but God saying: He who hears you, hears me, and he who despises you, despises me. Nor indeed "in moral matters is every kind of certainty to be sought; and a doubt which perhaps in others would be reasonable is to be reckoned as nothing in the scrupulous." Suarez l. c. n. 6. - L. 1. 1. n. 12-19; La-Croix l. 1. n. 527 seq.

165. Are scruples useful? - "A scruple... for some space of time, helps not a little the soul which gives itself to spiritual exercises; indeed it greatly purges and cleanses such a soul by separating it very much from every species (appearance) of sin, according to that saying of Gregory: It belongs to good minds to know fault there where there is no fault." S. Ignatius of Loy. *Exer. Spir.* Reg. de Scrup. 3; La-Croix l. 1. n. 513. But if they are prolonged for a long time, "scruples are harmful, first to the body, because they destroy health, weaken the head, often reduce man to insanity, often shorten life; then to the soul, which they render entangled, desolate, perplexed, sometimes despairing; they confuse the intellect, disturb the power of judging, often render the whole man, endowed with remarkable talents, inept for all functions; moreover they impede many good works, waste time with many vain and useless thoughts, etc." La-Croix l. c. n. 514.

On Laws

I. On the Nature of Law

166. What is law? - Law is the rule of human actions in order to their moral honorableness or shamefulness. But if law is taken strictly, it is not the only rule. For human actions can also be regulated by counsel and by precept. Counsel is direction from a teacher, friend, or equal, or even from a superior, but by no means insofar as he is superior. - Precept is also usually called law, from its proper act, which is to command. But a precept, as distinguished from law, is a rule imposed by a superior, insofar as he is superior, not on the whole community, but on a particular individual, one or several. - Finally, law is a rule imposed on the whole community. Therefore counsel directs, but does not oblige; but law and precept direct and oblige. S. Th. 1. 2. q. 90. a. 3.

If the question concerns the name, law has been called this indiscriminately from *reading* or from *binding*. From reading, because in it what is the will of the superior is read, or known; from binding, because the physical will of the subject, although after the law it remains physically free as it was, nevertheless remains morally restricted, so that it cannot morally act honorably if it departs from what is prescribed by law. - If the question concerns the thing, it is defined variously by various authors. But commonly the definition of S. Th. 1. 2. q. 90. a. 4 is received: "An ordinance of reason for the common good, promulgated by him who has care of the community." Ordinance; for to order is to constitute something in its due place. But this is what law does: certainly law commands, prohibits, authorizes, permits, punishes. L. 7 *de Legib.* Doing these things, it constitutes human acts and actions in their due place with respect to the end to be obtained, which is the common good. Of reason: ordinance can be taken actively and passively. Law is active ordinance; but reason is what knows how to distinguish between place and place, between due and undue place. Of reason, namely inducing obligation; for law is a command. Whence it is both of reason because it is an ordinance, and an act of the will because it has the force of obliging. S. Th. 1. 2. q. 97. a. 3. For good; for if it were not such, it would no longer be an ordinance, but a disorder. - "Those who preside over the others preside for this one reason, that they may protect the utility of the state." Enc. Leo XIII, *Immortale Dei*, Nov. 1, 1885. - Common; in this law is distinguished from precept, which is imposed on individuals: for the common good does not regard this or that, these or those particular individuals only, but regards all; and therefore individual persons too, not insofar as they are individuals, but insofar as they are members of the community. But law is imposed on all, either absolutely all, for example all citizens, or all of some order, who specially apply themselves to the common good, for example all soldiers, who fight for the safety of the people, Can. 2. Dist. 4. This common good is the order, peace, and prosperity of society. By him who has care of the community; namely by the legitimate Prince of a perfect community, which is capable of political governance. In this, again, law is distinguished from precept and counsel. A precept is also given by one who has only private authority, as father, husband, master. Counsel is also given by one who otherwise does not enjoy authority. - Has care; that is, who presides over the community by his jurisdiction, or public authority. Hence law can be neither above nor beyond the jurisdiction of the Prince. - Promulgated; for law obliges rational beings precisely insofar as they are rational, namely insofar as they operate in

a rational mode. Therefore in order that it oblige it must be known; but in order that it become known it must be brought forth externally by the legislator, and not in any way whatever, but solemnly or with some public solemnity: namely it must sufficiently become known to all that this is the mind and will of the legislator, and indeed on the part of the legislator himself. Sufficiently become known, that is, by certain knowledge; otherwise a rational being would be altogether unjustly despoiled, from the uncertain will of the legislator, of the natural and greatest good of liberty, which he certainly possesses. For there is no equality between certain liberty and uncertain obligation, that is, between the most certain and most just dominion and possession of the greatest good, and the uncertain and doubtful spoliation of that good. Hence S. Alph. says: "In order that law oblige, it must not only be promulgated, but also promulgated as certain." - Dist. 1. C. 3, Dist. 4. C. 3; S. Th. 1. 2. q. 90. q. 92, *De Verit*. q. 17. a. 3; L. 90 seq.; E. M.

He who sins against a precept, of itself sins only against obedience owed to his superior. He who sins against a law, besides this, sins also against that virtue to which the law is referred because of the public good in such matter, and against the public good itself, which is referred to legal justice. Cf. n. 835.

167. You will resolve: Private knowledge of a law without promulgation does not suffice for obligation. But promulgation, as soon as it has been sufficiently made, without knowledge of the law, suffices for obliging in the external forum, because knowledge of a law duly promulgated is rightly and deservedly presumed by the judge. Hence the Rule of Law: Ignorance of fact, not of law, excuses. R. 13 *de R. I.* in 6. But in the internal forum, besides exterior promulgation, knowledge of the law is always required; because no one can sin without cognition of the obligation. - C. *Ad haec* 1 *de Post. Prael.*; C. A. 2; S. Th. 2. 2. q. 77. a. 3 ad 4; Lugo *Resp. Mor. Mor.* l. 1. d. 21; Wirceburg. c. 1. a. 1, c. 4. a. 1.

168. How, and where, are laws to be promulgated; when do they begin to oblige? - Nothing is defined by natural right. Therefore it is in the choice of the legislator to promulgate it in the mode and place constituted by him. Civil laws are regularly promulgated by their insertion in the official gazette. C. I. preliminary disposition 1. - Canonical laws are promulgated at Rome, by placing their copy at the doors of the Vatican Basilica and of the other Roman Basilicas which are usually named; or by exhibiting it in the Secretariat of the individual Congregations, and then publishing it, or by transmitting them to all Bishops. The *Acta Sanctae Sedis* were declared authentic and official for publicly publishing the acts of the Holy See. Nor indeed is it necessary that they be published also in individual dioceses by the Ordinaries of the places. S. Poenit. Nov. 8, 1821; June 15, 1870. Thus matters were previously. But now from the Constitution *Promulgandi* of Pius X, Sept. 29, 1908, all Pontifical laws published in the official Commentary on the *Acta Apostolicae Sedis* are held as legitimately promulgated, unless in some particular case it has been otherwise established by the Supreme Pontiff. E. M.

Diocesan laws are promulgated either in Synod, or by their public reading in the cathedral church, or by affixing them in some public place, or in some official Commentary. Bened. XIV *De Syn.* l. 13. c. 4. n. 1. But after the law has been promulgated, when it begins to oblige depends, as regards civil laws, on the law of each nation. From C. I. preliminary disposition 1, laws begin to oblige on the fifteenth day from their publication, which consists in the insertion of the law in the official Collection of laws and decrees, and in the announcement of such insertion in the official commentary of the kingdom,

Gazzetta officiale del regno. From C. H. art. 1, they oblige after twenty days from their publication in the official newspaper *la Gaceta*. Cf. C. G. art. 1 and decree Nov. 5-11, 1870. As regards Pontifical laws, some think they oblige after subjects, a suitable time having elapsed, could have known them, C. 1 *de Conc. Praeb.* in 6; others after two months, Auth. *Ut factae novae* Coll. 5; others immediately when they have been promulgated from C. 1 *de Postul. Praelat.*, from the clauses of Bulls, from the cited responses of S. Poenit. But sometimes, in the law itself, the time of obligation is determined. As regards diocesan laws, after their promulgation has been made, no determinate time is required for their obligation. C. I. at the beginning, *Dispos.* etc. a. 1; Decree Nov. 5-11, 1870; C. A. 2. 3; C. H. 1; L. 96. 105. 106, H. A. tr. 2. n. 8; Suarez *De Legib.* l. 4. c. 15. n. 11; Struggl q. 1. n. 21. 22; Bened. XIV *De Syn.* l. 13. c. 4; Wirceburg. c. 4. a. 1; E. M.

169. Does Trent oblige in those places where it was not promulgated? - It is certain: 1. that it obliges everywhere as regards faith and morals, since there is one rule of these and it is necessary for all. Nor indeed are they new laws, but mere declarations of natural and divine right already sufficiently promulgated before. - 2. That it does not oblige as regards the Decree concerning clandestine marriages, sess. 22. C. 1 *de R.* But concerning this matter the new Decree *Ne temere*, edited in the present, must be attended to. - As regards other Decrees which regard discipline, the common and to-be-held opinion affirms. For the Bull which establishes the obligation of the Council of Trent regards the whole world; likewise the Bull which determines the day on which Trent begins to oblige was given for the whole world and legitimately promulgated at Rome. B. Pius IV *Benedictus Deus* 1564, and *Sicut ad Sacrorum* 1564. - Scav. 4. n. 83, Milan ed. 1874; E. M.

170. Does the force of law depend on acceptance by the community? - Of itself law in no way depends on acceptance by the people in order that it oblige. Therefore law, independently of that acceptance, is in itself altogether perfect as regards the obliging force which it has. Proof. The whole force of obliging is in the superior, not in the subject. Therefore as soon as the will of the superior is sufficiently known, someone is subject to the obligation. And this is confirmed by proposition 28 condemned by Alexander VII. Of themselves, therefore, Bishops who do not accept Pontifical laws sin; civil governments of Catholic nations also sin which prohibit the laws of the Church from being accepted. These laws, notwithstanding that prohibition, retain their force of obliging. L. 96. 97. 136-138.

Accidentally, sometimes a law not accepted does not oblige, by reason of the tacit or express consent of the superior, or by reason of privilege or tolerated custom. Proof 1. from the common consent of theologians. 2. Because the whole force of obliging is in the superior. Therefore, if the superior consents not to oblige, in whatever way he consents, the law will no longer oblige. Therefore, if the greater part of the people has not accepted the law, and the Prince knowingly and willingly does not urge it, although those who first did not accept the law sinned, nevertheless the others are without fault because of the presumed consent of the superior. Not accepting: namely contrarily by breaking the law, with a will not to observe it. For if the greater part has not accepted the law merely negatively, that is, because of a reasonable cause suspends its obligation for a time, until that cause is manifested to the superior, meanwhile prepared to obey if the superior urges the obligation, then not even the former sin. From a certain benign interpretation, the obligation of the law can be held as suspended until the matter is settled. Knowingly and willingly: for if the Prince does not know that it is not received and not brought into use, or cannot contradict at the beginning, the obligation of the

law endures until the time required for prescription elapses, and a legitimate custom is formed. Nevertheless, "if you are prepared to receive a promulgated law and, given the occasion, even observe it, but most others from the community do not receive it and do not seem likely to receive it, then at least you will be excused from it by discretion," L. 137, or rather because of the presumed will of the superior, who does not wish to oblige you alone. - Suarez *De Legib.* l. 3. c. 19. n. 5, l. 4. c. 16. n. 8; Vazquez on 1. 2. d. 156. c. 5. n. 40; L. 139; Struggl q. 1. n. 27-30; Laymann cap. 3. n. 3; Bened. XIV *De Syn.* l. 9. c. 8; Wirceburg. c. 4. a. 2; E. M.

171. What are the properties of law? - They are the following:

1. Possibility, namely even moral possibility: that is, that it not bring grave or most grave inconvenience and difficulty, at least commonly speaking, and in the case of positive law. The reason is that since law is an ordinance of reason, it too must be ordered. Now it is imprudent and rash to pour out life and other goods which can be preserved thereafter for better use, excluding the case of the common good, contempt of God, or violation of a negative law. Moreover, since law again is an ordinance of reason, and therefore ought itself also to be ordered, it must be accommodated to the common condition of men, so that it can morally be observed by the whole community or at least the greater part of it; otherwise it would be useless, indeed harmful, to make the law. To exercise all acts of virtues, even heroic ones, certainly is not for all. And this is confirmed from the very practice of each Law, ecclesiastical and civil, and from the consent of all theologians, asserting that divine positive and human law generally do not oblige with proportionate grave harm which is accidentally joined to the observance of the law. - S. Th. 2. 2. q. 79. a. 3 ad 2, q. 96. a. 2; Sanchez on Decal. l. 1. c. 18. n. 2. Appositely S. Th. 1. 2. q. 96. a. 2: "Human law is laid upon a multitude of men, in which the greater part is of men not perfect in virtue, and therefore by human law not all vices are prohibited, but only the more grave ones, from which it is possible for the greater part of the multitude to abstain, and especially those which are to the harm of others, without whose prohibition human society cannot be preserved." - Wirceburg. c. 4. a. 5.

Hence heroic acts generally cannot be commanded by law, because they are judged morally to exceed human powers, and therefore a law of this kind would lack that quality by which it could be called possible. Nevertheless sometimes, when the common good requires it, they can be commanded, because in any perfect society there is the right and power for its own preservation. Thus watch-soldiers cannot desert their post, even when danger of life threatens, if the republic would suffer damage from it. Thus also law obliges with danger of life, if souls would perish unless the pastor goes to the sick in time of plague. When the common good requires it, namely if that precept is necessary for conserving a good or averting a common evil. - This, however, must not be understood of those laws which are made from the given hypothesis of some peculiar state into which the subject has voluntarily cast himself, which they therefore call hypothetical, adventitious, or elective. Thus the Church commands perpetual enclosure to nuns. Thus also most grave punishments can be imposed on men guilty of a most grave crime. For it was free to them to withdraw themselves from those things by acting otherwise. L. 175; Struggl q. 2. n. 8; Suarez l. 3. c. 30. In the case of positive law: for negative laws, namely those which forbid evil by natural right, must be observed even with the danger of life. For evil is never to be done. But except laws commanding a thing which by its nature cannot be performed without grave inconvenience, such as the law of Confession, for which the help

of grace is at hand, and from which impossibility also excuses. But positive laws, the more they look to the good of religion and of the republic, the more they oblige with greater inconvenience. - E. M.

2. Honorableness; for law is an ordinance of reason. Therefore law cannot command dishonorable acts; it can however command acts indifferent per se, which can be ordered to the common good, and which consequently become positively honorable. A law will be honorable if it agrees both with religion and reason. - Struggl q. 2. n. 9; Elbel 252-254; S. Th. 1. 2. q. 95. a. 2. 3, q. 96. a. 2.

3. Utility; for law is an ordinance of reason for the common good by him who has care of the community. Hence any law cannot command any honorable acts whatsoever, but all and only those acts whose placement or omission can contribute to the common good of society, namely so that either immediately and directly, or at least mediately, indirectly, and ultimately, it yields to the common good. - Therefore civil law certainly cannot command merely internal acts. Nor can ecclesiastical law, more probably according to many, do this, because the legislative power of the Church in the external forum pertains only to the external governance of the faithful. C. 34 *de Simon.*, S. Alph., S. Th., Suarez, Bened. XIV, etc., against others, who also probably affirm it, because the Church received unlimited power from Christ. - But human law can command mixed acts, or acts partly internal, partly external, which together constitute one moral act; and external acts even if hidden, for both the former and the latter acts can be directed to the common good. "And thus externalized heresy is prohibited under excommunication, although hidden; thus under irregularity hidden homicide." L. 100. S. Th. 1. 2. q. 91. a. 1, q. 96. a. 1. 3, q. 100. a. 9, 2. 2. q. 104. a. 5; Suarez l. 4. c. 12. 13; Ithur. Cas. 41. n. 23; Bened. XIV *De Syn.* l. 9. c. 4. n. 4; Wirceburg. c. 4. a. 3.

4. Justice; for again law is an ordinance of reason, and "in human matters something is said to be just from the fact that it is right according to the rule of reason." S. Th. 1. 2. q. 95. a. 2. "But laws are said to be just both from the end, namely when they are ordered to the common good; and from the author, namely when the law enacted does not exceed the power of the one enacting; and from the form, namely when burdens are imposed on subjects according to equality of proportion in order to the common good. For since one man is part of the multitude, every man, this very thing which he is and which he has, belongs to the multitude, just as every part, that which it is, belongs to the whole; whence nature also inflicts some detriment on the part, so that it may save the whole. And according to this, laws of this kind, proportionately imposing burdens, are just and oblige in the forum of conscience, and are legal laws. But laws are unjust in two ways: in one way by contrariety to human good, contrary to the aforesaid things; either from the end, as when someone presiding imposes burdensome laws on subjects, not pertaining to the common utility, but rather to his own utility or glory; or also from the author, as when someone makes a law beyond the power committed to him; or also from the form, for example when burdens are distributed unequally to the multitude, even if they are ordered to the common good. And such things are rather acts of violence than laws.... Hence such laws do not oblige in the forum of conscience, except for avoiding scandal or disturbance, on account of which also man ought to yield his right.... In another way laws can be unjust by contrariety to divine good, as the laws of tyrants inducing to idolatry, or to any other thing which is against divine good; and such laws it is in no way licit to observe." S.

Th. 1. 2. q. 96. a. 4. A law will be just if it is accommodated to the powers of the subjects, although hard for individuals. L. 12 *Qui et a quib. manum.*; Suarez *De Leg.* l. 3. c. 21.

5. Stability; because custom, which cannot be had without stability of law, has very great force for the observance of laws; and because the common good is not so easily changed from day to day. For this reason law is constituted without a defined time, so that once enacted, unless it is abrogated, or becomes harmful or useless, it endures as long as the community stands to which it is imposed, or as long as the circumstances persevere for which it was enacted. - What is indeed constituted generally, but not in perpetuity, has the name of Statute, Edict, Decree. Nevertheless those things which are established by supreme civil power, although they are only certain simple ordinances, are presently called laws. Likewise those things which are constituted by Synods and commanded by Sacred Congregations are called Synodal Statutes and Decrees of Sacred Congregations. - S. Th. 1. 2. q. 96. a. 1, q. 97. a. 1. 2.

Hence law can cease only in three ways: 1. Through abrogation or derogation, according as it is abolished altogether or only in part. L. 102 *de R. I.* For just as a superior can make a law, so he can take away or restrict the same. And here it must be noted that by a general law a particular law of some place is never of itself abrogated, unless this is expressly or equivalently provided in it; nor is a particular custom abrogated, which the Prince is presumed to be ignorant of, since it is a matter of fact and consists in fact: namely unless the clause is added, notwithstanding any custom whatsoever, or, if it exceeds the memory of men, notwithstanding any custom whatsoever, even centenary and immemorial. On the contrary, because universal customs are presumed to be known to the Prince, they must be said to be abrogated by that very fact that the Prince enacts a contrary law, even if a general derogatory clause is lacking. And the same must be said of a universal law. But Bishops by their laws abrogate any particular custom whatever, because they are presumed to have full knowledge of the customs of their dioceses. C. *Licet* 1 *de Const.* in 6; C. I. beginning, *Dispos.* etc. a. 5; C. H. 5; L. 109. 199. Cf. l. 6. n. 680.

2. Through cessation of the adequate motive cause, or the total end, on account of which it was enacted, with respect to the whole community; for when the cause of the law ceases, the legislator cannot reasonably urge it. And thus a precept also ceases if its end wholly ceases. S. Th. 1. 2. q. 103. a. 4 ad 3. - 3. Through desuetude, or through contrary custom clothed with the due conditions; for then at least the legal consent of the superior accedes. - Wirceburg. *De Legib.* c. 5. a. 5. 6.

This stability is a property exclusively proper to law, if law is compared with precept. For a precept ceases by the death of the one commanding or by cessation from office; but law is not extinguished together with the legislator. For when the physical person from whom the law emanated ceases, neither does the office of making laws cease, nor does the common good cease; and for that reason the law does not cease, since that common good is the universal and constant good of the whole society. But the good which a precept regards is a private or individual good, and by its nature variable; and with the physical person of the superior, the very office of commanding ceases of itself, as may be seen in a father, master, teacher, etc. - Meanwhile, however, even a precept or mandate sometimes does not immediately expire by the death of the one mandating: namely if the mandate is for pious causes, or in favor of a matrimonial dowry or of some student; if the mandatary is expressly

ordered to execute something even after the death of the one mandating; if the matter is no longer intact, namely in judgments, in donations and promulgations to be made in the name of another; if the matter is even intact, but only the execution of some grace has been mandated in favor of another, and the granting itself of the grace has not been left to the choice of the mandatary; if the mandate proceeds from one having public power, for the cause of public utility; if it has been thus provided in the law itself, as sometimes happens in religious Institutes, and then the precept obtains perpetuity by force of the law itself. - La-Croix 566. 876; Struggl q. 1. n. 5; L. 140.

6. A real law, which is concerned with immovable goods, adheres to the territory in which the immovables are situated. A real law, which constitutes the form and order of acts, also adheres to the place. The place governs the act, unless the act is altogether private. A personal law, which decrees those things that pertain to the state of persons, follows the person everywhere. A moral law, commanding or prohibiting a human action, immediately affects the territory, and is called a local law, to distinguish it from real and personal law; while a precept immediately affects the person. C. 2 *de Const*. in 6; C. I. preliminary disposition a. 6 seq. But in reality every law is properly local. For law regards the common good, namely the good of the community, which exists only in a determinate territory; whence it obliges a person only as existing in the territory, at least by fiction of law. Law obliges only subjects, and they are not subjects except in the proper territory of jurisdiction. But a precept regards the private good of the person; whence wherever he is, the precept urges. And this is certain and common if the question concerns a commanding superior directly having authority over the person, as a husband, father, master, regular prelate. But if the question concerns a superior directly having jurisdiction in the community and in the territory, the more common opinion affirms, while the less common opinion and one probable to S. Alphonsus denies. Nevertheless the more common opinion, according to prevailing practice, must be held; and consequently the precept endures until it is revoked, if it was made with legitimate cause and legitimate form. - L. 1. 2. n. 23; Bened. XIV *De Syn.* l. 13. c. 4. n. 9; Wirceburg. *De Legib.* c. 1. a. 1.

172. Does a law cease when the final cause ceases only in a particular case? - R. Affirmatively, if it ceases contrarily, namely when the matter of the law would be rendered harmful in that case, or very difficult. For positive law, especially human law, does not oblige with grave and proportionate inconvenience. It is controverted if it ceases only privatively, namely if the law would then be rendered useless. The first opinion, which several grave theologians hold, affirms, because the law is then rendered useless. But the second opinion, which pleases S. Alph. more, denies, because although the end of the law ceases in the particular, nevertheless it does not cease in common. For commonly speaking there is almost always the danger of hallucination, by which someone can easily be deceived in his own case.

Hence then the law becomes founded in a presumption of law, which indeed always obliges. Nevertheless S. D. adds that if a case occurred in which "someone were altogether certain and secure that every danger of hallucination is absent," he would not dare to disapprove the former opinion, L. 199. 1. 6. n. 613; indeed S. D. calls this opinion probable, l. 3. n. 846. - But it must be noted that the end of a law can be multiple, as in the reading of prohibited books; and then, when one ceases, the law does not therefore cease. L. H. A. tr. 2. n. 69; S. Th. 1. 2. q. 103. a. 4 ad 3, 2. 2. q. 154. a. 2. 3; Struggl q. 4. n. 25-27.

173. You will resolve: Betrothed persons are not exempted from the proclamation of banns, even if they certainly know that no impediment underlies the marriage. For the law is founded on the danger of universal nullity of marriage from omitted proclamations. Hence also someone cannot read prohibited books if he fears no danger to himself from them. And although that danger also truly ceases in a particular case, nevertheless the end of the prohibition does not wholly cease, since that end is not only that the danger of perversion be avoided, but also that occasion not be given to depraved writers to commit harmful things to print. Likewise he is still bound by the law of abstinence and fast who abhors meats and delights in fish, and he who can sustain for his stomach only one eating in the day. - L. 199.

174. What is interpretation of law, and how manyfold is it? - Law is not always clear. Hence for rightly understanding it interpretation is needed, which is defined: the genuine explanation of the law according to the mind of the legislator. Mind, not hidden, but expressed by the words of the law. Mind, because law is what the legislator willed. S. Th. 2. 2. q. 120. a. 1 ad 3.

Interpretation is: 1. Authentic, doctrinal, and usual, according as it is made by the superior himself, or by learned men, or from custom. In order that interpretation be truly authentic and not doctrinal, it is necessary that the Superior, or another who has this power from the Superior, declare the law insofar as he is Superior, that is, using the power of jurisdiction. For if as a private person he declares his mind, the interpretation will not be authentic, but doctrinal. Custom is equivalent to authentic interpretation if it is legitimately prescribed; otherwise it is merely doctrinal. For custom is "the best interpreter of laws." C. 8 *de Consuet*. Whence "those things are by no means to be changed which have always had a certain interpretation." L. 23 *de Legib*.

2. Strict or broad, according as it is made strictly according to the natural property of the words, or broadly according to the more benign sense. Thus these words: sons, clerics, religious, etc., according to their natural signification can be taken strictly of natural and legitimate sons, of those initiated by first tonsure, of regulars solemnly professed, or broadly of all sons, of all ecclesiastical persons, of all religious, even novices.

3. Comprehensive or merely declarative, or extensive or restrictive, according as by that interpretation either nothing new is introduced, or something is added by it, when the words are taken either as they sound or beyond their natural sense. - C. *Inter alia* 31 *de Sent. exc.*; Sixtus V, C. *Immensa*, Jan. 22, 1588; S. Th. 1. 2. q. 86. a. 6; Ithur. Cas. 53. n. 2 seq.; L. 1. 3. n. 760. 265; C. I. beginning, *Dispos.* etc. a. 3.

175. What are the rules of interpretation? - The words of law are to be taken according to their proper and usual acceptance, unless something absurd or unjust follows from this, or the law becomes wholly useless. For words demonstrate the will of the one speaking. And otherwise nothing would be certain in laws. Hence the common saying: Where the law does not distinguish, neither ought we distinguish. In doubt about the true sense, attention must be given to the mind of the legislator, or to the end and reason of the law; to the thing or matter about which the question is concerned; and to the circumstances either antecedent or consequent. R. 88 *de R. I.* in 6. - A penal and odious law in doubt is to be interpreted strictly; but a favorable law undergoes a broad interpretation. And generally "laws are to be interpreted more benignly, so that their will may be

preserved." L. 18 *de Legib.* L. 12. 18. 19. 23. 24. 25. 26. 37 *de Legib.*, L. 155 *de R. I.*; R. I. 15. 30 in 1; L. 200; Struggl q. 4. n. 1 seq.; Suarez *De Legib.* l. 6. c. 1; Wirceburg. *De Legib.* c. 5. a. 1.

176. Does authentic interpretation need promulgation in order to oblige? - R. Negatively, if that interpretation is a declaration of a sense clearly contained in the law, since such a declaration is not a new law; for it establishes nothing new, but declares what has been established, and has force backward. - R. Affirmatively, if the declaration is of a sense obscurely contained in the law, because it is then had as a new law; or if it restricts or extends the law, since then it is truly a new law. - L. 100. 200, 1. 3. n. 1027; Suarez *De Legib.* l. 6. c. 1. n. 3.

177. Must a law be extended from case to case because of identity of reason? - "Penal laws are not to be extended from case to case." L. 1. 6. n. 689. For hatreds are to be restricted. R. I. 49 in 6. - Likewise invalidating laws or laws granting some right cannot be extended from case to case; for then the act lacks value, or has force only from the positive will of the legislator. C. I. beginning, *Dispos.* etc. a. 4. - It must likewise be denied as regards other laws, even if the same reason runs; a fortiori if there is only a similar reason. For not the reason of the law, but the will of the legislator, duly intimated to the subjects, has the force of law and obliges. For the legislator can well dispose concerning one thing and not concerning another. Hence the common axiom: The reason of the law is not the law; and the end of the precept does not fall under the precept. L. 20. 21 *de Legib.*; S. Th. 1. 2. q. 100. a. 9 ad 2; L. 1. 3. n. 273. But "to act contrary to the end of the law is a certain disorder, which does not seem to be excused from all fault." L. 1. 3. n. 1030. - But if it is not licit of itself to extend a law from case to case, a fortiori it is not licit to extend a privilege from persons to other persons, from things to other things. C. 27 *de Praeb.* in 6; Reg. 28 *de R. I.* in 6; L. 14. 15. 16 *de Legib.*

Except nevertheless whenever otherwise something manifestly absurd or inequitable would follow, and the legislator could manifestly be accused of injustice, imprudence, ignorance. Thus by the Constitution *Decori* of S. Pius V, nuns are prohibited from going out of the monastery, except because of a great fire, or epidemic, or the sickness of leprosy. Therefore they will also be able to go out for another similar cause, for example flooding of the monastery, collapse, attack of robbers.

But this is chiefly had in the following: 1. In correlatives, for example, between husband and wife, betrothed man and betrothed woman; whence if the husband because of the adultery of the wife is admitted to divorce from bed, the wife also enjoys that right because of the adultery of the husband; if the betrothed woman is freed from betrothal because of the long absence of the betrothed man, C. 5 *de Spons.*, similarly he is freed because of the absence of the betrothed woman. For then the legislator, expressly willing one thing, is judged to have implicitly willed the other also. 2. In things equated by law, such as presentation, postulation, election to a benefice; eggs and milk foods by reason of abstinence. What the law disposes in these matters concerning one, it is judged to dispose the same concerning another. And thus, if the more worthy is to be elected, the more worthy is also to be presented; if eggs are permitted, milk foods also are permitted. R. I. 53 in 6. 3. In connected things, of which one cannot stand without the other. Therefore he to whom a case is committed can also compel the parties to appear. C. 5 *de Off. Deleg.* 4. In things contained: for in the whole the part is contained; thus he who can make a testament can also make legacies; those to whom marriage is prohibited are also prohibited betrothal. L. 16 *de Sponsal.*

And these things have force even if the question concerns a penal law. Nor then does the rule have force: Hatreds are to be restricted, favors broadened. For that proceeds only when the disposition of

the law is extended from interpretation of congruity, not when it must be extended from interpretation of necessity, which ought not so much be called extension as mere comprehension. And certainly extension of law is of two kinds: one necessary, the other congruential. The former is altogether required for justice or rectitude; but the latter not so, but is only voluntary, because although the law can justly comprehend many other things, nevertheless a lesser comprehension suffices for the justice of the law and the property of the words, with the reason of the law also being preserved. Now the general rule about not broadening penal laws must be understood of voluntary interpretation, that is, without which the prudent disposition and justice of the law can still be preserved; not of the necessary extension of law, which is required so that justice or equity may be preserved. And thus, a heretic is irregular. Therefore also an apostate. L. 12 *de Legib.* - L. 200, 1. 3. n. 293. 1027; Ithur. Cas. 53.

As it is necessary to extend a law when its reason is manifest, L. 12 *de Legib.*, so also it is necessary to restrict it when similarly its reason is manifest; because the thing itself about which the question is concerned requires restriction; because otherwise something unjust or absurd would follow; because the case is altogether rare and foreign to the mind of the legislator; because otherwise the law would become too hard and severe. L. 18. 25 *de Legib.*

178. Do the Declarations, Decisions, and Decrees of the Sacred Congregations have the force of law? - There is no doubt that they oblige in the particular cases for which they are made. C. Sixtus V *Immensa*. There is no doubt that they have the force of law if the strength of Apostolic firmness is added to them. Cf. Bened. XIV, C. *Sacramentum Poenitentiae*, or if they have been solemnly published by mandate of the Apostolic See, or if in the Church they have been universally and by the use of several years disseminated. L. 106. But all the Decrees of the Sacred Congregations have the same authority if they have been duly promulgated. Pius X, C. *Sapienti consilio*, July 1, 1908.

Besides the aforesaid cases, concerning particular Decrees, about which alone there can be a question, there is a threefold probable opinion. The first opinion asserts that they have the force of obliging all, because they contain an authentic interpretation of laws. - The second opinion says that they do not oblige universally. The reason is that, in order that a law oblige all, solemn promulgation of a universal law is altogether required, and simple publication of a particular Response does not suffice. - The third opinion affirms this when the Declarations are comprehensive, namely when they do not depart from the proper and usage-received signification of the words. For then no promulgation is needed, since a new law is not made, but a law already made and promulgated is only explained. But it denies this when the Declarations are extensive, namely when they depart from the proper and commonly accepted signification of the words. For then they are new laws, which require legislative power and promulgation. But even if they contain an interpretation of doubtful and obscure common law, and not a mere declaration of clear law, they cannot have the value of universal law without legitimate promulgation, or before they are brought into common practice. Cf. 176. Schmalz. Dissert. prooem. n. 373 seq.; Pichler. Proleg. n. 46; Reiffenst. Prooem. n. 130 seq.; L. 1. 1. n. 106, 1. 3. n. 760. 765. 1027, 1. 6. n. 401. 403. 556. 593. 699, H. A. tr. 15. n. 87; Bened. XIV *De Syn.* l. 6. c. 6. n. 4, Index of the Work v. Congregation of the Council, its prudent inconstancy in its decisions and in rendering judgments; Scav. 1. 1. n. 339. 240, Milan ed. 1874; A. S. S. v. 3. p. 563 seq.; E. M.

178 bis. Note: The most recent ordering of the Roman Curia was made by the Constitution *Sapienti consilio* of Pius X, July 1, 1908. In it Congregations, Tribunals, and Offices are distinguished. There are eleven Sacred Congregations, and they are the following; to each of them its own matter is exclusively assigned, the cumulation of rights in all Offices of the Holy See being abrogated.

1. Congregation of the Holy Office. It guards the doctrine of faith and morals. Therefore to it alone remains judgment concerning heresy and other crimes which induce suspicion of heresy. - To it also was devolved the whole matter concerning Indulgences, in which matter the Constitution *In ipsis* of Clement IX, July 6, 1669, fully remains in force. But the faculty remains intact to the Holy Office of knowing those things which concern the Pauline privilege and impediments of disparity of cult and mixed religion, besides those things which touch dogmatic doctrine concerning marriage, as also concerning the other Sacraments.
2. Consistorial Congregation. It prepares the matters to be done in Consistories. In places which are not Mission places, it constitutes new dioceses and chapters; and treats those things which pertain to the division and general governance of dioceses, and to the election of Bishops, Apostolic Administrators, and Coadjutor and Auxiliary Bishops. In naming Bishops one must adhere to the Constitution *Romanis Pontificibus*, Dec. 17, 1903. To it also pertain those things which regard the governance, discipline, studies, and temporal administration of seminaries. But it resolves doubts concerning the competence of the Sacred Congregations. - A section was added concerning the spiritual care of emigrants, and concerning priests themselves who emigrate. Pius X, M. P. *Cum omnes*, Aug. 15, 1912.
3. Congregation on the discipline of the Sacraments. To it pertains the whole legislation concerning the discipline of the seven Sacraments. Therefore to it pertain matrimonial dispensations in the external forum, dispensations of those to be ordained, and dispensations concerning the place, time, and conditions of receiving and reserving the Eucharist, and of celebrating Mass, etc. To it also belong questions concerning the validity of marriage or sacred ordination, and others pertaining to the discipline of the sacraments. Dispensations from impediments of marriage, in the form of a Brief, are granted by this Sacred Congregation, provided they are of an honorable nature, and if the dispensations themselves are subject to greater taxes. Other dispensations are given in the form of a rescript. Cf. *Ord. servand. in Rom. Cur.*, special norms c. n. 13-16.
4. Congregation of the Council. To it is committed the whole discipline of the secular clergy and Christian people; and therefore to it pertains the observance of the precepts of the Church, except the Eucharistic fast, which belongs to the S. C. on the Sacraments; to it pertain those things which regard Pastors and Canons, those which are referred to pious Confraternities, pious works, pious legacies, Mass stipends, benefices, offices, ecclesiastical goods; to it also pertains the faculty of exempting from conditions required for obtaining benefices, whenever they are to be conferred by the Ordinary; likewise those things pertain which regard ecclesiastical immunity and the celebration of Councils. - To this Congregation is joined the special Lauretana Congregation. The faculty of interpreting the Decrees of the Council of Trent no longer pertains exclusively to the S. C. C., but belongs to the individual Congregations according to their proper competence. S. C. Cons. Feb. 11, 1911.

5. Congregation of Religious. To this Congregation pertain the affairs of all Religious, of those who live a common life without vows, and of secular third orders, whether among themselves, or with regard to them in relation to others; also dispensations from common law with religious pertain to it.
6. Congregation of Propaganda Fide. Its jurisdiction is circumscribed by regions where the sacred hierarchy has not yet been at least perfectly constituted, and the state of mission perseveres. Nevertheless those things which regard faith, marriage, sacred rites, and religious as such are to be referred to the proper Congregations. It has united to itself the Congregation for the affairs of the oriental rite, which preserves its functions entire. - To it is joined the Committee for the union of dissident Churches. Besides, the administration of all goods has been committed to it, even of the Reverend Chamber of Spoils. Indults which until now it was accustomed to grant to others, it now grants only to its own subjects. *Ord. servand. in R. C.*, special norms c. 7. art. 6.
7. Congregation of the Index. To it pertains everything which regards harmful books and writings which are to the ruin of souls. - The Cardinals, Consultors, and ministers of this Congregation and of the Holy Office can communicate with one another all those things, and only those things, which pertain to the prohibition of books, and all are bound in this matter by the same secrecy.
8. Congregation of Sacred Rites. To it pertain all those things which proximately regard the sacred rites and ceremonies of the Latin Church, and also the insignia and privileges of honor to be granted, both personal and real, which are referred to sacred rites and ceremonies. To it also pertain those things which regard the beatification and canonization of Saints and Sacred Relics, concerning which one must adhere to the Constitution *In ipsis* of Clement IX, July 6, 1669. - To this Congregation are joined the liturgical, historical-liturgical, and Sacred Chant Committees.
9. Ceremonial Congregation. To it pertains the moderation of ceremonies in the Pontifical Chapel and Court, and of the sacred functions of Cardinals, and also the precedence of Cardinals and Legates before the Holy See.
10. Congregation of Extraordinary Ecclesiastical Affairs. It treats those affairs which are referred to it through the Secretariat of State, especially those which are referred to Civil Laws and Concordats.
11. Congregation of Studies. To it pertains the moderation of studies and academic degrees of Catholic Universities, even of those which pertain to Religious, and the faculty itself of granting academic degrees.

There are three Tribunals, namely:

1. Sacred Penitentiary. Its jurisdiction is restricted only to those things which regard the internal forum, even non-sacramental, and it settles questions of conscience. It especially retains the norms of the Constitution *In Apostolicae* of Benedict XIV, Apr. 13, 1744, with the changes introduced and approved by legitimate use being preserved, and also the prescriptions through the Constitution *Sapienti consilio* and through the law *Ord. serv. in R. C.* which regard this

tribunal. All things are expedited secretly and gratis in this tribunal. - *Ord. serv. in R. C.*, special norms c. 8. art. 1.

2. Sacred Roman Rota. To it are devolved all contentious non-major causes which are conducted in the Roman Curia, both civil and criminal, the judicial process being preserved. But causes are treated in disciplinary manner by the Congregations themselves to which they belong by reason of the matter. The proper Law must be observed by the S. R. Rota, which is joined to the praised Constitution *Sapienti Consilio*. In it is established the constitution of the Tribunal, competence, and mode of judging. Besides, in judgments the Rules approved by the Supreme Pontiff Pius X on Aug. 4, 1910, and promulgated on Oct. 25 of the same year, are to be observed. Finally those things also must be observed which agree with it in the Constitution *Sapienti consilio* and in *Ord. serv. in R. C.* Cap. 2. Canon 14 of the aforesaid proper law declares the competence of the Sacred Roman Rota thus: "§ 1. The Sacred Rota judges in first instance causes which the Roman Pontiff, either *motu proprio* or at the instance of the parties, has called to his own tribunal and committed to the Sacred Rota; and these, if need be, and unless otherwise provided in the rescript of commission, it judges also in second and third instance, by means of subsequent turns according to the prescriptions of can. 12. § 2. It judges in second instance causes which have been judged in the first grade by the tribunal of the Most Eminent Vicar of the City and by other tribunals of Ordinaries, and are referred to the Holy See by legitimate appeal. And likewise it judges these, if need be, even in third according to the mode prescribed in can. 12. § 3. Finally it judges in the last instance causes already known by Ordinaries and by any other tribunals in the second or further grade, which have not passed into a res judicata, and are referred to the Holy See through legitimate appeal. § 4. It also sees concerning recourses for restitution in full from any sentences which have passed into a res judicata and cannot find remedy before the judge of second instance according to the title on Restitution in full; provided nevertheless that the matter does not concern a res judicata from a sentence of the Sacred Roman Rota; and in these it judges both concerning form and concerning merit."

3. Apostolic Signatura. Newly instituted, it is bound to observe the proper Law joined to the Constitution *Sapienti consilio* itself, and also those things which agree with it in the Constitution *Sapienti consilio* and in *Ord. serv. in R. C.* In that Law the question concerns the constitution and competence of the Supreme Tribunal of the Apostolic Signatura, and the mode of judging. This supreme tribunal knows concerning an exception of suspicion against some auditor of the Rota, concerning violation of secrecy and concerning damages inflicted by Auditors, concerning a complaint of nullity against a rotal sentence, concerning restitution in full against a rotal sentence which has passed into a res judicata.

Five Offices are listed, namely:

1. Apostolic Chancery. Its proper function is to expedite Apostolic Letters under lead concerning the provision of consistorial benefices, concerning the institution of new dioceses and chapters, and for other greater affairs of the Church.

2. Apostolic Datary. Its proper ministry is concerned with all those things which regard non-consistorial benefices to be conferred, reserved to the Apostolic See. Therefore it also draws up

and expedites Apostolic Letters for their conferral, exempts in conferring benefices from required conditions, and cares for burdens and pensions imposed by the Supreme Pontiff in conferring the aforesaid benefices. But benefices are conferred by it through a Bull, or through a decree of simple signature, that is, no Bulls having been expedited. *Ord. serv. in C. R.*, special norms c. 9. art. 2.

3. Apostolic Chamber. Its care is also the administration of the temporal goods and rights of the Holy See, especially at the time when this is held vacant, according to the norms of the Constitution *Vacante Sede Apostolica*, Dec. 25, 1904.
4. Secretariat of State. To it pertain extraordinary ecclesiastical affairs; insignia of honor to be granted, not reserved to the Prelate set over the Pontifical Household; and the expedition of Apostolic Briefs which are committed to it by the various Congregations.
5. Secretariat of Briefs to Princes, and of Latin letters. This double office has its own function of writing the acts of the Supreme Pontiff in Latin.

The beginning of the year henceforth is to be taken not from the day of the Incarnation of the Lord, that is, from March 25, but from the Kalends of January, in all Apostolic letters to be expedited either by the Chancery or by the Datary. Apostolic Letters, by reason of the gravity of the affairs and of varied form, are distinguished into Bulls, Briefs, and Pontifical Rescripts. - Formerly Bulls were written on rather dark and thicker parchment, and in Lombardic or Teutonic characters; but now from the Motu Proprio of Leo XIII, Dec. 29, 1878, they are written on parchment paper and in Latin characters. Likewise the seal or leaden medal, from which they are called Bulls, with attached cords, is preserved only in Apostolic Letters of conferrals, erections, and dismemberments of major benefices, and also in other solemn acts of the Holy See. In others, the impression of a red-colored seal bears the images of the Apostles Peter and Paul, with the inscription of the name of the reigning Supreme Pontiff drawn around it. A Bull is inscribed: Pius, Bishop, Servant of the Servants of God, and the date is written according to the Roman Calendar. Consistorial nominations, the constitution of new dioceses and chapters, are done through a Bull. Briefs are expedited for affairs of lesser moment; they are written on white and thin parchment, or ordinary paper, and in Latin characters. They bear the seal of red wax with the image of S. Peter engaged in fishing; and therefore they are said to be expedited under the Ring of the Fisherman. Briefs are inscribed Pius Pope X. Their date is designated according to the common calendar. - Finally Rescripts are Responses of Pontiffs, which are often written on the back of the petitions themselves of the supplicants. The Congregation which is called the Reverend Fabric of S. Peter has care only of the property of the Basilica of the Prince of the Apostles according to the Constitution *Quanta curarum* of Benedict XIV, Nov. 15, 1751.

The Committees for advancing studies either of Sacred Scripture or of history; for administering Peter's Pence; for preserving the Faith in the City, remain in the state in which they were before. The Congregation of the Apostolic Visitation of the City having been removed, those things which pertained to it are referred to the committee of Cardinals to be constituted at the Vicariate of the City. In all Congregations, Tribunals, and Offices, things which are grave and extraordinary must first be signified to the Supreme Pontiff. Other things need pontifical approval, unless special faculties have been granted to their Moderators, and excepting the proper sentences of the Sacred Rota and Apostolic Signatura. - But the affairs to be treated in them are to be treated according to the proper

laws and norms joined to the same Constitution *Sapienti Consilio*. - Organization, provision of officials, internal discipline, manner of acting before the Sacred Congregations, and taxes to be paid are established in the Order to be Observed, or General Rule, which is had for the Sacred Congregations, Tribunals, and Offices. - All officials are bound to swear an oath concerning faithfully fulfilling the office, not receiving gifts even spontaneously offered, and preserving secrecy, according to the formula established there. Provision of minor officials is made through competition in titles and knowledge. - Anyone can treat his own affairs before the Sacred Congregations by himself, through an advocate, through a procurator, through an agent either public or private, *Ordo servandus* p. 1. cap. 9. - Finally in the Sacred Congregations, Tribunals, and Offices of the Roman Curia, the special Norms of the same Order to be Observed of Sept. 29, 1908, p. 2, must be observed, which especially determine competence, the manner of treating various affairs, the mode of proceeding of full Congregations, and the functions and qualities of various administrators. Assistants must be distinguished by the laurel of doctor in sacred theology and in canon law. Although, with the cumulation of rights in the Offices of the Holy See abrogated, its own seat has been constituted for each affair, nevertheless, because in peculiar cases there can be place for doubt or error, the ancient law remains firm by which, when a petition for obtaining a matter pertaining either to grace or to justice has been referred to and accepted by some Office, it is licit for no one for any reason to approach another Office of his own accord for the same end; but the consent of the Office itself with which the matter began to be treated is needed, or a decree of the Consistorial Congregation by which permission is given of transmitting the affair. Once a question has been instituted before some Congregation by the path of administration and discipline, and this mode of acting has been admitted by the parties, or at least not refused, it is no longer licit for them to institute a strictly judicial action on the same cause.

The print's appendix has more on this paragraph: [Power of the Sacred College](/manuals/bucceroni/power-of-the-sacred-college). (ed.)

179. What is epikeia? - Epikeia is brought back to interpretation, which is a benign but equitable interpretation of law, by which a universal law, or when it speaks universally, is judged not to extend itself to such a particular case, although clearly comprehended in the words of the law, because of particular circumstances which were not either foreseen or in fact comprehended by the legislator. If, for example, a law prohibits carrying weapons at night, I can carry them if I must go out and I will be meeting my enemy seeking me to death.

Yet in order that there be place for epikeia, the law must not only cease negatively in the particular case, because namely the end of the law is then lacking; but it must cease contrarily, namely because observance of the law is rendered sinful, harmful, or too burdensome. Nor then is it necessary to ask the superior, although this can easily be done. For this is deduced from the very properties of law. For law must be honorable, useful, possible, just; and therefore it does not oblige with grave inconvenience, nor does it burden someone above the rest. And this pertains to epikeia. For epikeia is the directive virtue of laws, according as the notion of justice and common utility demands. Hence epikeia pertains to justice commonly so called, as a certain existing justice according to which legal justice is directed, as by a higher rule of human acts.

But there is also place for epikeia when, although the law in a particular case is not rendered sinful, harmful, or too burdensome, nevertheless from a certain equity and benignity it is judged, certainly or at least probably, that the legislator did not wish to include that case in the words of the law. For

equity is preferred to rigor. L. 7 *de In integrum restit.*; L. 8 *de Iudiciis* C. And then, while doubt remains, since it almost falls back into dispensation, it is necessary of itself to approach the superior, if he can be consulted. But this will not be necessary when it is evidently established that the mind of the legislator was otherwise; for in manifest things there is no need of interpretation, but of execution. - L. 3 seq. *de Legib.*; L. 201; L. 201; S. Th. 1. 2. q. 96. a. 6, 2. 2. q. 60. a. 5 ad 2, q. 120, q. 147. a. 4; Suarez l. 2. c. 16; Struggl q. 4. n. 7. 8; Ithur. Cas. 53. n. 9-13; Schmalz. l. 1. t. 2. n. 44.

The print's appendix has more on this paragraph: [On Epicheia](/manuals/bucceroni/on-epicheia). (ed.)

II. On the Author of Law

180. Who generally can make laws? - Since God is Lord of all, and has ordered obedience to superiors not only ecclesiastical but also civil, not only he himself, but they also can make laws. L. 140. Hence several laws are distinguished:

Eternal law, which is: The eternal reason and will of God commanding the natural order to be preserved and forbidding it to be disturbed. S. Aug. l. 22 *Contra Faustum* c. 27. It is the beginning and foundation of every law; for from it flows natural law, and from natural law the remaining laws take their force and norm. Cf. S. Th. 1. 2. q. 91. a. 1, q. 93, q. 95 a. 2, q. 96. a. 4; Wirceburg. *De Legib.* c. 1. a. 2.

Natural law, which is the eternal law of God promulgated to men through right reason, by which we discern what is good and what evil, the good to be done and evil to be avoided. Therefore the object of this law is that which is per se and intrinsically good or evil. In it are distinguished the first principles of morals, immediate conclusions, and mediated conclusions. Cf. S. Th. 1. 2. q. 91. a. 2. 6, q. 94; L. 102; Wirceburg. l. c. a. 3. 4. 6.

Divine law, which is law given by God through revelation. It is twofold; for one is contained in the Old Testament, the other in the New Testament. The Old Testament contained ceremonial, judicial, and moral precepts. Only the moral precepts remain to be observed today, the rest having been abrogated by the New Law. Matt. 19:17; 1 Cor. 7:19. The New Testament, besides counsels, contains precepts of catholic faith, morals, sacraments, sacrifice, and ecclesiastical hierarchy. The moral precepts are those very things which stand by natural right, and the law of the unity and indissolubility of marriage is that which, enacted from the beginning of the world, was confirmed by Christ. Matt. 19:4 seq. Cf. S. Th. 1. 2. q. 91. a. 4. 5, q. 98-108; L. 103. - The legal precepts of the Old Testament, or ceremonies, sacred things, sacrifices, sacraments of the Mosaic Law, all ceased after the Gospel was promulgated, nor can they be observed without sin. Eugene IV, B. *Cantate Domino*. - Wirceburg. l. c. c. 2.

Canon and civil law. The former is from ecclesiastical power, and it touches those things in the Church which regard the salvation of souls. The latter is from civil power, and moderates rights and obligations between citizens and citizens; between citizens and society and its Prince; between nation and nation. Whence private, public, and international or law of nations arises. C. 1. 13 *de Const.*, C. 2 e. t. in 6; Inst. l. 1. t. 1. 2, l. 2. t. 1. § 11; L. 2 *de Origine Iuris* etc. §§; S. Th. 1. 2. q. 91. a. 3, q. 95, 2. 2. q. 57; Wirceburg. l. c. c. 3; E. M.

But the law of nations can be taken otherwise, namely insofar as it is distinguished from civil law. Appositely S. Th. 1. 2. q. 95. a. 4 says: "It belongs to the notion of human law that it be derived from

the law of nature, and according to this positive law is divided into the law of nations and civil law. For to the law of nations pertain those things which are derived from the law of nature as conclusions from principles, such as just purchases, sales, and other things of this kind, without which men cannot live together with one another; which is of the law of nature, because man is naturally a sociable animal. But those things which are derived from the law of nature by way of particular determination (of certain common things, a. 2) pertain to civil law, according as any city determines something suitably to itself." And thus likewise that one must not kill pertains to the law of nations; for it is derived as a conclusion from the fact that evil must be done to no one. To punish the criminal with such or such a penalty pertains to civil law; for it is a determination of the common law of nature, that he who sins be punished. S. Th. ib. a. 2. "And therefore Caius the jurist says, L. 9 ff. *De Iust. et iure*: What natural reason has constituted among all men, that is preserved equally among all, and is called the law of nations." S. Th. 2. 2. q. 57. a. 3. Hence the law of nations embraces not only those things which are imposed by the very necessity of nature, as the division of goods, but also those things which flow from a certain highest suitability of nature, and which therefore are preserved by all through use and custom, by a certain implicit compact, or, when doubts arise, by an explicit compact, such as to enter a foreign region, unless danger arises from it for that region; free navigation of every sea; mutual commerce among peoples; transmission of letters; abolition of servitude, etc. - But positive law more determinately defining the various relations to be observed among nations will be able better to be called international law.

180 bis. Note: Natural law is altogether immutable, since it regards those things which by their nature are good and by their nature are evil. Against this immutability, as is clear, certain things permitted by God have no force, which because of peculiar circumstances were no longer opposed to the right order, as, for example, polygamy permitted to the patriarchs, dissolution of marriage, etc.; or were not opposed to that order because the matter is subject to divine dominion, as theft once permitted to the Hebrews. But change is not had as regards the precepts of natural law which are called primary, without which the order of things cannot exist, as, for example, the honor due to God, subjection in man of the lower part to the higher, etc.; but only as regards those precepts which are called secondary, and which regard not the very being of the order, but the perfection of the order, as, for example, the marriage of brothers and sisters permitted to the first parents. - S. Th. 1. 2. q. 100. a. 5; Wirceburg. *De Legib.* c. 1. a. 5.

Canon Law: The collection of canonical laws constitutes Canon Law. Yet some canonical laws are contained in the Corpus Iuris, others are outside it. The Corpus Iuris contains three Parts. The first part contains the Decree of Gratian, a Benedictine monk, around the year 1150, in which, in a threefold part, under the title on Distinctions, on Causes, on Consecration, there is treated successively of ecclesiastical persons, ecclesiastical judgments, and sacred things. This collection is not authentic; therefore the individual texts have and retain their force from themselves, not from the collection. The second part contains the Decretals by S. Raymond of Pennafort, of the Order of Preachers, in the year 1234, in which likewise, in five books, there is treated successively of persons, judgments, things, marriage, and penalties. This collection, completed and published by order of Gregory IX, is authentic, and therefore the laws contained in it have the force of universal laws from the very fact of insertion into it. The third part contains the sixth book of the Decretals, so called because it was added to the five books of the Decretals of Gregory IX. It was published by the authority of Boniface VIII in 1298; therefore the collection is authentic, and proceeds in the same

order as the Decretals of Gregory. This third part also contains the Clementines and Extravagantes. The Clementines are so called from Clement V, who after the Council of Vienne, over which he himself presided in 1311, ordered the Constitutions issued by himself and by the same Council of Vienne to be collected. Therefore this too is an authentic Collection. It is divided into five books. This same third part contains the Extravagantes of John XXII and the Common Extravagantes. The former are constitutions issued in the earlier years of the pontificate of the aforesaid Pontiff. The latter are other Constitutions issued by John XXII and by other Pontiffs, divided into five books. Although all those Constitutions are genuine, nevertheless they do not constitute an authentic Collection. The other Constitutions that are present, besides these, of the Council of Constance, of Trent, and of the Vatican, and also of the Supreme Pontiffs, issued afterward, were not collected into the Corpus Iuris.

Civil Law: Roman Law is contained in the Corpus of Civil Law issued by order of Justinian in the 6th century. It embraces four parts: the Institutes of Justinian, divided into four books, which are subdivided into titles and paragraphs; the Pandects, which comprehend selected responses of jurists, to which the force of law was attributed, also called the Digest or Digests, because they contain legislation arranged in order, and are divided into fifty books, which are subdivided into titles and laws; the New Code, or repeated lectures, that is, in a second edition or publication, C. *Cordi nobis*, Nov. 16, 534, which contains twelve books, subdivided into titles and laws, and embraces the constitutions of Princes; the Novels, or Constitutions issued after the Code, which are not all of Justinian himself, and are genuine, although their Collection is not authentic as the three preceding parts are. Modern law is contained in modern Codes, which are divided into books, titles, and articles.

181. Who make laws in the Church? - The Church is a true and perfect society, plainly free, superior to civil society. It has power conferred on it by God not only of directing through counsels, but also of commanding through laws; nor does it enjoy only legislative power, but also judicial and coercive power. Its laws, independently of any civil power whatever, have force and oblige in conscience, and they do not only stand in matters of faith and morals, but also extend themselves to the discipline of the Church. Cf. E. M. 180. The Primacy of the Supreme Pontiff was instituted by Christ, and it is of divine right that Blessed Peter have perpetual Successors in that primacy. But the Roman Pontiff is the successor of Blessed Peter in the aforesaid primacy, not only of honor, but also of jurisdiction, over the universal Church. Likewise the Roman Pontiff is infallible when he defines a doctrine of faith and morals to be held by the universal Church. And he has supreme power of making laws for the whole Church, nor does he in any way violate the rights of Bishops by various reservations. Bishops have no power except one dependent on the Supreme Pontiff and subordinated to him. For the Church is not instituted nor administered in the manner of a republic. C. *Si quis* 2 *de Maior.,* C. *Ut animarum* 2 *de Const*. in 6. Legates also make laws in their Provinces, but in the name and by the authority of the Supreme Pontiff. C. *Nemini* 10 *de Off. legati.* Legates are those who are deputed by the Supreme Princes for handling more grave affairs, or a generality of affairs.

A General Council is principally composed of all the Bishops of the catholic world. It can make laws for the whole Church. But its Decrees, in order to have force, must be confirmed by the Roman Pontiff. - A Provincial Council is principally composed of the Bishops of some province, with the Metropolitan presiding. From the Council of Trent it would have to be held every three years. It makes laws for the Province. Its Decrees are to be reviewed by the S. C. C. But they are approved in

common form, so that they acquire nothing of new right; and in specific form, so that they become pontifical laws. Sixtus V, C. *Immensa aeterni*; Pius X, C. *Sapienti concilio, Ord. serv. in R. C.*, special norms c. 7. a. 4 par. 6. But the Metropolitan can promulgate them by public edict. Nor indeed do the Decrees of Councils, whether plenary or provincial, lack their force unless they have been incorporated into diocesan statutes. S. O. Sept. 10, 1896. Bishops make laws in their own dioceses, namely after they have been canonically instituted in their own dioceses, Apostolic letters having been expedited and exhibited, C. *Iniunctae de Elect.* Extrav. Comm.; C. of Pius IX *Romanus Pontifex*. For they are true Rulers in their dioceses, Acts 20, 28. But a power of this kind is necessary for the right administration of the diocese. Hence Bishops can indeed make laws, each for his own diocese, even without the consent of the chapter, unless however the question concerns those things which can yield to the prejudice of the chapter or clergy. C. *Novit* 4, C. *Quanto* 5 *de His quae fiunt a prael.* Nevertheless the custom has prevailed that, unless it has been expressly provided otherwise, those things which a Bishop decrees outside synod, the chapter not having been consulted, do not have the force of law, but of a simple statute, which consequently ceases when the right of the Bishop ceases, by death, translation, abdication. But statutes of the Bishop, even outside synod, yet made and promulgated after the counsel of the chapter has been heard, according to the truer opinion, have the same perpetuity as Synodal Constitutions. Bishops can decree nothing against the laws of the Pontiff, nor in matters reserved to the Holy See, since an inferior does not have jurisdiction over a superior. Bened. XIV *De Syn.* l. 12. c. 5. n. 1, l. 13. c. 5; L. 104, l. 7. n. 6. Archbishops and Patriarchs cannot make laws for the dioceses of suffragans, because they are not superiors properly so called, although they can settle their disputes brought before them. - L. 105; Struggl q. 2. n. 6; E. M.

The print's appendix has more on this paragraph: [Power of the Sacred College](/manuals/bucceroni/power-of-the-sacred-college). (ed.)

182. Can others also besides the Supreme Pontiff and Bishops establish laws? - A Cardinal can, by reason of his dignity, make laws in the Church of his Title. C. *His quae* de Mai. et obed., C. *Querel.* de Elect., C. of Innocent XII *Romanus Pontifex*, Sept. 17, 1692. But the College of Cardinals, when the Roman See is vacant, if necessity does not urge, cannot make laws; rather it must immediately apply itself to the nomination of another Pontiff. Clem. 2 *de Elect.*, C. 3 *de Elect.* in 6; Pius X, C. *Vacante Sede*, Dec. 25, 1904, t. 1. c. 1-4.

Abbots and exempt Prelates can make laws for their territory, where they exercise quasi-episcopal jurisdiction; for legislative power is joined to jurisdiction. The cathedral chapter, when the See is vacant, can establish laws which would be necessary for various circumstances. For by right it succeeds to the jurisdiction of the Bishop. C. *His quae* 11, C. *Cum olim* 14 *de Mai. et obed.*; L. 104; Lugo *Resp. Mor.* l. 1. d. 21. n. 5. Chapters or General Congregations and Regular Prelates are able to establish true laws within the limits of their jurisdiction, according to the proper Constitutions of the Order. For they have statutes approved by the Supreme Pontiff, which grant them this faculty. Jurisdiction, namely granted by the Pope, but not by force of the vow, which, since it is personal, gives only the power of imposing precepts, but by no means of establishing law. Elbel 278-280.

Abbesses or Superiors of nuns cannot make laws properly so called, since they are not capable of ecclesiastical jurisdiction. Nevertheless they can exact obedience in conscience concerning things commanded, or concerning those things which conduce to the advancement of nuns according to the rules. For they have the right of commanding both from the vow of obedience emitted by the subjects and from the necessity of discipline which must be preserved in the community. Hence novices,

although they are not bound to obedience strictly by force of a vow, which they have not emitted, are nevertheless in some way bound to obey by reason of regular discipline. For this reason "abbesses can make precepts for the right governance of the house, and even oblige under grave fault." L. 104. Cf. Schmalz. l. 1. t. 31. n. 38. 39; Elbel 281-284.

Pastors cannot establish laws. The reason is that they do not have jurisdiction in the external forum. Colleges can establish statutes for themselves, which bind their members as agreed compacts. Nevertheless the statutes of chapters in cathedral churches, etc., acquire the force of law from the approval of the Bishop. Bened. XIV *De Syn.* l. 13. c. 5. n. 1. If Chapters neglect to make their own Statutes, the S. C. C. commands Bishops that they themselves make Constitutions and enjoin them on the Chapter to be observed. Lucidi *De Visit. SS. LL.* V. 1. C. 3. § 4. n. 146. - E. M.

The print's appendix has more on this paragraph: [Power of the Sacred College](/manuals/bucceroni/power-of-the-sacred-college). (ed.)

183. Who make laws in Civil Society? - The Prince or the people or both together, according to the varied form of government, make laws. In monarchical Governments, Princes who enjoy supreme power in civil society make laws. In representative Governments the power of making laws resides in the King, or in the President of the republic, and in the legislative Body constituted from Deputies, or also from Senators. Indeed secular Princes are true superiors in civil society, and that power is necessary for the right governance of civil society. Therefore there is no doubt that their laws can also oblige in conscience. L. 104; S. Th. 1. 2. q. 105. a. 1; E. M.

184. Note: 1. The Church, condemning liberalism, condemned errors averse to catholic doctrine, not certain forms of civil governments or political factions which are called liberal. S. O. Aug. 29, 1877. The will of the people publicly manifested by no means constitutes the supreme and independent law. A people sins by not receiving without any cause a law promulgated by the Prince. - Syll. prop. 39 seq.; E. M. 166. 168.

2. "The Supreme Pontiff will be able to abrogate or correct civil laws of other Princes if they are opposed to equity." L. 103. For although the Supreme Pontiff does not have direct power to establish all laws obliging in civil matters, but only in ecclesiastical matters, C. 13 *de Iudiciis*, C. 13 *Qui filii sunt legitimi*, nevertheless indirectly he has power also in this matter, insofar as he can correct civil laws harmful to the salvation of the faithful, and can supply the negligence of civil Princes, C. 1. 2 *de Empt. et vend.*; C. 1. 2 *de Tregua et pace*. And thus of ancient Roman Law "some civil laws are expressly approved by Canon Law, others expressly corrected, others neither approved nor reproved.... Approved laws without doubt oblige in conscience.... Corrected laws indeed do not oblige in conscience.... Those not reproved seem tacitly approved by Canon Law.... C. 1 *de Nov. oper. nuntiat*.... Likewise C. *Super specula de Privil*.... And Pope Gelasius, ep. 4 to Emperor Anastasius, wrote: As far as pertains to the orders of public discipline, the Bishops of religion themselves also obey your laws." L. 106. Understand these things not only of Roman Law, which once prevailed, but also of Civil Law which prevails at present. For the order of public discipline and the command of legitimate power are the reason why Roman Law is approved by Canon Law, and the same reason prevails in any well-ordered civil society. But Roman Law with Canon Law once constituted the Common Law, so called because for many centuries the whole world commonly used it.

3. "Certainly both the Church and the state each has its own principate; and therefore in managing its own affairs neither obeys the other, certainly within the limits constituted by the proximate cause of each. Yet from this it in no way follows that they are disjoined, much less fighting." Leo XIII, Enc. *Sapientiae christianae*, Jan. 10, 1880. Since each power is from God and tends to the same end, they foster one another. Hence, whenever the matter is common to each Law, Civil Law is supplied from Canon Law; and, on the contrary, what is lacking to Canon Law is supplied from Civil Law, C. 1 *de Nov. op. nunc.*, not indeed Roman Law, which once prevailed, but that which now prevails; because each Law is mutually fostered for this reason, that each Power ought mutually to be fostered, certainly not the power which has ceased, but that which exists. Nevertheless Canon Law, when it takes interpretation from Civil Law, must be interpreted not from that which now prevails, but from Common Law; because it was established while that was commanding. - Leo XIII, Enc. *Arcanum*, Feb. 10, 1830, par. *Nemo autem*, Enc. *Immortale Dei*, Nov. 1, 1885; Pius X, Enc. letter to the Bishops of France *Vehementer nos*, Feb. 11, 1901, Enc. Letter *Iamdudum in Lusitania*, May 24, 1911; Bened. XIV *De Syn.* l. 9. c. 9 seq.; L. 104. 105. a 106; D'Annib. ed. 4. p. 1. n. 201; E. M.

185. Can tyrants make laws, so that these truly oblige? - Laws and sentences, in themselves honorable and just, made by a tyrant, oblige, whether he is such de facto, or by administration; or whether he is such de iure, or by title, but peacefully possesses the kingdom, and has not yet by prescription, by consent of the republic, by cession of the legitimate Prince, become himself a legitimate Prince. The reason is that the former has legitimate power, although he abuses it; the latter also has power, although usurped, and is bound to restore it to the legitimate Prince. For society cannot stand without some power, nor ought it ruin itself. He has power: whence this does not regard those who have usurped spiritual power. But peacefully, etc.; otherwise there is no obligation of obeying him, since he is not yet a true superior. - L. 94, H. A. tr. 8. n. 13; S. Th. 2. 2. q. 104. a. 6; Letter of Leo XIII *Magna animi nostri*, May 3, 1892. Cf. E. M. n. 705.

186. Note: The obligation of obeying the laws of a tyrant who has usurped power is founded on the necessity of preserving order in the community. But subjects can also perform certain things which yield to some utility of the tyrant, such as to pay certain tributes, keep watches, dig for the construction of a fortress, etc.; since these are works indifferent per se, and to refuse them would not profit the legitimate Prince, but would inflict most grave harms on the subjects themselves. But it will be altogether illicit to do other works which proximately and formally look to confirming the unjust usurpation and to inflicting damage on the legitimate Prince. La-Croix l. 2. n. 275.

187. You will resolve: If a tyrant is such by right or title, in the very act of invasion he can make no laws, nor is he to be obeyed, nor is it licit in any way to help or recognize him, so that he may acquire possession of the kingdom and be established in it. The reason is that the invasion gives him no right.

188. Whether custom has the force of law? - Custom, as it is considered materially, is a manner of acting introduced from frequent acts of the whole community, or of the greater part of the same. But formally it is a certain right constituted by morals, which is taken as law, even if law, namely written law, is lacking. Schmalz. l. 1. t. 3. n. 1. Custom has the force of law. This is clear: 1. From the common opinion of theologians. 2. From various places of either canon or civil Law, from which it is

undoubtedly drawn that custom is to be held as law. Cf. tit. *de Consuet.*; L. 32. 33. 35. 36 *de Legib.*; C. I. 2. 580. 1654; C. G. a. 671. 3.

By reason; for, once a custom has been introduced, for example, against a law, the law no longer contributes to the common good; and on the contrary, once introduced beyond the law, the reason of the common good urges. - L. 107; S. Th. 1. 2. q. 97. a. 3, 2. 2. q. 79. a. 2 ad 2; Struggl q. 4. n. 28 seq.; Ithur. Cas. 53. n. 7; Bouix *De Princip.* p. 2. s. 6; Wirceburg. c. 5. a. 4. In the external civil forum generally, by reason of public order, no custom against law is usually admitted, neither past nor future, but only in certain matters determined by the law itself. C. I. preliminary law, year 1866, a. 48, art. 580. 1654, C. I. Comm. 1; C. H. 4 and Law May 11, 1888, a. 5. 6. 7; C. H. 5. 6; C. L. 9; C. G. 671; C. He. preliminary title a. 1. 5. But in canon law, since this Law chiefly regards the good of souls, custom has constantly been admitted, and is also admitted at present.

189. How manyfold is custom? - A threefold custom is usually distinguished: according to law, namely that which confirms and interprets an already established law by long use, Cf. Can. *De istis* D. 4; L. *Si de interpretatione de Leg.* 27 Dig.; beyond law, which introduces a new right, commanding or prohibiting something concerning which no written law is had, Cf. Can. *Consuetudo* D. 1; L. *De quibus de Leg.* 32 Dig.; against law, namely by which either a law is not received, or, once received, is abrogated or derogated. L. 107. 108. "Custom both has the force of law, and abolishes law, and is the interpreter of laws." S. Th. 1. 2. q. 97. a. 3. - C. I. 580. 1654; C. G. 671.

Besides, one custom is universal, which obliges all in the universal Church, or in the whole territory of some temporal Prince; another particular, which obliges only in some place, in some diocese, etc. The style of the Curia is reduced to particular custom, which is taken for the customary observance in the Roman Curias, and for unwritten law, and is to be observed as law from the Constitution *Cum gravissimae* of Paul III. - But generally the customary observance in some place is called the local style, and outside the place it has no force, Riganti on Reg. 42. n. 225, on Reg. 45. § 1. n. 97 etc. From C. I. Comm. 89, C. I. Civ. 1513, in the matter of commerce style and custom prevail over common Law. - Suarez l. 7. c. 5. n. 5.

190. What things are required for having custom? - In order that custom be legitimate several conditions are required:

1. That it be rational, that is, that it not be an incentive of sin, nor pernicious to the common good. Otherwise it can never acquire the force of law, since law must be honorable, useful, just. Hence there can be no custom against natural and divine law, but only against human law; nor against this in those things which break the bond of ecclesiastical discipline, C. 5. 11 *de Consuet.*, or which can be constituted only by privileges. For since custom is an unwritten law, it can be had only in those things which can be constituted by laws. L. 39 *de Legib.*; L. 107; S. Th. *Quodl.* 2. a. 8; Schmalz. l. c. n. 7.
2. It is required that it be introduced by the whole community, or at least by the greater part of it, capable of being governed by law, and capable of making law; and if it cannot of itself make law, it suffices that its manner of acting can obtain the force of law, the consent of the Prince acceding. For that is judged morally done by all which is done by the greater part. But custom must be introduced by those for whom laws or statutes can be constituted. Hence not only perfect societies can introduce custom, but also imperfect ones, a province, city, diocese,

chapter of canons, religious order, monastery, etc. Women cannot introduce customs against the proper laws of men, nor conversely; as neither can ecclesiastics against the laws of laymen, or conversely, unless the matter is common. Therefore clerics as regards spiritual matters are not obligated by a custom made by laymen, since laymen are incapable as regards spiritual matters of introducing custom for clerics. Private persons cannot introduce custom. L. 32 *de Legib.*

3. But it must have been introduced through repeated acts, and not interrupted until the custom is completed, voluntary acts, that is, neither from ignorance nor from error, for example if the people thinks that a law exists which in reality does not, nor extorted by force and fear, but from an intention of introducing custom and of obliging themselves, or disobliging themselves, finally public acts. For only these acts, with these conditions posited, can be had as conducing to the common good, so that then the legislator can reasonably consent to such a manner of acting. Moreover custom, since it has the force of law, must be promulgated no less than law. - Not interrupted: they can be interrupted in two ways, in fact, if the community ceases to act; in right, if the superior urges the law. With the intention of introducing custom: this mind or intention is gathered from circumstances, namely if the custom is constantly observed, and with no light inconvenience, if transgressors are punished, if pious men commonly think so. - L. 39 *de Legib.*; S. Th. 1. 2. q. 95. a. 4, q. 97. a. 3.

4. It is by no means required that good faith always be present from the beginning, for even by sinning a custom can be made which afterward becomes honorable. For custom against law has a threefold state. In the beginning, all those introducing the custom against the law sin. In progress, those using a custom introduced by their elders no longer sin, but they can be punished. In the end, they neither sin nor can be punished when using the custom already prescribed. Therefore custom cannot altogether be equated with prescription. L. 107; Schmalz. l. c. n. 6.

5. It is required besides that it endure for a long time. But here one must distinguish: either custom is introduced by way of connivance, namely the legislator knowing and conniving, which happens when the legislator knows that the law is not received and dissembles, although he could easily urge observance; or it is introduced by the ordinary way of prescription, the legislator being ignorant. If the first, Benedict XIV teaches that "no space of time is necessary.... For then, after a few acts tolerated by the superior, it is presumed that he by this very connivance tacitly revokes his law, and does not wish to bind by it the community to which it is displeasing." *De Syn.* l. 13. c. 5. n. 3; Ithur. Cas. 53. n. 7. 8. If the second, there are several who require 10 years, both as regards Roman Civil Law and Ecclesiastical Law. But others require 40 years as regards each Law. For from this Law an inveterate, long-lasting, long, long-lived custom is required. L. 32. 33. 35 *de Legib.*; L. 1. 2 C. *Quae sit longa. Consuet.*; L. 107. 139, l. 3. n. 849. And here must be recalled centenary and immemorial custom, by which all those things can be acquired which can be acquired by privilege and indult of the Prince, C. 13 *de Iudic.* n. 5; and it is not revoked even by a clause revocatory of any custom whatsoever having been added, "unless it is expressed, because when the superior wishes also to revoke that custom, he expresses it." L. 109.

6. Now custom can obtain the force of law insofar as the consent of the Prince accedes to it, either express, or tacit, which is had when the Prince knows the custom and, although he could, does not contradict it, or at least legal consent, which is that which is had beforehand through laws universally approving legitimate customs. For legal consent of this kind it is not required that the Prince know the custom; nevertheless it is required that it not be established that he was unable to protest against the custom. For if the Prince constantly resists, then no custom is made. But if no law of this kind is present, such a general will is always supposed in the legislator. For the common good demands this. - C. *Cum tanto* fin. *de Consuet.*; L. *De quibus de Legib.*; L. 107, l. 3. n. 290. 1009; Suarez l. 7. c. 8. 15; Schmalz. l. 1. p. 1. t. 4; Gur. Cas. 132 seq.; S. Th. 1. 2. q. 97. a. 3; E. M.

191. What if contrary custom is prohibited by law? - "If the clause is added, notwithstanding any custom whatsoever, the opposed past custom is understood to be reproved, but not the future.... But if the clause reproves any future custom whatever, still they say that it is more probable that such a custom can abrogate the law. If it is reproved... as irrational... as contrary to natural or divine law, then no custom can have force. But if it is reproved as irrational for the time in which the law is made, then from a new cause it can be rendered rational." L. 108, l. 6. n. 325 toward the end; A. S. S. v. 4. p. 26. Since every law is rational, it cannot exclude rational contrary customs after they have already been formed. Therefore, if the clause is added, any contrary custom in the future being excluded, this clause renders more difficult an arising ordinary contrary custom, and excites the vigilance of the legislator to impede it as far as possible, but it will not exclude an extraordinary, centenary and immemorial custom already formed.

III. On the Subject of Law

192. What is the subject of law? - The subject of law and obligation are all and only subjects for whom the law has been made. For the whole force of obliging is in the superior. But only a subject corresponds to a superior. But laws are not always made for all subjects, as military laws, laws of clerics, etc. - General local laws are made for any place, and particular laws for a particular territory; those are held by them who dwell in the same territory, and have domicile or quasi-domicile there, or are staying there. Cf. 199. - S. Th. 1. 2. q. 93. a. 5, q. 96. a. 5; L. 153; Wirceburg. c. 4. a. 4.

193. You will resolve: Every man is subject to natural law. For natural law is the very reason and divine will commanding the order to be preserved and forbidding it to be disturbed, promulgated through the very light of reason, namely insofar as God inserted it into the mind of men to be known naturally. But every man enjoys reason. Therefore it is not licit to provoke infants, drunkards, and the insane to intrinsically evil actions. L. 153. 155. - All and only those habitually possessed of reason, who exist under the jurisdiction of the legislator, can be subject to a positive law commanding or prohibiting human action. For law is a rational and stable rule for the common good. But men habitually lacking the use of reason cannot be directed by a rational and stable rule to the common end of society. Hence meats are licitly given to infants not yet having obtained the use of reason, and to the perpetually insane, on prohibited days. They are illicitly given to those insane for a short time and to drunkards. L. 153. 155; Elbel n. 355 seq.; Struggl q. 3. n. 8 seq.

The legislator is not bound directly by his laws as such, that is, as regards the obliging and coercive force; nevertheless indirectly, as regards the merely directive force, from a certain equity he is bound to conform himself as head to the members, namely as regards those laws which befit his state. Hence "it is probable, scandal being excluded, that he is bound only under light fault, because he is bound to the law only from honorableness." L. 154. Scandal being excluded: for if scandal were present in a public transgression of the law, he would be bound to observe it; by no means however in that case would he also be subject to the penalties which he himself imposed on transgressors. Likewise he is also bound to use equal condition in contracts. C. *Iustum* Dist. 9; L. 154; S. Th. 1. 2. q. 96. a. 5; Struggl q. 3. n. 1; Lessius *De Iur. et Iustit*. l. 2. c. 35. dub. 5. n. 33; Suarez *De Legib*. l. 3. c. 35.

Infidels, not yet baptized, are not obligated by the laws of the Church, although they are bound to enter the Church. 1 Cor. 5:12. On the contrary, heretics, schismatics, and the excommunicated are of themselves held by ecclesiastical laws. This must be understood of the excommunicated as regards acts not interdicted by the excommunication itself. But as regards heretics, in places where they are tolerated, penal laws have no effect. Trent sess. 7. c. 8 *de Bapt*.; Schmalz. l. 4. t. 1. n. 378-380, t. 3. n. 99, l. 5. t. 7. n. 171-174; Reiffenst. l. 1. t. 2. n. 274; L. 154.

Greek Catholics, and generally Orientals, although they are held by definitions of catholic doctrine concerning faith and morals, nevertheless are not bound by disciplinary laws of the universal Church, unless something is established concerning them, either by express mention made of them, or by reason of the matter implicitly extended to them by the law. Indeed Constitutions of Roman Pontiffs made for one oriental rite are not extended to other rites without express extension. Nor indeed is it licit for Catholics to depart from the custom and observance of their own rite approved by the Holy Roman Church. E. M. *de Stat. partic.* 213; Bened. XIV, C. *Etsi pastoralis*, May 26, 1742, § 9. n. 24, C. *Allatae*, July 26, 1755; Collect. S. C. de P. F. n. 113. 1999.

194. Practically speaking, are heretics excused from the observance of the laws of the Church, although of themselves they are bound? - R. Affirmatively, 1. by reason of ignorance in which they are involved. 2. Because it is not presumed that the Church wishes to urge this obligation, lest sins be multiplied in vain, at least as regards merely preceptive laws, which regard the spiritual good of souls. As regards merely preceptive laws; for one is not excused as regards universal laws commanding human action, invalidating laws; because these directly regard public good and order, such as the laws of impediments of marriage, unless the Church positively excepts them, as was done by the Decree *Ne temere* as regards the form of marriage, which, if they enter marriage among themselves, they are not bound to observe.

195. Are children held by ecclesiastical laws as soon as they have obtained the use of reason, although they have not yet completed seven years? - More probably this must be denied, because human laws attend to those things which commonly happen. But the use of reason does not commonly happen before the completion of seven years. Moreover, all admit that children before seven years do not incur penalties imposed on transgressors, unless this is expressly declared. Indeed they do not incur ordinary penalties, those which have their effect after the sentence of a judge and even those before the sentence of a judge, unless they are puberes, such as males after the 14th year is completed, girls after the 12th year, or unless express mention is made of them.

Also by civil law they incur milder penalties. C. I. pen. 53 seq.; C. G. pen. 66 seq. Moreover it must be noted that children, after completing seven years, are not obligated by human laws unless they are

concerning matter accommodated to their age. Hence they are not obligated by the law of ecclesiastical fast. But they are held by the laws of annual Confession, of hearing Mass, of abstinence from meats; and therefore parents sin who neglect their fulfillment on the part of their own children.

Whether they are also held by the paschal Communion was a controverted matter among theologians. But the S. C. on the Sacraments affirmed that they are held both to Confession and to Communion, Decree *Quam singulari*, Aug. 8, 1910: "The age of discretion, both for Confession and for Holy Communion, is that in which the child begins to reason, that is, around the seventh year, whether above it, or even below it. From this time begins the obligation of satisfying each precept of Confession and Communion." - L. 155, l. 3. n. 270; S. Th. 2. 2. q. 147. a. 4; La-Croix 676; Struggl q. 3. n. 11. 12; Elbel 367 seq.; E. M.

196. Are clerics held by civil laws? - R. Affirmatively, at least indirectly, unless they are opposed to the still-prevailing rights of the Church; because they too are members of the republic, and natural equity demands that in those things which are not opposed to their state, they conform themselves to the remaining members. Besides, the Church commands this. Rom. 13:1. Still prevailing: for Concordats are to be attended to, and also legitimate customs. Indirectly: whether they are also held directly, by virtue of the civil law itself, is controverted. - Syll. of Pius IX prop. 30. 31. 32; La-Croix 674. 678; Molina *De Iust*. tr. 2. d. 31. n. 15; Struggl q. 3. n. 2 seq.; Elbel 275-277; Laymann l. 1. tr. 4. c. 13; Suarez l. 3. c. 34 n. 13. 15. 16; Wirceburg. c. 4. a. 4; Wernz *Ius Decr.* ed. 1. t. 1. n. 108; Trent sess. 25. C. 20 *de R*.

197. How ought clerics conduct themselves if they are compelled to observe some civil law harming the rights of the Church? - A protest must be made against compulsion and law of this kind, if otherwise scandal would follow; or if legislators of this kind would become more daring against the rights of the Church. Once the protest has been made, force must be yielded to, and force is not to be opposed to force, nor are acts of violence, especially public, to be stirred up and provoked; they obtain only this, that more and greater sins are multiplied, and the ecclesiastical state is exposed to greater disgrace and injury. In a case of doubt, recourse must be had to the Bishop or to the Holy See.

198. Are Senators and Deputies in representative Governments obligated by their own laws? - R. Affirmatively. The reason is that the legislator is not each singular person, but the whole moral Body. The same must consequently be said of the President of the republic, of the Metropolitan and fellow Bishops in provincial synod, of a regular Prelate and other capitulars in a general chapter, etc. - L. 31 *de Legib.*; Lugo *Resp. Mor.* l. 6. d. 20.

199. Are travelers held by the special laws of their own territory, or of the place in which they are staying? - A traveler is said to be one who, having a domicile or quasi-domicile somewhere, comes to some place with the intention not of remaining perpetually, but only of staying for some hours, or days, or at most for the lesser part of a year, which can extend even up to six months. A traveler is distinguished from a newcomer and a wanderer. - A newcomer is one who outside the territory of his own origin or prior domicile has placed his domicile or quasi-domicile. If he transferred his domicile, he is already an inhabitant, L. 239 *de Verb. sign.*, and therefore some inhabitants are original, others newcomers. L. 4. 5 *de Incol.* C. One acquires domicile, even from the first day, who dwells somewhere with the intention of remaining perpetually, and "where someone has constituted the hearth and the sum of his affairs and fortunes, whence he is not going to depart again, if nothing calls him away from there." L. 7 C. *de Incol.* Somewhere: that is, in a parish or quasi-parish, by ecclesiastical law; in a

municipality, by civil law. Intention in the external forum is presumed if the habitation is of ten years, or if a house has been built there, or the greater part of goods transported there. But a wife follows the domicile of her husband; a son in the household that of the parent under whose paternal power he is; and he who exercises some perpetual office somewhere has domicile there. L. 2. 8. 9 *de Incol.* C.

But quasi-domicile is acquired by one who remains somewhere, or by arriving there immediately stays there, with the intention of remaining for the greater part of a year; such are servants and students, who consequently besides legal domicile can have quasi-domicile, introduced by canon law. Quasi-domicile is no longer attended to as regards marriage. Someone can also from Roman Law have a double domicile, L. 5 and 6 *Ad Municipalem et de Incolis.* C. Ne. 22 seq. expressly establishes that no one can have several domiciles at the same time. From the Italian Code, a. 16, the civil domicile of a person is in the place in which he has the principal seat of his affairs and goods (*interessi*). But residence is in the place where the person habitually stays, ib.

Finally a wanderer is one who nowhere has a fixed and determinate domicile, but transfers himself from one place to another. Innoc. XII, C. *Speculatores*; L. 156, l. 6. n. 115 par. *Secunda*; C. I. preliminary dispositions 6 seq., and l. 1. a. 16 seq.; C. G. 102 seq.; C. H. 40 seq.; C. A. 29; C. B. 7-11; C. L. 40 seq. By the name of wanderers, as regards marriage, come all and only those who nowhere have a proper pastor or Ordinary by reason of domicile or monthly stay. A wanderer can contract marriage before any pastor, even if the other party is not wandering. Nevertheless the pastor is bound to make diligent inquiry concerning their free state. As regards wanderers, outside a case of necessity, let it not be licit for the pastor to assist at their marriages unless, the matter having been referred to the Ordinary or to a Priest delegated by him, he has obtained permission. Cf. v. 2. n. 1026.

Now a traveler is not held by the laws of his own territory; for law affects the territory, and he is outside it. C. 2 *de Constit.* in 6. - Except laws which regard the state of persons. For they adhere to the person. Hence he who is of age in his own homeland is of age everywhere. And thus also a private act everywhere retains its value; and therefore if an Italian or Frenchman has made a holographic testament, wherever he has made it, it is valid; because it is a private act, for which no public form has been constituted by the laws. Except also laws local and personal at the same time, as from the Decree of the Holy Office was the law of the Tridentine form to be observed in marriage. - Likewise except unless someone by fiction of law is judged still to be in his own territory. Thus, for example, if someone outside his own territory were to sell his own thing, existing in that same territory, he is bound to observe its laws in such a sale. Thus also a beneficed cleric who does not reside incurs penalties made there against non-residents. For the thing is judged to be consummated where it ought to have been done; whence the delinquent is held as morally present there where he harms by his action. - Laws: for if the discussion concerns precepts which immediately affect persons, it is certain that they oblige travelers, newcomers, and wanderers everywhere. Hence a priest, for example, suspended in his own diocese by particular sentence from priestly functions, cannot celebrate Mass in another diocese either. Cf. 171. 6; Suarez *De Legib.* l. 3. c. 32. n. 47; E. M. *de Matr.* 1026.

A traveler is indeed held by the laws of the place in which he is staying as regards contracts, as regards the form of judgments, and as regards other things necessary for the common good, whose violation namely would yield to the damage and injury of that place in which he is staying. Common and natural right demands this, by which travelers are by no means exempted. The same must be

said as regards crimes, because it is equitable that crimes be punished everywhere. But as regards other things, unless scandal is present, a traveler is not held by the particular laws of the place, because law obliges only subjects. L. 1. 3. n. 332. And this probably has force even if the particular law prevails at the same time both in that place and in the homeland. For he is not held by the laws of the homeland, because absent, nor by the laws of this place, because a traveler. Now from C. *Licet* ult. *de For. comp.*, no one is subjected to the power of another except by reason either of crime, or contract, or domicile or quasi-domicile, or by reason of a thing situated in the territory, or finally by reason of origin. L. 156. 159. - Traveler: for the common opinion teaches that it suffices that someone has contracted quasi-domicile, so that he is held by the laws of the place, even from the first day on which he arrived there with the intention of dwelling for the greater part of a year. L. 156; C. I. beginning, *Dispos.* etc. a. 6 seq. Traveler: the same must be said of a wanderer, who is not held by local laws as a traveler is not; and is held like him by general laws. Laws: he can use the favors of the place, for he can count himself among the inhabitants. If someone has already satisfied a common law in his homeland, more probably he is not bound to satisfy again when arriving in a place where by special privilege it urges later. Nor indeed is someone bound to satisfy the law if, before the law urges in that privileged territory, he departs from it and goes to a place where the time of the obligation of the law has already passed. The first reason is that there is no obligation of fulfilling the same precept again, since it has already been fulfilled in its own time. The second reason is that outside that privileged territory no obligation any longer urges. - Wirceburg. c. 4. a. 4.

By reason of public order, travelers are often held to exhibit testimony of their state, and permission of departure from the former domicile or quasi-domicile; and thus also from traveling priests wishing to celebrate Mass, a document of immunity from canonical penalty and irregularity is required. But from Decrees of the S. R. C., Apr. 3, 1821, n. 2613, Mar. 5, 1898, n. 3895, prayers or collects commanded by the Ordinary of the place are to be recited also by regulars and travelers.

200. Note: An exempt place is equated with a place situated outside the territory. Hence a traveler in an exempt place is also not held by the common law to fulfill it. On the contrary, he is held by a common law prevailing in the place where he is, even if in his homeland it no longer obliges; since he too is then under the common legislator, and law affects the territory. L. 160. 161.

It is also probable and safe in conscience that a traveler before departing from his own territory is not bound to hear Mass prescribed there, provided he will arrive outside the place where it urges before the time of obligation ceases; for example, before noon, if then the last Mass is celebrated. The reason is that the precept does not oblige you to wait. L. 157; Elbel 374. 375.

201. You will resolve: If there is a fast in your territory, and on the same day you go to a place where there is no fast, you can eat supper in the evening; indeed also breakfast in the morning, since fast is something indivisible. Existing in the morning in a place where there is no law of abstinence, you can eat meats, even if on the same day you are going to return home where there is fast. At home, however, you are certainly bound to abstain from meats, since abstinence is something divisible. L. 157; Elbel 372.

IV. On the Obligation of Law

202. What is the obligation of law? - By obligation of law is understood a certain moral necessity, arising from the law itself, of acting thus or otherwise, so that someone may act honorably, that is, without any fault and without incurring penalty. Arising from the law itself: for this is the nature of law and precept, and in this it intrinsically differs from counsel. Hence S. Th. 1. 2. q. 96. a. 4, speaking especially of human law, says: "It must be said that laws laid down humanly... if indeed they are just, have the force of obliging in the forum of conscience from eternal law, from which they are derived, according to that saying of Prov. 8:15: By me kings reign, and lawgivers decree just things." 1 Pet. 2:13. 14; Rom. 13:1 seq.; Wirceburg. c. 4. a. 5. But it is not necessary that the legislator making the law and promulgating the law explicitly intend and explicitly declare the obligation of the law.

203. Does the obligation of law always urge, and under grave fault? - R. To the 1st: The obligation of an affirmative precept is always, but not for always; but that of a negative precept is always and for always. For an affirmative precept commands doing good; and although its force always remains, and the good commanded by the law must be done whenever the established time has arrived, nevertheless not every good must be done at every time, since it would be an unbearable burden for man always to act. But a negative precept commands declining from evil, which is to be avoided at every time, which indeed can be done. Established time: and therefore neither before nor after that can the law any longer be fulfilled. But within that time, if some impediment threatens by which afterward the law could no longer be fulfilled, it must certainly be fulfilled beforehand; for example, if on a feast day you cannot hear Mass at midday, you are bound to hear it before midday. But when the established time has elapsed, the law must still be fulfilled if the time was established only for urging the obligation, and not for ending it. L. 101; S. Th. 1. 2. q. 71. a. 5 ad 3, q. 76. a. 2 ad 5, 2. 2. q. 79. a. 3 ad 3.

R. To the 2nd: Law obliges under grave or under light fault according to the will of the legislator, if nevertheless the matter is capable. The reason is that the whole obligation depends on the will of the legislator, and proportion must be present between the obligation and its matter. Therefore the legislator can command under light fault in grave matter, but not conversely. L. 141. 143. - What matter is grave can be gathered from the very nature of the object, the end, and circumstances. - But what obligation is grave can be gathered: 1. From the very words of the law, if they have great force, as, We command in virtue of Holy Obedience, etc. 2. From the matter, if it is grave and it is not established to the contrary concerning the will of the one commanding. 3. From the gravity of the penalty. 4. From the interpretation of doctors or of custom. L. 144, l. 5. n. 56. Therefore when the thing is simply light, someone does not sin mortally, even if the superior commanded under mortal sin. L. 141 seq.; Struggl tr. 2. q. 2. n. 24, tr. 3. q. 2. n. 28. 29.

204. Does a law founded on presumption always oblige? - To presume is to opine; and presumption is a probable conjecture of an uncertain thing, that is, a judgment likely arisen from certain signs or indications. It is either of man or of law. The former is placed wholly in the estimation of a good man, and does not pertain here: for it is a private act. The latter is introduced by laws, and therefore without express law it is not to be admitted. For the law itself conjectures or orders one to conjecture. - Presumption of law is twofold: one of danger, the other of fact. Of danger, when the legislator, noticing from those things which frequently happen that something is not done or omitted without danger, forestalling dangers of this kind, forbids the former or commands the latter. Of fact,

when, holding something as certain to have been done because it is commonly accustomed to be done so, from that supposed fact, as if it had really been done, he constitutes rights and obligations. This latter, if in law it receives contrary proof, is usually called of law; but if not, of law and by law. - On presumption of danger, for example, rests the law which forbids reading books of an unapproved edition, contracting marriages with non-Catholics; of fact, the law which holds that one was baptized who, born from Christian parents among Christians, grew up in Christian fashion, C. 3 at the end *de Presb. non bapt*. Of law, for example, that the man is the father whom marriage shows; of law and by law, for example, is that those who contracted marriage in a prohibited degree, denunciations having been disregarded, did not ignore the impediment. C. ult. *de Cland. despons.*; Trent sess. 24 *de R. M.* C. 5; Sanch. *De Matr.* l. 8. d. 25. n. 32; *De Iustis* l. 3. c. 16. n. 11. - C. 30 *de Spons.*

Thus a law which rests on presumption of danger always obliges, even if the danger ceases in the present matter. The reason is that the law does not cease as long as the end of the law has not ceased adequately. On the contrary, a law which rests on presumption of fact, if the fact does not really underlie it, does not oblige in the forum of conscience. Hence the axiom: Presumption yields to truth, whether it be only of law, or of law and by law. For although a presumption of law and a presumption of law and by law is taken for truth, it is not on that account truth itself. For this reason, notwithstanding a presumption of law and by law, a regular who, coerced by force, made profession, even after five years is not obligated by it; a debtor absolved by the sentence of a judge, even after this has passed into res judicata, remains a debtor. But as long as it does not appear manifestly that the presumption rests on a false fact, it is held as truth in each forum. - C. I. 1349 seq.; C. G. 1350 seq.; C. H. 1249 seq.; S. Th. 2. 2. q. 88. a. 9; Schmalz. l. 2. t. 23. n. 1; L. 100. 150. 151; Ithur. Cas. 39. n. 25. 26, Cas. 53. n. 23; Wirceburg. c. 4. a. 5.

205. You will resolve: After sentence you are bound to compensate damage truly inflicted by your animal, although without your theological fault. You are not bound to compensate damage if the damage is falsely thought to exist, and you can compensate yourself. L. 100; C. I. 1154.

206. Does a law founded on fiction always oblige? - From presumption ...from presumption differs a fiction of law, which is the assumption of a falsehood, made by the law itself from a just cause in a possible case, bringing about an effect of law as though it were truth. Wherefore a fiction is held for the truth of the matter; and from it, just as in a true case, the law establishes rights and obligations. Therefore there can be no doubt that this law also obliges. But indeed: 1. A fiction has no place except in the cases expressed in the law. Thus the law feigns the testator and the heir to be one person, but not in all things; it feigns a sick canon to be present in choir, who indeed gains the daily distributions, but not those which belong to those alone who are present. For the law does not establish that. Likewise prescription takes place, not where the person is, but where payment of the debt is to be made, or where the thing is, according to the laws of that place. Troplong, *della Prescrizione*, c. 1, n. 38, 39, 40. 2. A fiction ought not to operate more in a fictive case than truth in a true case. And therefore, although the law feigns one who is still in the womb to have been born, when his advantage is at issue, nevertheless if afterward he does not come forth viable, the fiction confers nothing on him. Since fiction imitates truth, it must be concerned with a possible case. 3. It is not valid beyond what is expressed in the law. And therefore it receives a strict interpretation. For rights and obligations in the case are from the law alone. Schmalz., l. 2, t. 23, n. 3; Reiffenst., l. 1, t. 2, n. 185. And so, e.g., with respect to receiving orders, a son accidentally born somewhere, by a

fiction of law, is considered to have been born in the domicile of his father; and he can receive orders from the Bishop of this place, not from the Bishop of that place in which he was truly born. *A. S. S.*, vol. 28, p. 233.

207. To what does law oblige? - Every law first obliges to knowledge of itself, and afterward to observance of itself. For law cannot be observed unless it is known. Therefore, unless it commands an act in vain, it must also implicitly command knowledge of itself, and it commands this first; since, without it, observance of the law is altogether impossible. Therefore a law is violated not only by an act opposed to it, but also by voluntary ignorance of it. Hence vincible ignorance concerning some precept is a sin, and in a grave matter can be grave, if the negligence was notable. L. 148-151. - Secondly, it obliges to observance of itself, that is, to furnishing that which the law commands to be furnished; not something else, for it does not command that. But since one who is obliged to an end is also obliged to the means, observance of the law also obliges one to employ these means, as to avert the danger of transgressing it. Since Pontifical laws are promulgated in the Official Commentary, the obligation consequently is to procure the aforesaid Commentary for oneself in order to know those laws. Yet it does not oblige to means except ordinary ones; for law is established for cases that commonly occur, and not for rare ones.

Consequently law obliges that no one act in fraud of it. To act in fraud of the law is to embrace the words of the law and to strive against the will of the law; R. I. in 6. Therefore he acts against the law who does what the law prohibits, or omits what the law commands. But he acts in fraud of the law where that which the law did not wish to be done, though nevertheless it did not forbid it to be done, is done, or where that which the law wished to be done, though nevertheless it did not command it in express words, is omitted. L. 29, 30, ff. *de Legib.* Wherefore in order to act in fraud of the law it is necessary that the law at least implicitly command or prohibit that thing. Otherwise one uses his own right. Hence a nobleman acts in fraud of the law who, so as not to fast, occupies himself with servile works; but not at all by drinking wine, although it nourishes in some way, and so that he himself may not suffer hunger.

But as regards the observance itself of the law, it must be noted that what is minimal is reputed as nothing, e.g., if in the recitation of the office, in hearing Mass, some little thing is omitted, if a minor in contracting is slightly injured, etc.; except those things which are defined by nature, or by law, or by the will of man, since in these there is no place for moral estimation; for example, if a novice emits profession on the penultimate or last day of the sixteenth year of age, he emits no profession. S. Th. 2. 2. q. 66, a. 6, ad 3.

208. Note: One sins against the law not only by action, namely by commission or omission, by doing or not doing those things which are prohibited or commanded by law, but also by simple desire, without execution of the thing, by simple morose delectation, or voluntary complacency, without desire, or, conversely, by voluntary sadness. Hence he also sins against the law who despises, censures, reproaches those things which are to be done or were to be done; which is the same as despising, censuring, reproaching the law which commands them; or, on the contrary, approves, praises, boasts of those things which are not to be done or were not to be done; whether he himself or another has transgressed the law. Moreover scandal can easily be present by reproach or boasting; since these easily furnish others with an incitement, or delight. Except if someone praises not the evil thing itself, but the new, clever, vigorous manner in which the thing was accomplished: for this is a

certain natural good, provided nevertheless that the danger of delight in the evil thing and of scandal is absent. Lugo, *de Poenit.*, d. 16, n. 266, 273; S. Th. 2. 2. q. 186, a. 9, ad 3.

Formal contempt of law, by which someone expressly despises the law, or its author, as he is superior, refusing to be subject to his ordinance, is always, speaking in itself, mortal. For it is contempt of authority. Hence it is not grave: 1. If the thing itself commanded is despised, insofar as it is made little account of. 2. If the superior is despised, not as superior, but insofar as he is a contemptible individual person, because, for example, he is imprudent, base, idiotic, rude, unlearned. Nevertheless this would still be mortal, if such a judgment, which is thus formed about that person, were gravely rash, as is clear. 3. If the act by which the precept, or the superior, is despised is not perfect by reason of advertence and deliberation, as often happens. Hence Lessius, Sanchez, etc. say that mortal sin by reason of contempt rarely occurs. But material contempt, by which someone violates the law in order to indulge his passions, is mortal or venial according to the measure of the matter. L. 142; S. Th. l. c.

209. Does every law forbid one to expose oneself to an occasion of transgressing it? - A law which commands or prohibits something also implicitly commands one to avoid proximate occasions, and prohibits one from exposing oneself to proximate occasions of transgressing the law. The reason is that otherwise the law would already be altogether frustrated. For if it does not oblige to the means, neither does it oblige to the end. - Wherefore, one who seeks these occasions, or voluntarily exposes himself to them, or remains in them, with no excusing cause, sins against the law and the virtue with which the matter is concerned: against faith, chastity, piety, etc.; and besides he sins against charity toward himself by reason of the spiritual harm to himself which he voluntarily undergoes.

Now, in the present matter, an occasion is called whatever externally offers us danger of transgressing the law. Externally, because the very frailty of nature, interior passions, and intrinsic habits, although they bring danger with them, do not constitute an occasion at all. Danger extends more broadly than occasion, and is whatever can induce us to sin, whether it is from without or from within. Danger is much graver when the occasion is present or in being, than when absent or not in being, as if a woman is at home, or outside. Of transgressing the law, and thus of consenting to sin, and not of mere temptation. Moreover a proximate occasion is that in which a man placed there, for the most part, sins, whether this is verified with respect to all who are found in the same circumstances, from the nature itself of the thing, or is verified only with respect to such a person, given attention to his peculiar circumstances. But an occasion is remote if a man placed in it for the most part does not sin; and we are not bound to avoid this, since the thing would be impossible. Between proximate and remote occasion various degrees are given, as is clear. For the danger of sinning can be morally certain and probable, more or less probable. For the most part; and thus in the former there is moral certainty of sinning; in the latter no solid probability of sinning.

If the proximate occasion is simply necessary, that is, one which cannot be removed, one must make it remote, by employing suitable means: prayer, frequenting of the sacraments, custody of the senses, etc. But if it is morally necessary, i.e., one which cannot be taken away without grave detriment, it is not illicit to be engaged in it from a just and proportionate cause; provided nevertheless that consent to sin is not morally certainly foreseen. This can easily be removed by fortifying oneself with custody of the senses, prayers, pious works, and by trusting in the greater help of God. Thus the occasion becomes remote from proximate. Morally certainly; what if only probably? And if consent is probably foreseen, it is illicit; for sin must certainly be avoided, as eternal damnation must certainly be

avoided. There are not lacking those who, in the case, do not acknowledge a grave obligation, because, with moral certainty of sinning removed, he does not choose sin. But this is nothing; for since the will then chooses at least probable formal sin, the will is at least equally disposed toward either, and thus evil and gravely sinful. L. 1. 5. n. 63; l. 6. n. 452-456.

210. Does law extend itself to past acts? R. Negatively as to guilt. For guilt and sin could not be had where there was no law. - R. Likewise negatively as to penalty. For penalty has no place where there is no sin; because it is for the vindication of sin.

R. Equally negatively as to the value of a past act. For an act which was valid cannot be made invalid for that same time, although it can be declared invalid for the future. - R. Negatively also as to the effects of that act, speaking in itself and commonly, and likewise as to the past time. The reason is that a great disturbance of society would follow from this. Speaking in itself and commonly, because in a particular case, in which this would not be harmful, but, on the contrary, very useful, the legislator can touch such effects, if they are subject to his power, as, e.g., when a dispensation is given for an invalid marriage on account of a diriment impediment, which is called a dispensation in the root. For the offspring is held legitimate and succeeds to the inheritance, just as if it had always been legitimate. And likewise as to that same past time: for there is no difficulty that the legislator, for a past act, and even for a past delict, can introduce, for the future time, a certain inability, e.g., for receiving orders, for contracting marriage, etc.; and this indeed will not be a penalty of sin, but a mere privation on account of the defect of a required condition. C. *Cognoscentes* 2; C. *Quoniam* ult. *de Const.*; Clem. *Dispendiosam* 2 *de Iudiciis*; Clem. *Ex frequentibus* 1 § ult. *de Sent. exc.*; L. 7 *de Legib.*, 1 C.; C. I. *Disp.* etc. at the beginning of a. 2; C. H. 3; Suarez, *de Legib.*, l. 3, c. 14.

211. Does law also forbid one to become for another the author of transgressing it? - If someone is the cause why another transgresses the law, he sins against the same law and virtue, e.g., against religion, justice, chastity, etc. The reason is that what someone does through another is considered to be done by himself. Wherefore, as the executor himself, so he who compels, he who commands, he who counsels transgression of the law, becomes guilty of the transgression of the law.

But if someone is only an occasion to another of transgressing the law, e.g., by his example, and directly intends this, he likewise sins against the same law and the same virtue; since every law also commands this, that no one should wish it to be violated either by himself or by another. Directly intends; for if he only foresees it, whether even then someone acts against the same law and virtue is disputed. Some affirm it, because in reality and in fact he induces another to transgress the law, and is the cause of this transgression, although a cause per accidens. Others more probably deny it, because, if someone is bound to abstain from his own work lest another sin, this pertains only to charity, and thus he indeed sins against charity, but not also against that law and virtue which that law touches. - Cf. 424.

212. Does law also forbid one to cooperate with another in the transgression of the same law? - The matter is evident, that if it is not licit to be a cause to another of transgressing the law, much more is it illicit to be a cooperator with another in the aforesaid transgression of the law. Cooperation is to work together, wherefore it has no place except in an exterior transgression only of the law, which consequently consists of the intention of sinning and the very work of sin.

To cooperate in both constitutes formal cooperation, and this is altogether illicit, just as it is illicit to will to act and to act against the law. To cooperate only in the exterior work furnishes merely material cooperation. If this is furnished by an evil work, it is evil, e.g., if someone cooperates with a thief by breaking open doors. If it is furnished by a good work, or at least by an indifferent one, it is licit, unless it is prohibited either by office or by charity. By office, e.g., of father, judge, minister of the sacraments, etc. By charity, namely, for impeding the sin of one's neighbor, if it can be done. For if the other, without the cooperation of another, is still going to complete the sin, there can be no obligation to abstain from that cooperation, since it truly has no influence on the sin of the other, and can scarcely be called cooperation. But with the debt of office and charity set aside, since someone, by that material cooperation, sins neither by intention nor by work, there is indeed no reason from which its malice can be perceived. Wherefore then it makes no difference whether it is remote or proximate. And, speaking more properly, it is permission rather than cooperation. And thus it is licit to contract marriage with one who is in the state of mortal sin, and it is licit for a spouse to render the debt to a spouse bound by a vow of chastity. - Cf. 419.

213. How is law to be observed, and how is satisfaction made for its obligation? To satisfy the obligation of human law it is required and sufficient: 1. To do the commanded work as to its substance, and to have the intention of doing it. 2. Simply to omit the prohibited work, and not to have a contrary will. And thus someone satisfies the precept of abstaining from servile works if in reality he abstains from them, although he thinks nothing about the precept. Proof of the first part. For a commanding law, in itself and generally, commands only the substance of the act, not also the mode; nevertheless it commands not just any act, but a human act. Proof of the second part. For a law prohibiting something intends nothing more than the omission of the work. Therefore it does not also require intention, as a commanding law does, except in the case in which it commands that something be given, e.g., tithes. For you have satisfied, even though you gave while not in possession of your mind, or another gave for you; since the law does not seem to command more than that external and real action. Yet he who, entirely unaware, omits that which is prohibited by law seems rather not to transgress the law than to observe it. And the same must be said if someone, entirely unaware, does that which the law commands to be done; e.g., if there is a precept in a monastery of observing silence through the whole day, and through the whole day you sleep. S. Th. 1. 2. q. 100, a. 9; Cajetan on this place; Struggl, q. 2, n. 13, 14; Suarez, *de Leg.*, l. 2, c. 10, n. 11-14; l. 3, c. 29; La-Croix, l. 1, n. 115.

Not also the mode; for regularly legislators commanding an act do not also command that the end of the law be intended, because even without this intention of the end, and by the commanded act alone, that end is obtained. Yet natural law also obliges to the mode of virtue, namely, that one do good and for an honorable motive, or on account of the honorableness of that same good. And so human law commands that you render the debt; if you render it, although from an evil intention, you have fulfilled the law. But natural law commands that you render the debt by reason of justice to be preserved. A soldier fights in war against enemies and kills them, but from hatred and on account of private vengeance; he observes human law, but not divine and natural law, which commands this or that as something honorable to be done only by reason of its intrinsic honorableness.

The mode of an act according to St. Thomas, following Aristotle, is threefold: first, that someone act, fulfilling the precept from knowledge of the work; second, that someone act from the will and

intention of the good on account of the very honorableness of the act; third, that someone operate firmly and immovably. The first and the second mode are commanded by the natural law, which simply commands good; and good is from an integral cause. Therefore it is not enough to will the good materially, but one must will and intend it. But by positive and human law the first mode is commanded; for even positive human law commands only a human act; laws are given only for human acts, not also for acts of man. Moreover the obligation of law is a certain moral necessity, to which consequently satisfaction cannot properly be made except by a moral fulfillment of the precept. By only material fulfillment of the thing commanded someone does not transgress the law; but it cannot properly be said to be fulfilled. For this formal fulfillment of the law, as is clear, knowledge, will, and freedom are altogether required. And that first mode enters into the very substance of the human act. The second mode, that someone act from the will and intention of the honorableness itself, is regularly not commanded by human law. For as St. Thomas says, 1. 2. q. 100, a. 9: "A precept of law has coercive force; therefore that falls directly under the precept of law to which the law coerces. But the coercion of law is through fear of punishment. For that properly falls under the precept of law for which the penalty of the law is inflicted. But with respect to establishing a penalty, divine law and human law stand differently. For the penalty of law is not inflicted except for those things about which the legislator has to judge; because law punishes from judgment. But man, who is the lawgiver of human law, does not have to judge except about exterior acts." But the third mode is commanded neither by divine law nor by human law. For that firmness pertains to habit; thus by neither law is that mode of virtue commanded which is the end of the precept, namely, to make one virtuous.

Wirceburg., c. 1, a. 7.

The print's appendix has more on this paragraph: [On Observance of Law](/manuals/bucceroni/on-observance-of-law). (ed.)

214. Resolves: You satisfy the obligation if you fulfill different precepts by different acts, yet at the same time, provided one precept does not impede another; as to hear Mass and to recite the office at the same time. But you do not satisfy the obligation if you fulfill different precepts by one act, since they fall upon different matter; otherwise, however, if they fall upon the same matter. And so, if you owe Caius one hundred from a loan, and one hundred from a purchase, you do not satisfy by rendering only one hundred, because these two obligations fall upon different matter. But if you owe the same Caius one hundred from theft, which you vow to restore, and to the restoration of which the confessor has obligated you, by rendering only one hundred you satisfy these three obligations, namely of justice, of vow, and of precept, since they regard the same matter; thus also a beneficed subdeacon, by one recitation of the canonical hours, satisfies the double burden of order and benefice, for they fall upon the same matter. - L. 100; Struggl, q. 2, n. 15.

You satisfy the obligation, although you do not have the intention of fulfilling the precept, or of acting from the motive of formal obedience; nor do you have the intention of fulfilling the end of the precept; nor do you act from the motive of charity, or in the state of grace, or you lack faith; unless the very end of the precept, or the act of charity, or the state of grace, or faith itself is commanded. The reason for all these is that law regularly commands only the work to be furnished. And, if at times the law also commands its extrinsic end, e.g., to celebrate Mass for the suffrage of the deceased, he who freely furnishes the thing for this reason, because it is commanded, at least implicitly intends that end also.

You satisfy also, although while intending and doing the commanded work you expressly at the same time intend not to satisfy, e.g., if you hear Mass intending not to satisfy the precept; although, if the Mass is the last one, or if it is not the last and you intend not to hear another, you sin against another precept, by which one is bound to be subject to the legislator. - Finally, you satisfy, although in fulfilling the precept you sin from an extrinsic circumstance, e.g., if while hearing Mass you are occupied with thoughts of vainglory or lust. From an extrinsic circumstance; for, since law commands only honorable things, if the very substance of the act is intrinsically evil, you by no means satisfy the law.

He does not satisfy the obligation who, altogether compelled, drunk, sleeping, fulfills the precept, or with the sole intention of doing something else; e.g., if you read the hours with the sole intention of learning, or go to Mass only so that you may wait for a friend, feed your eyes, converse with another. But if you fulfill the precept from fear, you satisfy; though you would not do it if fear were absent, and you then sin from that perverse will. S. Th. 1. 2. q. 89, a. 5; q. 100, a. 9, ad 2, 10; 2. 2. q. 10, a. 4; L. 162-165; Struggl, q. 2, n. 17; E. M.

215. Note: He does not satisfy who performs the work of a vow or oath while expressly intending not to satisfy; because it depends upon the will of the promiser that such an obligation remain. But the obligation of obeying law proceeds from the will of the legislator, and therefore is not extended beyond his intention, i.e., beyond the substance of the commanded work. While expressly intending; for even in those things which proceed from one's own will, the one acting would satisfy if he merely negatively did not have the intention of satisfying, for example because, forgetful of the obligation undertaken, provided nevertheless that he does not apply what he does to another thing. For each person, from a general prior intention, intends to satisfy a debt before satisfying those things which he has imposed upon himself by free will. And this holds also concerning sacramental satisfaction, namely if he does the work imposed by the confessor, yet not intending to fulfill the penance. L. 30, 163; l. 3, n. 700.

216. When does the obligation of law cease? Obligation can cease in three ways: either on the part of the subject, or on the part of the superior, or on the part of the law itself. On the part of the subject it can cease: 1. Simply, through exempting causes, which totally withdraw him from the dominion of the law, for example if someone betakes himself outside the place which the law affects. 2. In a qualified way, through impeding causes, which impede or excuse from its fulfillment a subject remaining under the law. These causes are reduced to invincible ignorance, to fear, and to impotence. Ignorance, if it is invincible, excuses; because no one sins except by a voluntary act, and this presupposes knowledge. But if it is vincible and culpable it does not excuse; such it is when you were able and bound to know or to learn, and it came to mind to doubt, and you did not take pains to understand. L. 168, 170 ff. Cf. here 50, 51. Fear, namely grave fear, often excuses, since from it the observance of the law passes into a grave inconvenience. And so fear of death, e.g., often excuses not only from a positive precept, both human and divine, but sometimes even from an affirmative natural precept. Hence one is not bound, with danger of life, to confess integrally, to preserve a deposit, to fulfill a vow, etc. L. 175. Cf. here 62, 63. Impotence, even moral impotence, excuses. For if the object of the law, considered in itself, is not so difficult and grave, but from particular circumstances becomes such, then there is no longer that obligation which the legislator intends to impose, since that object has been notably changed. And thus David ate the loaves of proposition, prohibited to

laymen, when he was in danger of undergoing a grave evil. 1 Reg. 21; Matt. 12, 3, 4. But grave inconvenience and harm must be proportioned to the gravity of the law, so that it may legitimately excuse from it. Since no one is held to the impossible, after someone has become unable to fulfill the law, he is excused, although he sinned in positing the cause; e.g., if someone squandered his goods, and then cannot pay his debts. L. 176. Cf. here 64, 65, 66, 171.

On the part of the superior it can cease: 1. Through dispensation, which is the legitimate relaxation of the law in a particular case. 2. Through privilege, which is a constant and permanent favor granted by a superior against or beyond the common law.

On the part of the law itself the law can also cease. For "it happens many times that something, in the majority of cases, is useful to be observed for the common welfare, yet in some cases is very harmful. Therefore, because the legislator cannot look upon all singular cases, he proposes the law according to those things which happen in the majority of cases, directing his intention to common utility. Hence, if a case arises in which the observance of such a law is harmful to the common welfare, it is not to be observed... But nevertheless this must be observed: that if the observance of the law according to the words does not have a sudden danger which must be met at once, it does not belong to just anyone to interpret what is useful and what is useless to the city; but this belongs only to the Princes, who on account of cases of this sort have authority in the laws to dispense. But if there is a sudden danger, not permitting so much delay that recourse can be had to the superior, necessity itself has a dispensation annexed, because necessity is not subject to law." S. Th. 1. 2. q. 96, a. 6. Cf. here 179.

217. Is he who is unable for the whole held to the part? If the precept is such that it can or is accustomed conveniently to be divided, and in its part the reason, or end, of the precept is preserved, then he who cannot observe the whole must observe the part which he can. Hence he who cannot read all the hours must say those which he can, because they are divisible. But if the reason of the precept is not preserved in the part, nor can or is this conveniently accustomed to be done, then he who cannot do the whole, that is, so much as may morally be considered the complete precept, is not held to the part. Wherefore one obligated to visit the thresholds of the Apostles at Rome, knowing that he cannot arrive there, is not bound to begin the journey; because neither the end nor the reason of the precept is preserved. All these things are to be estimated: 1. from the intention of the legislator; 2. from the reason, end, and matter of the law; 3. from the judgment of prudent persons; 4. from common usage. L. 176, 177.

218. Note: If someone unable for the whole is doubtful whether he is able for the part, he is often excused from this also, "as, for example, in the sick, in whom scarcely, or hardly scarcely, can it be determined what they can do, how far they can, and no further. Hence, if while they cannot fulfill the whole law, they were held to the part, there would be place for very grave scruples, and there would be continual perplexity in determining the part to which they would be held. And therefore it is rightly presumed concerning the mind of an equitable legislator that he does not wish in similar cases to oblige to the part: so grave theologians." Billuart, *de Leg.*, diss. 4, a. 7.

219. Does the obligation cease for which satisfaction has not been made at a determined time? - R. Affirmatively, if the determination of time was made to put an end to the obligation. And thus he who omitted hearing Mass on Sunday is not bound to hear it further on the other days of the week. - R. Negatively, if that determination was made to urge the obligation. Hence he who did not pay a

debt on the day established by contract is still held to pay it. When the law is urging here and now, if an impediment is foreseen afterward, satisfaction must be made for it beforehand; and so, if someone could not recite vespers and compline in the evening, he is bound to recite them in the morning; for already in the morning the substance of that precept urges, whence also, even without an evening impediment, he could in the morning from some just cause recite those hours and satisfy the precept.

220. Is it licit to posit causes exempting from the law? - It is always licit to posit exempting causes, and more probably also directly and proximately. - Causes de-obligating from the law are said to be posited directly when the end of withdrawing himself from the obligation of the law moves the agent; indirectly, if another cause moves him, though an impediment to observing the law has been foreseen.

These causes are proximate or remote, according as the law urges shortly, or after a notable time. Now law, speaking in itself, does not make someone subject to itself, nor make him remain subject, but obliges him who is already subject and remains so to observe itself. Therefore, if by an action otherwise licit you withdraw yourself from its dominion, you use your own right, and do not act in fraud of the law. Speaking in itself, because the law can also command this, that you not go to, e.g., a free place, and escape its force, as in reserved cases, and in clandestinely contracting marriage against the Tridentine law. Clem. X, C. *Superna*, 21 June 1670; Urban VIII to the Archbishop of Cologne, 1627. Nevertheless after the decree *Ne temere* on betrothals and marriage, those who, in fraud of the law, betake themselves into a region from which the pastor or Ordinary, or another competent priest, is absent, in order to contract marriage, contract validly. S. C. de Sacram., 12 March 1910. L. 152, 157; Struggl, q. 3, n. 20; Elbel 370-372.

221. Is it licit to posit causes impeding the observance of law? It is not licit directly to posit impeding causes, whether proximate or remote. Indeed, it is not even licit indirectly to posit proximately impeding causes, unless there is a proportionate necessity. But it is licit, even without reason, indirectly to posit remotely impeding causes. Proof of the first part. For every law implicitly obliges that nothing be done deliberately so that the law may be eluded; or, what is the same, every law prohibits anyone from acting in fraud of that same law; otherwise the law would be almost void as to imposing obligation. L. 29, 30 *de Legib.*; L. 5 e. t. C.; L. 152; l. 3, n. 1045; S. Th. 4 D. 15, q. 3, a. 4, q. 1, ad 1; Sanch. *Con.*, l. 5, c. 1, d. 7, n. 11. - Proof of the second part.

Because a law proximately urging proximately binds the will to employ the means, from the nature itself of the thing necessary and ordinary, lest the law itself be violated without sufficient reason, and therefore to not throw in impediments. Otherwise the act of the legislator, by which he intends to oblige subjects, is altogether frustrated. S. Th. 2. 2. q. 147, a. 4, ad 3. But the reason for the exception is that on the one side there is a sufficient reason for positing the impediment, and on the other side the non-observance of the law is outside the intention of the agent. - Proof of the third part.

Because neither divine positive law nor human law obliges generally with a very grave inconvenience. But it would be a too grave burden if each person, long before the obligation of the law, were constrained to abandon all works incompatible with that obligation, and to wait for the time of the obligation. This reason, by which the thesis is proved, can be the best norm for judging in doubt whether a cause is only remotely impeding, namely if its omission would bring a grave inconvenience. But here it must be noted generally that not always will the same inconvenience

which is truly grave with respect to one precept be such also with respect to every precept, since the gravity of all precepts is not the same. Hence that grave inconvenience must be judged not only absolutely and in itself, but also respectively and in relation to the precept with which the matter is concerned. L. 152; S. Th. 1. 2. q. 152; Ithur., Cas. 32; Sanch. in Dec., l. 1, c. 15, n. 4; Suarez, *de Pecc.*, d. 3, s. 4, n. 10.

222. Resolves: He sins who on a fast day undertakes labor, although honorable, in order to be excused from the fast; although he, after he is gravely wearied, even with that evil end, is no longer held to the fast. L. 1. 3. n. 1022. But he does not at all sin who on the day before a fast spends the day hunting, foreseeing that through weariness it will not be licit for him to fast. He sins who, without a just cause, on the same feast day or one or another hour before it, begins a journey, foreseeing that he will not be able to hear Mass. But he does not sin if he does this on the preceding day. Gur. Ball. 111; Del Vecchio 161. But St. Alphonsus does not admit this, l. 3, n. 301, denying "that someone can set out on Saturday to hunt in a distant wood, although on Sunday he cannot hear Mass there."

"An excommunicated or interdicted person does not sin by omitting Mass, and likewise an imprisoned person, even if they neglect absolution or liberty, because these persons are not obliged to remove remote impediments," or extrinsic ones. L. 1. 3. n. 825; l. 1, n. 152; l. 7, n. 161. "Otherwise, however, they speak with respect to annual Confession and Communion, since this is one of the divine precepts, with regard to which we are held to remove impediments." L. 161; l. 6, n. 299. Excommunication and interdict, with relation to Confession and Communion, are not extrinsic impediments, but intrinsic, and therefore care must be taken that they be removed. "Tamb. and Viva, however, think that those detained in prison are not held to seek liberty in order that they may communicate." L. 1. 6. n. 299; Ithur., Cas. 3, n. 7.

V. On Invalidating and Penal Law

223. What is the nature of an invalidating law, and of how many kinds is it?

In natural law there is no invalidating law; but by natural law an act is valid or null, or void, by reason of the defect of a substantial element. The elements of a human act are only two: consent and object. If consent is lacking, the act is null, as a fictitious promise, which is not a promise. Likewise, if the object is lacking, the act is null, as the sale and purchase of a precious gem which is only glass. Finally, if the object is illegitimate and shameful, as a society of robbers, the act likewise is null, or rather void, since that act can produce no effect of moral obligation. An invalidating law, properly, is that law which commands that some act, of itself valid by natural law for producing its effect, be void and of no force. The law of nature indeed seems to require nothing further for the validity of some act, beyond those things which are substantial to the act, namely consent and a suitable object, if the matter is considered abstractly, without its circumstances. But the law of nature itself requires that, with account taken of the circumstances, all things be done concretely in such a way that they conduce to the common good. But the determination of those things which contribute to the common good, from the law of nature itself, belongs to him who has care of the community. Wherefore the same law of nature requires that those acts be held as invalid which the public power declares to be such.

Moreover, some laws command an act to be void by the law itself, by full right; others render it only liable to rescission. C. G. 1117, 1118, 1125, 1644, 1648. The former primarily and directly regard the public good, as those which establish the essential conditions of contracts, C. I. 1104, 1119; C. G. 1108, 1131; the essential conditions of religious profession: age, novitiate, simple vows, Council of Trent, Pius IX, etc. But the latter directly and primarily regard private good, as those which grant restitution in full to minors, wives, interdicted persons, C. I. 1300 ff.; C. G. 1304 ff.; Gousset on a. 1304. In these the office of a judge is required, namely if he in whose favor the laws were introduced wishes to use their benefit. But in the former there is no need of a sentence of a judge, unless actual rescission is confused with rescindibility. Nor is it valid to say that it is permitted to no private person to declare law for himself. Certainly in the external forum; but not at all in the internal forum of one's own conscience, where the truth is manifestly established. From C. B. 142, when a rescindible act is charged with nullity, it must be considered as null from the beginning. For things return to their former state. The rescission of an act can also be introduced in hatred of some crime, as the impediments of marriage, of crime, the nullity of a simoniacal conferral of a benefice, etc. In such a case it must be seen whether the nullity of the act has been introduced primarily and directly by reason of itself on account of the common good, or in punishment of the crime. For in the first case the law is simply, or at least primarily, invalidating; but in the other it is primarily penal, and puts on the nature of a penal law, since the accessory follows the principal. Suarez, *de Legibus*, l. 5, c. 19, n. 5; c. 21, n. 2 ff. If the rescission of the act is not constituted by the law itself, the judge cannot introduce it by his own sentence. For it belongs to the judge to judge according to the laws, not to make laws. C. *Ad Apostolicam* 16, *De Regul.*

Acts are invalidated by law either because the acts themselves are prohibited by law; or because the person is declared incapable by law; or because the act was done without the form constituted by that same law. - If the law prohibits the act and at the same time invalidates it, the law is at once prohibiting and invalidating, and it obtains force at the same time in the external and internal forum, as, e.g., the renunciation of an inheritance not yet opened, C. I. 1118; C. G. 1130; the renunciation of prescription not yet completed, C. I. 2107; C. G. 2220; the simoniacal conferral of a benefice, Pius IV, C. *Romanum Pontificem*, 17 Oct. 1564; St. Pius V, *Cum primum*, VI Kal. Apr. 1566. But if the law indeed prohibits the act, but does not invalidate it, the act is valid in both forums; otherwise the law would no longer be merely prohibiting, but at the same time invalidating. And thus mixed marriage, although illicit, is nevertheless valid.

If a person is declared incapable by law, the law is properly called inhabilitating; as, e.g., by ecclesiastical law blood relatives are declared incapable for marriage; by civil law wives are declared incapable for contracting. This incapacity: one is properly such, and renders the act void; another is less properly such, and does not render the act of such a person void, but liable to rescission, and restitution in full is granted. C. I. 134, 319, 339, 1106, 1300; C. G. 215, 484, 513, 1124, 1304. Now incapacity can be constituted on account of good morals, on account of dangers to be averted, or on account of the state or condition of the person in society.

If on account of good morals, incapacity is to be understood, and consequently also the invalidation of the act, in both forums, external and internal. And thus theologians commonly teach that a father sins and makes the act void who makes a donation against the law to an adulterine son, and the son himself sins by accepting the void donation. Lugo, *de Iust. et Iur.*, d. 24, n. 92. If on account of dangers

to be guarded against, incapacity and invalidation are to be understood in both forums also; otherwise nothing would be guarded against. And so judges and officials of the public ministry cannot redeem lawsuits, C. I. 1458; C. G. 1597; tutors cannot take anything from the testament of those who are under their guardianship, C. I. 769.

Finally, if on account of the state or condition of the person in society, which arises from the required supports with which the person is endowed, an act which otherwise is valid by natural law is valid in the forum of conscience, if by that religious or civil state or condition the natural state or condition is not taken away, nor does a positive law of this sort take away those things which by natural law pertain to man according to his natural state or condition, but only according to his state or condition in society. - And thus the rights of spouses, the rights of parents, the rights of children remain firm in the forum of conscience, if a true marriage was present, although civil marriage was lacking. For the defect of civil marriage does not take away the natural state or condition flowing from true marriage. On the contrary, when a void marriage has knowingly been contracted, neither husband, nor wife, nor dowry, nor legitimate children, nor legitimate succession is understood. C. 10, *Qui fil. sint legit.*; Epist. of Leo XIII, *Il divisamento*, 8 Feb. 1893, § *Ora una legge*; C. I. 116; C. G. 202; C. A. 160. A sale is valid in the forum of conscience, although it was made not to a citizen but to a foreigner, where this is simply prohibited. For a law of this sort does not take away those things which by natural law pertain to man, but those which pertain to a citizen. Foreigners are regularly prohibited only from those rights which come from the civil law alone of a nation. On the contrary, the testament of a religious is not valid, nor is the testament of an incapable person valid: for both laws take away those things which by the law of nature itself pertain to man, on account of his state or condition in society; namely, as to the former, in the Church; as to the latter, in civil society. - Lugo, *de Iust. et Iur.*, d. 24, s. 4; Troplong, *della Prescrizione*, c. 1, n. 35.

Finally, if an act is invalidated on account of defect of form, the laws are then more properly held as invalidating, insofar as they are distinguished from inhabilitating laws. But form is either intrinsic to the act itself and inseparable from the act, or extrinsic to the act. The former is as it were the species of the act, and is properly called form; and ordinarily it is situated in this, that the act be done before some public person and witnesses, or be recorded in public instruments, juridically making faith. The latter is called the solemnity or solemnities of the act, and when these have been omitted, acts are properly called void; but undone if the form has been omitted, since form gives being to the thing; but often these words are used promiscuously, and an act is also said to be void and undone from defect of the capacity of the person. Undone, namely from the effect of law. And so in marriage the presence of the pastor and witnesses constitutes the form of marriage; in alienations of ecclesiastical goods, of wives, and of minors, the Apostolic approval required in the former, and the consent of the husband in the latter, and the decree of the judge required in these, pertain to the solemnities of the act.

The form and solemnities of an act are introduced to remove frauds. Wherefore laws of this sort rest upon a presumption of fraud. If they are founded upon a presumption of fact, and fraud is truly absent, the act is valid. But if they are founded upon a presumption of danger, although fraud is absent, nevertheless the act is void or liable to invalidation. It is not always easy to define whether a law is founded on a presumption of fraud, or on the danger of fraud. And thus it is disputed among

doctors whether testaments and legacies not made according to the form of law are valid for the forum of conscience. L. 1. 3. n. 711, 890, 918, 927.

There are those who distinguish between invalidation of acts in the internal forum, and in the external forum only, whether as regards civil laws or as regards canonical laws. But the value of acts, as to itself, exists both in the internal forum and in the external forum. Moreover, in itself the contradiction is apparent which would then exist between the internal and external forum. And it is also apparent that then the law would not obtain its end, and would bring with it many and grave inconveniences. If, e.g., an alienation of ecclesiastical goods made without Apostolic approval is void only in the external forum, and not also in the forum of conscience, then the buyer or donee would by right retain those goods as his own, without being held to restore them, with evident harm to the Church. If an informal holographic testament, without the signature of the testator, were invalid only in the external forum, the heir inscribed there could now legitimately and secretly steal away for himself the goods possessed by the legitimate heir, even after the sentence of the judge. This is altogether absurd, and contrary to reason and common sense. Wirceburg., c. 4, a. 5, § 3.

224. Does he sin who makes a void act? R. Affirmatively, if the act is evil, as, e.g., to enter marriage with a blood relative; or if the act is harmful, whether justice, or charity, or the commonwealth, or religion is injured; e.g., if a notary prepares a public instrument without juridical form; if a testator freely makes a testament, the legal prescriptions not having been observed, whence he foresees that quarrels and scandals will arise; if a judge does not observe the legitimate process of judgments; if the form and solemnities of canon law are not observed in elections to ecclesiastical offices, in the conferral of benefices, etc. R. Likewise affirmatively, if the act is at the same time invalidated by law and also prohibited in the forum of conscience, as in marriages, not to observe the form prescribed by the Church; not to observe the due form in religious profession; to donate to an adulterine son.

R. Negatively, if the act itself is neither evil in itself nor harmful to another; for then it is only a fruitless act, e.g., if someone writes his own testament with the signature omitted, or not yet having attained the age prescribed by law. Harmful to another, not to himself; e.g., if spouses alienate dotal goods which are prohibited from being alienated, or a wife alienates paraphernal goods without her husband, and the buyer is ignorant that the goods are dotal, or that the woman has a husband.

But although the law does not oblige in conscience to omit the act, if in such a case it is merely invalidating and not at the same time prohibiting, nevertheless it obliges one to stand by all those things which intrinsically arise from the invalidation. For obedience must be given to authority legitimately commanding. But every legislator can make invalidating laws, because this is required for the common good; otherwise frauds and dangers of human society could not sufficiently be warded off.

225. Do ignorance, fear, and grave inconvenience excuse from invalidation? - R. To the first: Negatively, because subjective ignorance, whether of fact or of law, does not supply the objective defect of the act; and thus there is no marriage, when there stands, e.g., the diriment impediment of consanguinity, whether it is contracted in good faith or in bad faith. - But if the invalidating law is penal, then, if ignorance excuses from guilt, it also excuses from the penalty of invalidation. But if guilt is admitted, yet the penalty of invalidation is unknown, then more probably this is not incurred, because invalidation is an extraordinary and exorbitant penalty, from which ignorance excuses. Schmalz., l. 5, t. 37, n. 105; Sanch., *de Matr.*, l. 9, d. 32, n. 17. More commonly, however, they affirm

that it is incurred, because since such ignorance does not excuse from sin against the law, neither consequently does it excuse from the penalty, although this is unknown. Suarez, l. 5, c. 22; Ithur., Cas. 53, n. 24. Nor indeed does ignorance excuse in any way if the invalidation was established principally to preclude evils which otherwise would flow into the commonwealth, but the penalty only accessorily, for coercing the person. And indeed the proper reason of an invalidating law is common utility.

R. To the second and third: There are not lacking those who affirm it, because positive law ought to yield to the natural law of charity, and because in the case there is a certain legitimate epikeia. But it seems one must answer with the common opinion: Negatively; because grave fear, and even gravest inconvenience, neither render the person capable, nor restore to acts the force taken away by law. But since laws of this sort primarily and directly tend to preserving the public good, no place is given to epikeia on account of merely private harm. And thus a marriage between blood relatives and relatives by affinity will be void, even to avoid death, even in the article of death. Private harm, I say; for if a common harm is present, since then the law would become harmful to society, invalidation ceases. L. 191; l. 3, n. 112; l. 6, n. 1029; *de Privil.*, n. 57; Diana, t. 2, tr. 6, r. 62, 73; Sanch., *de Matr.*, l. 3, d. 17, n. 3; Ithur., Cas. 53, n. 18; M. E., vol. 20, p. 177, 474.

226. Note: As there are invalidating laws, so there are laws constitutive of right, which others reduce to invalidating laws. Such laws are those which constitute and confer some right. And thus religious profession and adoption obtain their force: the former from canonical law, from the Church accepting religious profession; the latter from civil law. Wherefore such laws are valid in both forums, the external and the internal. For if someone truly has such a right in the forum of conscience, he has it only from law, whether canonical or civil. Sometimes, moreover, laws of this sort immediately furnish right by themselves, as laws granting to the father usufruct in the goods of children under paternal power, granting to children under paternal power the legitimate portion in the goods of the father; but sometimes they furnish right only through the mediation of the office of a judge, as laws granting restitution in full to minors, to those who have suffered fear, etc.

There are besides laws denying action in the external forum; if these regard some natural right, they do not avail in the forum of conscience. For laws of this sort do not furnish an action, not because they take away natural right, but only so that there may be some end of lawsuits, lest lawsuits be multiplied. But if they regard a right which flows from the law itself, whether canonical or civil, then, if someone has not pursued his right within the prefixed time, they take away the right itself, and consequently, on the opposite side, the obligation of another. Wherefore they avail for this latter also in the internal forum, unless perhaps he has by injury impeded another from pursuing his right.

227. What is the nature of penalty and of penal law? R. To the first: Penalty consists in the subtraction of some good, whether spiritual or temporal. Spiritual especially, as regards canonical penalties, as is seen in excommunication; temporal as regards civil penalties. "Since sin is a disordered act, it is manifest that whoever sins acts against some order; and therefore it follows that he is cast down by that order itself (and by the Prince of the order), and this casting down is penalty." S. Th. 1. 2. q. 87, a. 1. "Through penalty the equality of justice is repaired, insofar as he who in sinning has followed his own will too much suffers something against his own will." S. Th. 2. 2. q. 108, a. 4. The equality of justice is also repaired insofar as he who has pursued illicit goods by his own will is deprived of certain goods against his own will.

Now, "vindication is licit insofar as it tends to the restraining of evils. But some who do not have affection for virtue are restrained from sinning through this, that they fear losing certain things which they love more than those which they obtain by sinning; otherwise fear would not curb sin. And therefore vindication for sins is to be taken through the subtraction of all things which man chiefly loves. But these are the things which man chiefly loves: life, bodily safety, one's own liberty, and exterior goods, such as riches, fatherland, glory. And therefore... there are eight kinds of penalties... namely death, by which life is taken away; lashes and retaliation, so that, for example, he loses an eye for an eye, by which one loses bodily safety; servitude and chains, by which he loses liberty; exile, by which he loses fatherland; loss, by which he loses riches; ignominy, by which he loses glory." S. Th. 2. 2. q. 108, a. 3; q. 65, a. 3.

One penalty is vindicative and is owed to sin; another is preservative from future sin, which is called medicinal; another is promotive of some good, and according to this someone is sometimes punished without guilt, but not without cause, as, e.g., that someone incurs irregularity on account of a judgment of blood. S. Th. 2. 2. q. 103, a. 4. "The penalties of the present life are more medicinal than retributive. For retribution is reserved to the divine judgment, which is according to truth against those who sin. And therefore according to the judgment of the present life, the penalty of death is not inflicted for every mortal sin, but only for those which bring irreparable harm, or also for those which have some horrible deformity; and therefore for theft, which does not bring irreparable harm, the penalty of death is not inflicted according to present judgment, except where theft is aggravated by some grave circumstance, as is clear concerning sacrilege, which is theft of a sacred thing, and concerning peculation, which is theft of a common thing, and concerning kidnapping, which is theft of a man, for which one is punished by death, as is clear from Exod. 21." S. Th. 2. 2. q. 66, a. 6, ad 2. "If some man is dangerous to the community and corruptive of it on account of some sin, he is laudably and healthfully killed, so that the common good may be preserved." S. Th. 2. 2. q. 64, a. 2, c. "Human justice kills those who are harmful to others; but those who sin without gravely harming others, it reserves for penance." S. Th. l. c. ad 2; q. 65, a. 1, c. No one can punish another unless he is subject to his jurisdiction. S. Th. 2. 2. q. 65, a. 2, c. But public vengeance to be exercised by the civil magistrate is handed down in the Sacred Scriptures themselves, Rom. 13:4. "A greater power ought to have greater coercion. But just as a city is a perfect community, so the Prince of the city has perfect power of coercing; and therefore he can inflict irreparable penalties, namely of killing or mutilation." S. Th. 2. 2. q. 65, a. 2, ad 2; q. 10, a. 8, 9; q. 11, a. 3, 4.

R. To the second: Law can oblige to doing or omitting some act or action, and then it is called a moral law, preceptive or prohibitive. But law can oblige to undergoing penalty alone, and then it is called penal law; namely if the law still obliges to doing or omitting that thing, or otherwise to undergoing the penalty. For it suffices for the essence of law that it impose some obligation in conscience, nor is it necessary that the obligation regard determinately an act or its omission. Besides, law has force only from the will of the legislator. But the legislator can oblige to penalty alone, if that suffices for procuring the common good. Wherefore St. Thomas rightly teaches, 2. 2. q. 186, a. 9, "that not all things which are contained in law are handed down by way of precept; but some are proposed by way of a certain ordinance, or statute, obliging to a certain penalty." - Suarez, l. 5, c. 4, n. 2-6.

Therefore a penal law is a law which does not oblige in conscience to positing or omitting an act under guilt, but only under temporal penalty, i.e., to accepting the penalty as just. Wherefore,

properly speaking, a merely penal law cannot be given in this sense, insofar as it in no way obliges in conscience; nevertheless a merely penal law can be given in this other sense, insofar, namely, as it obliges in conscience to one or the other: either to fulfilling the law, or to undergoing the penalty; as is the law of paying a fine if someone defrauds the customs. But cf. 232. - "Sanctions which in no way oblige in conscience, neither to an act or its omission, nor to penalty, are not properly laws, but simple constitutions and ordinances... To this are reduced the statutes of various Orders, Congregations, Academies, etc." Struggl, q. 2, n. 32. Therefore laws of this sort are not called laws simply, but directive, counseling, persuading laws. But it is entirely outside every question that there can be at the same time a moral law, preceptive or prohibitive of an act, and at the same time penal, and then the law is called mixed; as is the law of repairing damage inflicted by civil fault alone. Penalty regularly does not oblige before the sentence of a judge. Cf. 230; 1 Cor. 4:21; 2 Cor. 10:6; Suarez, l. 5, c. 3, 4; S. Th. 2. 2. q. 108, a. 4; q. 186, a. 9, ad 1; E. M.

227 bis. Note: The rack is a kind of torture, namely a wooden machine joined together in the manner of a horse, *cavalletto*, on which formerly those concerning whom there was inquiry of some crime were stretched and tortured, so that full proof might be made from their confession. Life imprisonment, according to the Italian Penal Code 31, 33, is the greatest penalty, bringing perpetual interdiction from public offices, legal interdiction, deprivation of paternal power, marital authority, and the faculty of making a testament. Reclusion follows life imprisonment. The penalty of reclusion exceeding five years brings, according to the Italian Penal Code 31, 33, perpetual interdiction from public offices, legal interdiction during the penalty, and there can be added deprivation of paternal power and marital authority during the penalty.

228. How are merely penal laws distinguished? - They are distinguished: 1. From the matter, words, and circumstances of the law. 2. From the common judgment of doctors. 3. From the persuasion and practice especially of the timorous. From the matter; hence, speaking in itself, civil laws can be held as penal if, with attention to their matter, the end of the law is sufficiently obtained by only the fear of the penalty having been struck in, as, e.g., civil laws concerning paying taxes with regard to goods imported or exported; for if the established taxes are not paid, a fine would be owed. But civil laws must be held as preceptive if, with attention to their matter, the end of the law is not sufficiently obtained by fear of penalty alone, unless also by fear of guilt. Such laws are those which directly and proximately contribute to the common good, peace, and order of civil society, as are laws, e.g., of contracts; of public offices, administrators, magistrates, etc.; of judgments, proofs, unless as regards these the right is certain and evident; since then the right is not lacking, but the proof of right, provided that the proof does not touch the very form of the act. C. I. 779, 1314; C. G. 973, etc. Likewise laws are altogether obliging in conscience: laws explaining natural right and definitive of right, as are laws assessing the prices of things and the wages of works; granting to the father usufruct in the goods of children under paternal power, but to children under paternal power the legitimate portion in paternal goods; half the treasure to the finder, half to the owner of the land; restitution in full to minors, married women, those who have suffered fear, regulars; common ownership of a wall to a neighbor; action for damage given by civil fault alone, etc. Kenrick, tr. 6, c. 3, n. 2 ff.

From the words; hence Suarez thinks, l. 5, c. 4, n. 9, that if by the words of a penal law the precept is not sufficiently declared, a presumption must be made in favor of a purely penal law, "unless from the

circumstances, or from the matter or penalty of the law, a virtual precept, or sufficient intention of one commanding, is gathered." Or from the penalty, e.g., of excommunication, or even a gravest corporal penalty, of death, mutilation, etc. "For the law must be considered prudent and just; but it would be intolerable if, on account of a thing which lacks guilt, it imposed the penalty of death or mutilation." But others deduce from a graver penalty that the Prince does not wish to oblige in conscience, because it would not be equitable that, besides a most grave temporal penalty, which would suffice to urge observance of the law, he should also wish to hand someone over to eternal penalty besides that most grave temporal penalty. But this, as is clear, would hold also for the laws of the Church under penalty of excommunication, suspension, interdict, deprivation of benefices, etc.; and yet all admit that all laws of the Church oblige in conscience. - Moreover, a law is held as purely penal if it is not borne by way of precept and prohibition, but merely assertively, e.g., he who has carried grain out of the kingdom will pay one hundred lire; or if it is borne disjunctively, e.g., let no one carry grain out of the kingdom, or, if he has carried it out, he will pay one hundred lire. - But if the law is borne simply by way of precept and prohibition, either it imposes no penalty, and it is a moral law, preceptive or prohibitive, obliging, speaking in itself, in conscience to guilt; or it has a penalty joined to it, e.g., canons are prohibited from being absent from choir under penalty of loss of the distributions which are made daily among those present, and the law is mixed, obliging, again speaking in itself, at the same time to guilt and penalty. Speaking in itself, unless, namely, the legislator himself has expressly admonished otherwise, as may be seen in many Rules and Constitutions of religious Orders and Congregations, or something else must be judged from other heads. L. 145-147; S. Th. 2. 2. q. 186, a. 9, ad 1. Yet it is not necessary for the obligation of a law that this be explicitly asserted by the legislator. For it suffices that it be understood implicitly from the law itself as enacted.

From the circumstances; e.g., if no corruption of morals would follow from transgression of the law, no danger of public order, etc., and the superior himself entrusted the effective execution of the law to his ministers, or imposed a great penalty. For that alone would be sufficient for observance of the law; and it would justly be presumed that the Prince does not wish to oblige to guilt and penalty at the same time. But not at all if there were question of a thing evil by its nature, or publicly pernicious; in such matters penal laws are never to be sought. Suarez, l. c., n. 12; L. l. 3, n. 616.

From the common opinion of doctors; and thus as penal are held the laws which prohibit dice and games to laymen. L. l. 3, n. 885. On the contrary, the common opinion of doctors is that merely penal laws are not given in the Church, since the Church principally regards the good of souls. From custom; "hence the laws of towns prohibiting under penalty the cutting of wood or grass, fishing, hunting, do not oblige under guilt; for custom so holds." L. 145. The same seems to be said of the grazing of cattle in fields or woods of the community, and of carrying weapons for hunting; but by no means of carrying treacherous weapons. St. Pius V, C. *Cum vices*, 12 Feb. 1572; C. I. Poen. 460 ff. Civil laws forbidding opium, and other similar laws, for protecting good morals, are in themselves moral laws. - E. M. "Reuter observes," he says, *de Leg.*, n. 217, "Suarez, l. 7, c. 19, n. 12; Laym., l. 1, tr. 4, c. 24, n. 12, that some laws have passed from not purely penal into purely penal, because otherwise they were not observed, as perhaps are civil laws imposing exactions, prohibiting hunting, cutting wood, etc."

229. Do ignorance, fear, and age excuse from penalty? R. To the first: Affirmatively for the internal forum, if ignorance excuses from guilt against the law, whether it is ignorance of law or ignorance of fact; for penalty is a certain natural consequence of guilt. - R. Negatively for the same forum, if ignorance does not excuse from guilt against the law, and is concerned with the penalty alone, understand an ordinary penalty; but not an extraordinary and exorbitant one. The reason of the distinction is that an ordinary penalty is always foreseen in some way from the nature of the crime itself, since natural light itself dictates that evil is to be punished according to its nature. But an extraordinary penalty cannot be foreseen even confusedly. R. Likewise negatively for the external forum. For knowledge of the law is presumed, unless, however, ignorance of the law seems probable, i.e., likely. For presumption yields to truth. L. 169; l. 6, n. 705, 1074; l. 7, n. 351.

R. To the second: Unjust and grave fear, which excuses from human law, whose obligation regularly is none with grave inconvenience, consequently excuses from the penalty annexed to human law. Hence, although perhaps it does not excuse from grave sin, because that which was prohibited was forbidden also by natural law, nevertheless it still excuses from the penalty, unless the positive law itself does not cease, as for instance if something is extorted to public harm. C. 5, *De his quae vi.*

To the third: From the indulgence of canon law, age excuses those not yet pubescent, C. 1, 2 *de Del. puer.*; C. 1, 60 *de Sent. exc.* By civil law minors are punished more mildly. C. I. Poen. 44, 53 ff.; C. B. 828. - Cf. here 195; Suarez, *de Cens.*, d. 5, s. 1, n. 19; Castropalao, tr. 3, d. 1, p. 24, § 2, n. 8; Scavini, l. 1, n. 822, ed. 12, Milan 1874; Bouquillon, *de lege*, n. 159.

230. Does a penal law oblige one to undergo the penalty before the sentence of a judge? - The penalty which is contained in law is one thing active, which cannot be given remission without some positive action of the delinquent, as would be, e.g., payment of money; another is passive, which requires the action of another for its execution; another is privative, which consists in the mere privation of some acquired right, e.g., office, benefice, jurisdiction, suffrage, etc.; and it is conditional if it deprives of some right under a given condition; another is negative, which denies to the guilty person some good to be acquired; another finally is inhabilitating, which renders one incapable or unable of some right, namely of doing or contracting, acquiring, giving something, etc. - Likewise, one penalty is latae sententiae, another ferendae sententiae; the first is incurred by the commission of the crime alone, the second by the sentence of a judge. But this sentence to be rendered, or condemnatory sentence, is that by which the accused is punished with a certain penalty; or declaratory, by which the judge declares that someone has fallen into that crime on account of which the penalty established by law is incurred by the fact itself.

In order that a penalty can be called latae sententiae, it is necessary that the legislator has clearly provided that the accused, once the delict has been committed, is immediately held by that penalty. If the penalty is ferendae sententiae, the law does not oblige to undergoing the penalty before that sentence; for then the law does not inflict the penalty by itself, but only decrees that it is to be inflicted by the judge. But if the penalty is latae sententiae, then a distinction must be made. An active or passive penalty, etc., e.g., of paying or suffering something, is not to be undergone before the sentence of a judge. The reason is "because that human law would be too arduous and unobservable: that the guilty person himself should execute the penalty upon himself." L. 149, 148. Except unless the law so evidently commands otherwise that it cannot be interpreted otherwise, for instance, a thing accepted simoniacally must be restored, cf. 523. - The same, for the same reason,

must be said of a penalty at once privative and active. "And thus, therefore, one must speak of laws depriving of benefices already obtained, by reason of simony or alienation of the goods of the benefice, etc., where a declaration of the judge is always required." L. l. c.; unless something else is expressly provided in the law, as seems to be established in Trent, s. 14, c. 18 *de R.*, against synodal examiners receiving something on occasion of the examination, since it is said, "from which [i.e., simony] they cannot be absolved unless the benefices have been dismissed." L. l. 3, n. 112, 397. But not even this urgent wording of the law excludes a declaration of the crime. Cf. 521.

If the penalty is simply privative, before the sentence of a judge it will ordinarily have to be undergone, as is clear from the usage and custom received everywhere concerning censures and similar penalties. Hence, without any other sentence, incestuous spouses are deprived of the right of petitioning. C. *Si quis de Eo qui cognov.* And deservedly; for since incest is almost always hidden, the penalty would be rendered useless if it had to be proved, and a sentence were required. Ordinarily, for exception is made: if the guilty person cannot execute the penalty without infamy, since this would be too hard; if somewhere a particular custom holds otherwise. L. 148.

Negative penalties and "inhabilitating penalties oblige before the sentence of a judge, as is the penalty imposed by Trent on non-residents of not gaining the fruits. Likewise when privative penalties are conditional, e.g., that one having a benefice with care of souls, if he is not ordained priest within a year, is by that very fact deprived of the benefice, as from C. *Licet*, *de Elect.*, in 6. Thus also a beneficed cleric not wearing the habit is by that very fact deprived of the privilege of forum." L. 149. The first reason is that no one can acquire that to which he has no right. The second reason is that since the law does not bestow right except under such a condition, when it is lacking, every right must also be lacking. Yet, as for privative penalties, so also for inhabilitating ones, at least a declaratory sentence of the crime is required "in the case in which the guilty person cannot execute the penalty without his own infamy," L. l. 6, n. 705, as, for instance, one which deprives of active or passive voice. No one is held to betray himself. - L. l. 7, n. 54; l. 3, n. 397, 442, 402; l. 5, n. 280; Struggl, q. 2, n. 38 ff.; Suarez, *de Legib.*, l. 5, c. 10; Laymann, l. 1, tr. 4, c. 15; Wirceburg., c. 4, a. 5, § 2; Troplong, *della Prescrizione*, c. 1, n. 35, 38, 42.

231. Must a conventional penalty in contracts be paid before sentence? - A penalty which is owed for that which is of interest is owed before every sentence of a judge. But concerning that which is owed on account of delay, there is dispute. "The first opinion affirms it, because each person is held to observe the pact before sentence.... The second opinion, which the Salmanticenses call equally probable, denies it, because one must judge that the contracting parties do not wish to impose a penalty upon themselves otherwise than according to the disposition of law concerning laws of penalties, which are not contracted except after sentence. Certainly the guilty person is held after sentence to the penalty. But it must be noted that he is not held to pay the money unless it is sought by the party. And if the penalty is too harsh, beyond the sentence there is required a precept of the judge, and the execution of the ministers." L. 150; C. B. 343.

VI. On the Law of Taxes

232. Whether and how do the laws of taxes oblige in conscience? A tax is called that which is paid to the State as necessary for the common expenses of the commonwealth. It is direct if it is imposed directly on persons, by reason of their immovable goods, movable goods, and the exercise of some

business, art, or profession. It is indirect if it is imposed directly not on the person but on a certain thing, on account of the change of its owners, as in successions, or on account of its transport from region to region, or on account of its trade, manufacture, sale, or use. Wherefore those things which are paid even to public administrations for transporting letters from place to place, for journeys of persons on railways, etc., do not have the nature of taxes; and they are to be paid by force of the contract entered into with the public administration, and consequently from commutative justice.

The laws of taxes, speaking in themselves, are moral laws, or commanding in conscience: those, namely, which are enacted by legitimate authority, from a just cause of the common good, of the support and dignity of the Prince, and with due proportion observed, so that they do not exceed the moral capacity of subjects, and so that, e.g., the poor are not burdened as the rich, for thus the former would sustain a far greater burden than the latter. Lugo, *de Iust. et Iur.*, d. 36, n. 25, 26. Indeed laws of this sort command an act of natural justice, namely of legal justice, only defining and determining it; by which both the Prince and subjects are held, each for his own part, to contribute the necessary supports to society. Wherefore this natural justice commands subjects to furnish to the superior, having care of the community, those things which are necessary for having this care; it likewise commands strangers that they ought to compensate the harms which they inflict on another society by the export and sale of goods; it commands both subjects and strangers that they ought to compensate the necessary expenses in the construction and keeping of roads, bridges, etc., which they enjoy. Rom. 13:5-7. Hence the aforesaid legal justice is intimately connected with commutative justice.

Whence it is that defrauding taxes, at least speaking in itself, brings an obligation of restitution, as Gousset expressly has, 671, 999. And the Roman Catechism, 10, counts it among robberies: "In this crime of rapacity are included those who do not pay, or who divert and transfer to themselves, the customs, taxes, tithes, and the rest of this kind which are owed to the Prelates of the Church and to Magistrates." Nevertheless, since collectors of these taxes are publicly constituted, this seems to be the mind of legislators, that the payment of taxes is not considered due unless it is demanded. By no means, however, are lies and frauds thereby permitted for not paying, and for deceiving the collectors. Likewise, since a grave penalty is imposed on those not paying, many and grave doctors generally hold the laws concerning taxes as merely penal laws. But from this it does not follow that someone ought not to pay just taxes when the time established by law has arrived, or when they are legitimately sought by collectors; but it follows only that unless observance of the law is urged, or unless they are legitimately sought, he is not indeed held in conscience to pay them, and he is held to undergo the penalty if he is discovered not to have paid the tax and the penalty is imposed. Wherefore someone sins only then when, a tax owed by law not having been paid, or a duty not having been paid, as regards taxes sought by collectors, he would afterward be unwilling to pay the fine and undergo the penalty.

And this opinion is also confirmed by common practice and persuasion, namely that these laws do not oblige in conscience to paying taxes spontaneously. Therefore, while at least doubt remains concerning the obligation, no one seems even from this head to be troubled, if he has not paid taxes at the time established by law, or taxes not yet sought by collectors; indeed even if, as regards these latter, someone merely eludes the vigilance of collectors, by hiding things or not declaring them, namely lest they demand payment, as even timorous persons are accustomed to do, or by declaring a

lesser value of things in order to diminish the tax; provided nevertheless that lies and frauds are absent, which are always illicit, and that at least the just lowest price of the things is declared. L. l. 3, n. 614, 617; H. A. tr. 10, n. 81; S. Th. Quodl. 2, a. 8; Quodl. 6, a. 10; Lugo, *de Iust. et Iur.*, d. 36, s. 4; Lessius, *de Iust. et Iur.*, l. 2, c. 33; Ithur., Cas. 2; Struggl, 32; Elbel 303-306; Kenrick, tr. 6, c. 3, n. 20-22-25.

233. Resolves: The following are to be condemned: 1. Those who violently resist ministers exacting customs; for these sin against obedience: "He who resists power resists the ordinance of God." Rom. 13:2. They also sin against legal justice; for the law which regards taxes, even if it is held as merely penal, nevertheless grants to governors a certain right to exact the fine if subjects are discovered in fraud. - 2. Those who by right and wrong practice defrauding as a kind of commerce, and with the intention also of resisting, wander armed day and night. For men of this sort become rebellious citizens and most pernicious to society. 3. Those who, although they never resist, nor have the intention of resisting, nevertheless with every zeal and effort devote themselves to the art of measuring and defrauding, and have it as a kind of profession of life. These besides are not rarely exposed to dangers of temporal goods and of life and soul. Moreover, it is altogether one thing sometimes not to declare or to hide one's things, lest the tax be demanded; another thing to practice the art of defrauding taxes, which is certainly prohibited, since this is altogether harmful to society, both on account of the defrauding of taxes itself, and on account of many other delicts which are naturally joined with it.

All these incur forfeiture, Dig. l. 39, t. 4. Forfeiture in law is that which, on account of tax not paid, or declaration before the tax collectors omitted, is claimed for the fisc, *cosa devoluta al fisco*, confiscated. Likewise the very adjudication to the fisc is confiscation.

234. Do officials sin against justice whenever they do not exact a just tax? - R. Affirmatively, in itself generally, and indeed gravely in grave matter. The reason is clear, since they have obligated themselves to watch properly, and diligently to exact taxes otherwise just. Wherefore, if they fail in their office, they are held to restitution toward the Prince, or the commonwealth. Generally, because according to many, officials appointed for exacting customs are not always to be condemned when at times they act more benignly in a light matter, chiefly with the poor, or even with those who otherwise pay diligently; because in such a case the Prince himself is reasonably presumed to remit. "Besides, if tax collectors detect defrauders, and merely dissemble the fine, they are probably not held to repair this. The reason of this is: because tax collectors by force of their office are held only to exact the tax for the good of the Prince, but not to enrich him through fines. Besides, a fine from another source is not owed before the sentence of a judge, nor does the fisc have a right to the fine before this. Hence even guards paid to observe lest tolls be avoided through hidden passages, if by their fault they allow passage, are held from justice to repair the loss of the toll, but not of the fine." Struggl, 30. Others, however, affirm that they must also repair the fine, because by omitting denunciation, to which by reason of office they are held, they are the cause why the fisc does not exact that to which it has a right. Cf. 1394.

But those are to be condemned who corrupt by unjust means officials appointed for exacting customs, lest they perform their office by exacting a tax otherwise just; for they sin at least by cooperating in the sin of these officials, and they are held to restitution. Luke 3:12, 13; L. l. 3, n. 583, 614-617; l. 4, n. 237; Struggl, 32; Gousset, 1000.

VII. On Dispensation

235. What is dispensation? - Dispensation is the relaxation of law in a particular case on account of a special cause. For it happens "that some precept, which is for the advantage of the multitude in the majority of cases, is not fitting for this person or in this case; or through this something better would be impeded, or even some evil would be introduced." S. Th. 1. 2. q. 96, a. 1. It obtains its effect as soon as it has been granted. But in order that someone may use it licitly, it is necessary that it be manifested to him, lest by presuming it he expose himself to danger of violating the law, if perhaps it has not been granted.

It differs from a declaration, by which it is declared that this or that case is not comprehended in the law. It differs from license, which has place when the law does not prohibit a thing absolutely, but only conditionally, namely without the consent and approbation of the superior. Wherefore the bond of law is not relaxed through license, but merely the condition is placed, and when it has been placed, the law no longer has place. Then the law is rather observed, for the law in reality commands that license be sought, if such or such a thing is done, namely that the consent of the superior be sought. It differs from privilege, which can be both against law and also beyond law, and, when it is against law, simply derogates from it, and therefore not only for a case, or for some cases in particular, but for all. It differs also from invalidation, abrogation, and cessation of law, because in these the law is extinguished for all. S. Th. 2. 2. q. 147, a. 4.

236. Note: Power of dispensing given generally falls back into a privilege beyond law, and is favorable, and therefore has a broad interpretation, but not an extensive one. Generally, for when given particularly it is of strict interpretation. For general power is necessary for the common good and looks to it; not so particular power, which is rather a certain begun dispensation. But dispensation, because it derogates from law, is odious, and is of strict interpretation; unless it is owed, or was granted *motu proprio*, or to a community, or for the common good, or inserted in the Body of Law. Strict, but not restrictive, unless perhaps the right of a third party is injured. But it must never be interpreted in such a way that it becomes useless or burdensome to him to whom it was granted. R. 61 *de R. I.* in 6. L. 187, 192, 194, 195.

237. What things are required for dispensation? - It is necessary that he who gives the dispensation give it knowingly and willingly, but one extorted by fear is valid; and that he to whom it is given, regularly speaking, accept it. For a benefit is not given to one unwilling. L. 1. 9 *de Donat*. But we must understand as unwilling also him who does not consent. L. 8 § *Invitus de Procur.* Hence, if another has sought an ordinary dispensation of an impediment, and the spouses, ignorant of this, contract marriage, that dispensation does not profit them. In the case, in itself, it suffices that one accept the dispensation, since a granted dispensation necessarily affects both. But it can be given and accepted even tacitly, and by the fact itself. Regularly speaking, for absolutely one can be dispensed even while ignorant and unwilling. Since it belongs to the legislator to bind and to loose. L. 184, 187; Sanch., *de Matr.*, l. 3, c. 36, n. 3.

On the part of the one granting it, a just cause is required; otherwise the superior would not be a faithful guardian of the law, but an imprudent dissipator. Moreover, natural right dictates that a part ought to be conformed to its whole, unless a just cause excuses. Without a just cause, a dispensation given by the legislator himself is indeed valid, although illicit; but by an inferior, or by a delegate, both illicit and invalid. For the legislator has as his own the power of binding and loosing, to which

that just cause is extrinsic; but he is not considered to communicate it to an inferior or delegate except that he use it reasonably. Yet both the legislator dispensing without cause sins lightly, and the dispensed person seeking it; but he who, the law having been removed by dispensation, uses it, does not sin even lightly. For neither the former in giving nor the latter in accepting do injury to anyone, although they injure legal justice. But a delegate dispensing without a just cause in a grave matter sins gravely, since he gravely abuses the power conceded to him. In a grave matter, for in a light matter it does not exceed venial fault. But on the part of the petitioner it is required, both for liceity and for validity, that a true cause be present, since the superior does not dispense unless the petitions rest upon truth. Trent, s. 25, c. 18 *de R.*; S. Th. 1. 2. q. 97, a. 4; 2. 2. q. 88, a. 10. Moreover, a cause probably just suffices, both for seeking and for granting a dispensation, validly and licitly, lest the matter be too anxious and liable to scruples. Nor indeed is it necessary that it be as great as would suffice of itself for excusing; otherwise the power of dispensing in the superior would become altogether useless. "A cause is the dignity of the petitioner or of the superior, so that he may show himself benign, and also common or private utility and similar things. But in dispensations of impediments for marriages, the payment of money in aid of the Church suffices as a cause, as is the practice." L. 195. Matrimonial dispensations of lesser degree are now granted from reasonable causes approved by the Holy See, and are subject to no challenge. *Ord. serv. in Rom. Cur.*, Norm. pecul., c. 7, a. 3, n. 21. L. 178, 181, 182, 186, 192, 195; l. 3, n. 251; l. 7, n. 353; S. Th. 1. 2. q. 96, a. 6; q. 97, a. 4; 2. 2. q. 63, a. 2, ad 2; Wirceburg., c. 5, a. 2; E. M.

238. When a just cause exists, is the superior held to dispense? - R. Negatively: if the cause is only sufficient, so that dispensation is permitted; and the superior can either give it or deny it, or give it to one and deny it to another, for it is a mere grace, and therefore free. Moreover, just as dispensation profits the subject, so denial of the same profits the common good.

R. Affirmatively, if the cause renders the dispensation necessary for avoiding common damage, or private damage of great moment, or for procuring common utility, or great private utility; otherwise he would sin gravely or lightly according to the matter; for this is why the power was given to him. "Nevertheless, when dispensation has been denied, even unjustly, the subject cannot act against the law; unless such a case urges as to draw it out from the law. Wherefore if a Bishop unjustly denies dispensation from publications before marriage, from an urgent grave cause it can be contracted without them." L. 179; S. Th. 1. 2. q. 97, a. 4.

239. In doubt whether a case needs dispensation, is it necessary? - R. Negatively in positive doubt; for the extension of the law to that case remains uncertain. - R. Affirmatively in negative doubt concerning the existence and sufficiency of an excusing cause; for the certain law possesses. But negatively in negative doubt concerning the necessity of dispensation; for then, on the contrary, liberty possesses. L. 97, 180, 192, 195; l. 3, n. 325; l. 4, n. 154; H. A. tr. 2, n. 51.

240. Is it licit to use a tacit, presumed, interpretative dispensation?

R. To the first: Affirmatively, for the will of dispensing is truly present in the superior; since a tacit dispensation is had when the superior wills something with which dispensation is connected, or when, knowing and able to contradict, he does not contradict.

R. To the second: Affirmatively, for then also the will of dispensing is truly present in the superior, as is reasonably presumed from the hypothesis; for example, if, knowing that you are excommunicated,

the prelate confers a benefice upon you. This presumed dispensation, presumed concerning the present, falls back into tacit dispensation.

R. To the third: Negatively, for there is not present, nor does any reason persuade that there is present in the superior, the will of dispensing, but only a reason is present that such a will would be present in the superior if he knew the matter. Yet in matters of lesser moment one could then more easily use epikeia. Nor does it matter that a presumed license concerning the future is valid; for for actions which require for their validity a positive act of the will, an interpretative voluntary is not sufficient, as happens in dispensation, since relaxation of law requires the positive consent of the superior. On the contrary, for actions for which it merely suffices that the superior not be unwilling, as in the case of license to be sought, an interpretative voluntary suffices. L. 187; l. 3, n. 288; Struggl, tr. 1, q. 1, n. 21; Sanch., *de Matr.*, l. 3, d. 35, n. 16, 24.

241. Who can dispense, and with whom? - R. To the first: Since dispensation is the relaxation of law, it is clear that it is an act of jurisdiction. Wherefore only he can dispense by ordinary power who made the law, or his superior, or successor; but by delegated power, he who has received from these the power of dispensing. The reason is that the legislator has as much power for loosing as for binding; he has equal power with his predecessors; finally he has the power of inferiors subordinated to himself. But an inferior has no power over the law of his superior.

The legislator cannot dispense even in his own law, if the law passes into a contract. For pacts are to be observed by all. But an inferior can dispense in the law even of a superior, if dispensation is generally permitted in the law, e.g., if it is said "until he is dispensed," if custom has prescribed it, if it is commonly admitted by theologians. Hence validly and licitly an inferior, by ordinary power, dispenses from a just cause in the law of a superior: 1. Concerning light things, i.e., those which do not oblige under mortal sin, even if recourse to the superior is easy. 2. In cases which occur frequently, and in doubtful cases. 3. When there is urgent necessity, recourse to the superior is difficult, and there is danger in delay. 4. Man cannot dispense himself from divine and natural law on account of his own preservation.

By ordinary power, delegated. Ordinary power is that which belongs to someone by force of his dignity, or of his office; delegated power, that which belongs by concession of him who has ordinary power. If delegated power is granted by law, it is equated with ordinary power, as being annexed to office and dignity; but if it is only from a superior, it is purely delegated. - L. 90, 190-192; l. 6, n. 902.

R. To the second: Dispensation can be made only with those who are subject to the jurisdiction of the one dispensing; for example, with inhabitants having domicile, whether they are in their own territory or outside it, L. l. 7, n. 81; with resident strangers, as long as they have quasi-domicile in the territory, S. O., 22 Nov. 1865, *A. S. S.*, vol. 2, p. 671, who, once a dispensation has been obtained, can use it even when they go abroad, Suarez, l. 8, c. 26, n. 12; with wanderers, as long as they are staying in the territory, Bened. XIV, Not. 33, n. 10; indeed even with travelers, since travelers also by access to the local superior sufficiently become subjects while they are in foreign territory, and since this dispensation is personal, it adheres to the person, and therefore follows the traveler even outside the territory or diocese of the one dispensing, cf. 298; finally with themselves, although they have only delegated power, but general. The reason is "because it is purely voluntary jurisdiction, which can be exercised even toward oneself. Hence one can well dispense oneself in vows, oath, fast, etc." L. 183.

General, because no one is excepted in a general faculty, in whatever way it is had. But it is otherwise if someone has been delegated only for particular cases. - L. 158, 183; l. 3, n. 262; E. M.

242. Can the Pope dispense in divine law? - Those things which are prohibited by divine law are of a threefold class. For there are objects evil in themselves, and by reason of themselves. And these can never become not evil and licit. There are objects evil in themselves, but by reason of danger, or by reason not of the very being of order but of the perfection of this order. And these, when the danger has been removed and on account of peculiar circumstances, can become not evil and licit. Finally, there are objects evil in themselves, but on account of another's right. When this right ceases, from the fact that someone has power over that right, that which otherwise is illicit can be rendered licit.

Therefore the Pope can dispense from a just cause in those things in which divine right arises from human will, as in vows and in oaths. For it is certain that in these he acts in the place of God. Hence it is that dispensation in a vow or oath, without a just cause, even when made by the Pope, is invalid. In the rest it is disputed whether he can truly dispense from a most grave cause, or only declare that divine right then ceases. In practice it matters little. In the rest, namely in those in which he can dispense; for he cannot dispense in all, as is clear from what was set down at the beginning, but only in some, e.g., in betrothals, in ratified marriage, etc. But always except laws which pertain to the essential constitution of the Church, laws concerning the forms and matters of the sacraments, concerning the offering of sacrifice, etc. Nevertheless in doubtful matters the Supreme Pontiff can infallibly declare divine and natural right. Therefore that phrase, "Whatever you shall loose," etc., is not unlimited, but must be restricted to those things which pertain to the spiritual good of the Church and of souls. Cf. 180. L. 180, 188, 189; S. Th. 1. 2. q. 100, a. 8; 2. 2. q. 88, a. 12; q. 89, a. 9, ad 3; S. q. 65, a. 1, 2, 4; q. 67, a. 3; Quodl. 4, 13; Struggl, q. 4, n. 11; E. M.

243. In what laws can Bishops dispense? - By ordinary right, they can dispense in their own dioceses from laws enacted in provincial synods, since it has been so introduced by custom, C. *Cum contingat* 13 *de For. comp.*, provided they are not specially reserved to the Council. Likewise they can dispense in all episcopal and synodal statutes, and indeed independently of chapter and clergy. Nor is it an obstacle that the provincial Council, or diocesan synod, was approved by the Apostolic See. For that approbation is not specific and absolute, such that the individual things are rigidly examined, known, and approved *motu proprio* and with certain knowledge. But it is ordinary, common, and conditional, if canonically, etc.; and this indeed gives no new right, for only the decrees of the Council, legitimately established and which of themselves have the force of obliging, are confirmed; and the review of them made by the S. C. C. is only a condition without which they cannot be promulgated. Bened. XIV, *de Syn.*, l. 13, c. 5. Moreover Bishops dispense by their own right in Pontifical laws also enacted for their diocese, for they are held as diocesan laws. But from episcopal and synodal statutes the chapter can also dispense, when the See is vacant, since it succeeds into the place of the Bishop. The same cannot be done by the Vicar General of the Bishop, without special delegation, since he does not have this from his own ordinary right; since in a general commission the faculty of dispensing is not understood.

Bishops cannot, however, dispense in a synodal taxative law of the congrua for those to be ordained. The reason is that Innocent XII, B. *Speculatores*, established that "the benefice be of such income that, for suitable support of life, whether according to the synodal assessment, or, if it is lacking, according to the custom of the region for those to be promoted to sacred orders, after burdens have been

deducted, it suffice by itself, and that it be peacefully possessed by the one to be ordained." Wherefore the Pontiff implicitly takes away from the Bishop the faculty of dispensing in this matter, or rather of arbitrating, or of making the calculation in his own way. But because every power, and especially spiritual power, is given not for destruction but for edification, from the very nature of ecclesiastical laws, and from the presumed will of the Roman Pontiff, as well as from custom, Bishops dispense also in common laws: 1. when the matter is light; 2. as regards doubtful cases; 3. as regards cases which often occur, as in most vows, the divine office, observance of feasts, abstinence, fasting, with private persons and in particular cases. - Likewise they dispense in other Pontifical laws also, whenever recourse to the Supreme Pontiff is not easy, and there is grave danger in delay, e.g., in impediments of marriage, in irregularities, in vows reserved, etc. But they can dispense in Pontifical laws if in the law itself it is said that dispensation can be made from it; for if these words signify anything, and permit dispensation, they certainly permit it to inferiors, namely to Bishops. - Matrimonial dispensations, however, are excepted, cf. Trent, s. 24, c. 5 *de R. M.*, from the practice and Style of the Curia, and also from the Constitution of Pius X, *Sapienti consilio*, and *Ord. serv. in Rom. Cur.*, or if by law the Ordinaries themselves were the ones to dispense, as is seen in the case of a Bishop ordaining a bigamist, C. *Super eo* 2 *de Big.* L. 180, 190, 191, 192; App. 2, n. 54 ff.; l. 6, n. 613, 902; H. A. tr. 2, c. 6, n. 57; De Iustis, *de Dispensat. Matrimon.*, l. 2, c. 2, n. 45 ff.

244. Note: A Bishop is said in the preceding cases to dispense by ordinary right, because such a faculty belongs to them by force of their proper office, to which it is perpetually annexed, and therefore they can well delegate it to another. - It must be furnished gratis by whomever the dispensation pertains to. Trent, s. 25, c. 18 *de R.* In doubtful cases the Bishop can declare that the case does not need dispensation, or dispense for caution. - Concerning dispensation for caution, Benedict XIV notes these things, Not. 101: "Diana wisely remarks that dispensations of this sort are granted by the Sacred Penitentiary or Datary not as necessary, but so that the faithful may be rescued from every scruple and anxiety of soul." Such a dispensation will then, regularly speaking, not be necessary; but it is very useful; for if perhaps afterward the truth appears, nevertheless one truly remains dispensed. L. 190, 192, 193; l. 6, n. 613; *de Priv.* 57, 58; Struggl, q. 4, n. 12; Sanch., l. 8, d. 6, n. 18. Besides these ordinary faculties, Bishops often have many other extraordinary faculties for three years, for five years, etc.; these delegated faculties they can also regularly subdelegate to others. Cf. 254.

245. Can pastors dispense in some things? - By ordinary right they can, by reason of custom, dispense with subjects, only for particular cases, in fasts, in abstinence, in works prohibited on a feast day, and in other similar matters which frequently occur and need prompt dispensation. By reason of custom, for they do not have jurisdiction in the external forum. By ordinary right, since this faculty has been attributed to them by reason of office, as being exercised in cases which frequently occur. Indeed they can even dispense in graver matters, in which Bishops can dispense, when a most grave necessity stands, if the Bishop cannot be approached and there is danger in delay. L. 190, 192; l. 3, n. 288; l. 6, n. 613; H. A. 59.

246. Can regulars dispense in some things? "Regular prelates have the power of dispensing (in particular cases) with their subjects in ecclesiastical precepts, as Bishops can with their diocesans. For they themselves have quasi-episcopal jurisdiction, as the doctors commonly teach.... And the same holds as regards the rules of religion." L. *de Privil.*, n. 106, 108. "Confessors of the Mendicants,

and other regulars communicating with them, have the power of invalidating, remitting, and dispensing oaths and vows. They can besides dispense with spouses as regards the impediment to petitioning the debt, on account of incest committed with a blood relative of the spouse. But it must be noted here that the confessor must obtain special license in this matter, and at least from the lower superior of his monastery. Moreover Mendicant confessors can dispense with spouses in a vow of chastity, elicited before marriage, for petitioning the debt, just as also in a vow elicited after marriage. They themselves can dispense in all vows in which Bishops can, by ordinary right, dispense with their subjects." L. ib. 109; l. 1, n. 194; l. 3, n. 257, 258; l. 4, n. 63, 64; l. 6, n. 987, 1076, 1127, 1128; La-Croix, l. 3, p. 2, n. 1310; Struggl, q. 4, n. 13.

247. Whether dispensation can be given in the external forum, or in the internal forum? - Dispensation can be given in the external forum, since if the bond of law is constituted in the external forum, the loosing of that bond can also be given in the same forum. And thus dispensation from abstinence, which is given by indult during the time of Lent, is given in the external forum. - It can also be given in the internal sacramental forum; for in the sacramental forum all those things which pertain to spiritual salvation can well be treated. It can likewise be given in the internal forum of conscience, although not sacramental; for as sins properly pertain to the sacramental forum, so to the forum of conscience pertain all things which look to the spiritual salvation of each one.

But this essential difference intervenes between the sacramental internal forum and the merely internal forum of conscience: that in the former matters are treated among those present; in the latter matters can also be handled among the absent. The forum of penance is also distinguished; but this, according to some, is the sacramental forum; according to others, it is the forum of conscience. Wherefore what is committed to someone in the forum of penance, apart from absolution of sins, e.g., dispensation from fast, abstinence, etc., can also be expedited outside the sacrament of penance, although the mandate is directed to a priest confessor. - Suarez, l. 8, c. 6, n. 15, 16; Salm., tr. 18, c. 1, n. 33; Schmalz., l. 2, t. 2, n. 2; L. 194; S. Th. 1. 2. q. 97, a. 4.

248. When does dispensation cease? - Dispensation ceases: 1. By revocation; for by it the bond of law is restored. Wherefore a revocation made by the legislator, even without cause, is valid. Made by a delegate, even from a just cause, it is not valid; for once the dispensation has been given, he has completed the delegation accepted. Made by an inferior prelate, when he granted it by ordinary right, if from a just cause, it is valid; otherwise, however, if without a just cause, because he cannot restore the law of a superior. For the Superior is not considered to have granted a faculty for such revocation. Of law; for if the obligation depends not on law, but on one's own will, as in vows, it cannot be restored without this will. A prelate revoking a dispensation without just cause sins in itself only venially. L. 197. 2.

By renunciation, which is valid immediately in those things which have force from one's own will, in vows, oaths, etc. But in those things which obtain effect from law, e.g., in impediments of marriage, in the canonical hours, etc., it is valid when it has been accepted by the superior, who can restore the bond of law. - L. 198. 3. When the motivating cause totally ceases, if the dispensation has a successive course and was not given absolutely, as, e.g., dispensation from the law of abstinence on account of infirmity.

But otherwise, if the dispensation was given absolutely, although, with attention to the matter, it can have a successive course; or if it was perfected by one act, e.g., if someone was dispensed from

irregularity on account of the poverty of parents, or on account of uprightness of morals, or on account of scarcity of ministers. Wherefore one who was absolutely dispensed from a vow of chastity, when the spouse has died, can marry another; but if the dispensation was granted for a special case, he needs a new dispensation. Absolutely; if the cause is judged perpetual, then the dispensation is considered to have been given absolutely, even if afterward by accident the cause ceases. But otherwise if the cause is judged to last only for a time. 4.

If some commutation of burden was joined to the dispensation, then also, when the cause ceases, the dispensation does not cease. - Likewise dispensation does not cease: 1. By non-use, or contrary use, whence one will always be able to use it afterward, since these cannot restore the bond of law. 2. By leaving the territory of the one dispensing, because what has legitimately been done ought not to be retracted, even if afterward that case occurs from which a beginning could not have been had. 3. By the death of the one dispensing, whoever he may be, whether a superior or inferior prelate; since dispensation is a grace made, and a grace made does not expire by the death of the one granting it, or by his removal from office. C. *Si super* 9 *de Off. et pot. iud. del.* in 6. The same holds concerning licenses granted. - R. 73 *de R. I.* in 6; L. 195-198.

VIII. On Privileges

249. What is a privilege? - A privilege is, as it were, a private law, granting some special benefit to someone, existing outside the Body of Law. Private, because it grants something special to someone and not to all. Law, because it is something stable, not situated in a merely passing act; and while it grants to the privileged person the right of using the privilege, it imposes on all, or on the whole community, the obligation of not impeding the use of the privilege. Special, for privileges would not be granted if, besides the general law, nothing special were granted to anyone. Benefit, since it contains the grace of the Prince. To someone, i.e., whether to an individual person, or to a moral person, e.g., a University, a religious Order, etc. Existing outside the Body of Law, because it is not properly a law, whence neither does it need promulgation; but since it is a kind of donation, it needs acceptance. And this holds concerning any granted grace. Regularly nothing is acquired except by one willing. Cf. Schmalz., l. 4, t. 3, n. 203 ff. But petition stands for acceptance, and if it is sought through a procurator, it suffices that it be accepted through him. Wherefore, as long as someone is ignorant whether a grace has been granted, regularly he cannot licitly use it; but more truly he can validly use it, Suarez, l. 8, c. 25, n. 25; Laymann, c. 23, n. 10; Sanch., *de Matr.*, l. 3, d. 36, n. 6, 8; l. 8, d. 21; Engel, l. 5, t. 33, n. 8; l. 4, t. 3, n. 15, if it is true that the grace was granted. Nor does it matter if the grace was sought for another, even one ignorant of it, indeed even unwilling. Sanch., *de Matr.*, l. 8, d. 26, n. 4; Bonac., d. 1, q. 3, c. 3, n. 4. Hence, if someone neither himself sought the grace, nor knows that it was sought by another and granted, and yet perhaps uses it, one must stand for the validity of the act, namely when this depends only on the will of the one granting the grace, as, e.g., may be seen in dispensations of marriage in the root; or if the Supreme Pontiff, at the request of a Cardinal, permits an outside priest to assist at a marriage, and this priest, ignorant of the petition and concession, assists. But unless something else is drawn out from the concession of the grace, it is considered to be granted only to one knowing and accepting. - C. 17 *de Praeb.* in 6; L. 1; Suarez, l. 8, c. 25; Lugo, *de Poenit.*, d. 19, s. 2.

A privilege differs from a law, properly such, that is singular; namely one which graciously establishes something special for a certain kind of persons, and, since it is a true law, is contained in the Body of Law; and since at the same time it contains some special benefit, it is a true privilege; but because it is contained in the Body of Law, it is commonly called a privilege enclosed in the Body of Law. Such, for example, is the faculty granted to bishops by Trent, s. 24, c. *Liceat* 6, of dispensing from irregularities arising from hidden delict and of absolving from hidden cases even reserved to the Apostolic See; restitution in full granted by laws to minors, wives, and interdicted persons. Wherefore, as other laws, so also these need not acceptance but promulgation. Indeed not even the knowledge of those to whom they have been granted is required, in order that they may validly use them. Cf. Suarez, l. 8, c. 26, n. 16. Likewise, just as other laws, so these also are perpetual and do not cease by renunciation, although in particular cases someone can renounce the use of a right introduced for himself, provided the privilege was not granted on account of others, or on account of the dignity of an order or body, or on account of the presumption of common danger of fraud; as those things which have been granted to the weakness of persons, such as restitution granted to novices professing before canonical age, if these renounce the right of restitution. Trent, s. 25, c. 16 *de Reg.* De Iustis, *de Dispens. matrim.*, l. 1, c. 3, n. 51 ff.

250. Of how many kinds is privilege? By reason of the subject, one privilege is personal, which is granted to an individual person, e.g., to Titius, or to a body of persons, e.g., to minors, or to a moral body, e.g., to a religious order; another is real, which is also granted to persons, but with respect to dignity, office, place, or thing. Real privileges are perpetual, and to these are also counted personal privileges of the second and third species. Wherefore real privileges pass to successors in the same thing. But personal privileges are extinguished with the same person. - Hence all special faculties habitually granted by the Holy See to Bishops and other local Ordinaries, and also to Superiors General of religious Orders, even for a determined number of cases, do not end on account of their death or cessation from office, but pass to successor Ordinaries. S. O., 24 Nov. 1897; 20 Dec. 1899. But faculties granted nominally to a Bishop are understood to be granted to the local Ordinary. S. O., 5 Sept. 1900. Under the name of Ordinaries also come their Officials, or Vicars, in spiritual matters, general.

By reason of the object, one is against law, which derogates from law, as the privilege of a private oratory; another is beyond law, by which mere grace beyond law is granted, e.g., the faculty of absolving from reserved cases. By reason of cause, one is remuneratory, which is granted on account of certain merits; another gracious, which is granted without preceding merits. A gracious privilege can be revoked even without cause; for it proceeds principally from the liberality of the one granting. A remuneratory one cannot be revoked without cause; for it is granted on account of merits. And if it is remuneratory from strict justice, namely on account of a price paid, on account of a burden imposed, it cannot be revoked without due compensation. By reason of mode, one privilege is granted *motu proprio*, another at the instance of the parties; one is granted first and in itself, another is granted after the likeness of a prior one. A privilege granted after the likeness of another is either given accessorily or equally principally. If accessorily, it follows the vicissitudes of the principal; whence, when that perishes, it perishes; when that grows or is diminished, it grows or is diminished. If equally principally, it subsists altogether independently of another, and does not follow its vicissitudes. - Suarez, l. 8, c. 4, n. 38; Lugo, *Resp. Mor.*, l. 1, d. 19; L. l. 1, n. 197; App. 2, n. 5; Ferraris, Supplementum, v. *Episcopus*, n. 20; E. M.

251. What is a grace made and a grace to be made? Graces are distinguished into made and to be made. A grace is called made when he who grants it assents to the petition, if it is given at the prayers of the petitioner; or when the one making the grace simply grants it, if he bestows it *motu proprio*. Now when the Prince himself grants it in favor of him to whom he grants it, or as it is said, in gracious form, then the grace is regularly understood as made, as if the Supreme Pontiff grants to a religious order, or to an individual person, to Titius the priest, the faculty of absolving from reserved cases, of blessing rosaries and attaching indulgences to them, etc.

But when he grants it through another, or, as it is said, in commissory form, because it falls back into a mandate, then the grace is sometimes made, sometimes to be made. It is made if another is constituted a necessary executor; but it is to be made if another is constituted a voluntary executor. For in the first case another is merely the executor of the concession of the grace; in the second, another is the executor of the grace to be granted, namely the grace to be granted is remitted to him. And thus the grace is made if in the rescript, e.g., it is said to the Ordinary, "dispense," "absolve," even if some condition to be verified is added, even if there is added "according to your judgment and conscience," which words are placed only on account of the expression of reverence and fittingness. S. C. C., 6 Dec. 1845. But it is to be made if in the rescript it is said, "dispense," "absolve," if you shall have judged it expedient, or if the petitions are remitted to him with the necessary and opportune faculties. L. l. 1, App. 2, n. 13; Bizzarri, *Collect.*, p. 666.

Hence a grace made does not expire by the death of the one granting, or by his ceasing from office; on the contrary, a grace to be made expires, namely while the matter remains entire, unless something else has been provided by law itself. - Reg. 12, Canc. Apost.; L. 8; l. 6, n. 559; Laymann, l. 1 *de Privileg.*, c. 23, n. 18; Alois. Trombetta, *Prax. Reg. circa Contr. rer. Eccl.*, c. 6.

The print's appendix has more on this paragraph: [Power of the Sacred College](/manuals/bucceroni/power-of-the-sacred-college). (ed.)

252. Who can grant a privilege, and to whom? A privilege against law can be granted by those to whom the law is subject; and indeed only to subjects, and only to places which are contained by their power. The reason is that such a privilege is a derogation of law, and the legislator has no authority over non-subjects and outside his own territory. A privilege beyond law can be granted even to non-subjects, because it is not always and necessarily an act of jurisdiction, but an act of mere faculty and, as it were, a donation. Thus a Prince can grant to a stranger the privilege of hunting in his territory. Suarez, l. 8, c. 8, 10, 26.

253. Can travelers enjoy the privileges of places through which they pass, even if these are against common law? R. Affirmatively. It is established from general custom.

254. Can one delegated to grant a grace subdelegate? R. Negatively, speaking in itself; because this faculty is not included of itself in the concession of the superior, unless it is expressed. Except: 1. If someone were delegated by the Prince; yet in the case in which the delegation was made as through an office; but not if the person is chosen on account of his expertise, or if not jurisdiction is committed to him, but the mere execution of some cause, or some certain ministry, such as to preach, dispense, enjoin penances, excommunicate or absolve someone. C. 3, 6 and fin. *de Offic. et pot. iud. deleg.*; S. O., 1 June 1904. Wherefore Regulars, to whom some faculty of dispensing has been granted by the Supreme Pontiff for the easier and more fruitful exercise of the sacred ministry, cannot subdelegate it to others. In the exercise of jurisdiction it matters little what person is constituted

judge, provided he is skilled. But in bare ministry, or execution, the industry, experience, and authority of the person are chosen. - 2. If someone were delegated to supply the whole office of another, or to a universality of causes, even if not by the Prince; hence vice-pastors, universally deputed in place of an absent or dead pastor, can subdelegate another, L. 1 § *Ab eo* ff. *Quis a quo*. Yet this subdelegation cannot be for the whole, but only for one or another cause, as is common with St. Thomas: "A vicar cannot communicate his whole power, but he can communicate a part." Quodl. 12, a. 31. But a curate administrator, constituted by the Bishop when the parish is vacant, by force of the disposition of the Council of Trent, s. 24, c. 18, can delegate another priest for all offices, unless the will of the Ordinary stands in the way. S. C. C., 9 May 1874, *A. S. S.*, vol. 8, p. 134. What has been said about delegation made by the Prince holds even more of delegation made by the Pope. L. 193. From S. O., 14 Dec. 1898, the Bishop and the Superior General of a religious Order can subdelegate faculties delegated to them by the Apostolic See for a time, whether in a general way or for a particular case, unless this is prohibited or restricted in the faculties. Sanch., *de Matr.*, l. 3, d. 31, n. 4; Ferraris, v. *Delegare*; L. l. 7, n. 224; E. M.

254 bis. Note: Jurisdiction is the power of ruling others; and it is of the internal and external forum; secular, ecclesiastical; ordinary by force of office, delegated from him who has ordinary jurisdiction. - It is besides contentious or voluntary. The former is exercised over a subject, concerning contentious causes, in judgments, and in one's own territory. The latter is exercised even over a non-subject, concerning other non-contentious business outside judgments, and in one's own territory and outside one's own territory.

255. Does delegation made absolutely expire by the death of the one delegating? Delegation made by law is after the manner of an ordinary faculty. Made by man, it expires by the death of the one delegating, and by his removal or cessation from office, in contentious jurisdiction, and if the matter is still entire; and in voluntary jurisdiction, if the grace is not made, but to be made; but it by no means expires if the delegation is by way of a grace made, however much the matter may still be entire. This happens: 1. When it is granted on account of public utility, as is the faculty of dispensing in vows, in matrimonial impediments, of absolving from censures, etc. 2. When it is granted on account of the private utility of another, e.g., Caius, Sempronius, etc., yet in such a way that a precept of executing the mandate is imposed on the commissary or delegate, as if he said: dispense with Titius, absolve, provide concerning the benefice, etc., if the petitions rest upon truth. For delegation of this sort contains a right perfectly granted, and therefore, once accepted, perseveres in its being, although the one granting dies, C. 1 § 1 *de Filiis presbyt.*, and this delegation is to be interpreted broadly. On the contrary, it expires if given by way of a grace to be made, the matter however remaining entire; this happens when the grace is not perfectly granted, as occurs when it is given in favor of another private person, and the delegate is not commanded to execute it, but the power of granting the grace is given, or it is remitted to his judgment and will, as if he said: you can and may dispense, etc., if the things set forth are true. The matter remaining entire; for it is otherwise when the matter is not entire. And delegation of this sort is to be interpreted strictly. But the matter is said not to be entire if the delegate has begun to exercise the first act, as if he has begun to call the party to learn concerning the truth of the petitions. R. 16 *de R. I.* in 6; L. 192-194; cf. here 251, 283 and V. 2, 1045.

256. How are privileges to be interpreted? - Privileges are worth only as much as they sound. C. *Per exemptionem* 9 *de Princ.* in 6. Therefore they receive neither extensive nor restrictive declaration, but regularly only declarative. C. 27 *de Praeb.* in 6. Wherefore, when the faculty of absolving from papal reserved cases is granted, the faculty also of absolving from episcopal reserved cases is not included. L. l. 7, n. 98. When the faculty of choosing a confessor is granted, one can choose him as often as he wishes. Regularly, because if a privilege is granted in general words, in such a general concession there do not come those things which someone would not likely grant, R. 81 *de R. I.* in 6, i.e., things altogether extraordinary and unusual, Laymann on C. *Sedes* 15 *de Rescript.*; Reiff. on cited C. 81; nor those things which deserve special mention, or are excluded by custom or law. Therefore, when the faculty of absolving from reserved cases is granted, the faculty of absolving from specially reserved cases is not understood to be granted; when the faculty of absolving from reserved cases even specially is granted, the cases of the Constitution *Sacramentum Poenitentiae* are not comprehended.

Privileges beyond law are of broad interpretation, since they are benefits of the Prince. C. 16 *de Verb. sign.*; C. *Quia circa* 22 *de Priv.* Conversely, privileges against law are of strict interpretation. For it is expedient for the common good that laws enacted for it be preserved entire as far as can be done. C. *Ut filii* 1; C. *Ad praesentiam* 2 *de Filiis presbyt.* in 6. Nevertheless these too are of broad interpretation if the good of the commonwealth or of Religion is concerned, as are privileges granted to communities or to some pious cause, L. l. 1, App. 2, n. 8; if they have been granted *motu proprio*, C. *Si motu* 23 *de Praeb.* in 6; if otherwise they would be useless, C. 30 in fin. *de Priv.* Those privileges alone are always of strict interpretation which injure the right of a third party, since they are always understood with justice and the right of a third party preserved, C. *Licet* 12 *de Off. iud. ord.*; C. *Super eo* 15 *de Off. iud. deleg.*; C. *Cum olim* 12 *de Priv.* L. 5 ff.; Wirceburg., *de Legib.*, c. 5, a. 3.

257. Are privileges against common right necessarily odious?

R. Negatively. For a favorable privilege is that which profits one, in such a way that it harms no one, e.g., the privilege of eating meats in Lent. But an odious one is that which, from the favor conceded to one, produces inconvenience for another, e.g., exemption from paying taxes, which burdens others. Hence it follows that privileges against right are not necessarily odious, unless they harm someone. But scarcely can any privilege be given which is truly and properly opposed to common right. For privilege differs from dispensation, which actually excuses from the obligation of law, and therefore is always of itself odious, and contradicts the law; for the subject, although actually exempted from it, nevertheless remains habitually bound. Privilege, on the contrary, proceeds rather parallel with the law; for privilege is some private law directing its subjects, and therefore permanently. Yet because it exempts from the common law, a private privilege against law is regularly of strict interpretation. Regularly, private; for one given *motu proprio*, or inserted in the Body of Law, or granted to a religious order or community, is altogether of broad interpretation, namely by reason of the common good. C. 40 *de Off. et pot. iud. deleg.*; C. 22 *de Privil.*; C. 4 *de Praeb.* in 6; R. I. 28 in 6. - L. l. 7; l. 3, n. 318, Claus. I.

258. When do privileges cease? - Privileges of themselves are perpetual; nevertheless they cease: 1. On the part of the one granting, by revocation, e.g., by a contrary law enacted which otherwise could not obtain its effect, or which contains the clause, "notwithstanding any privileges whatsoever"; or by command of the Prince himself granting the privilege, or of his successor, directly manifested to him to whom the privilege had been granted. But it is by no means extinguished by the death of the one granting, since it is a grace made. C. 15 *de Rescr.* in 6. 2. On the part of the privileged person, by

renunciation accepted by the one granting. C. *Si de terra* 6 *de Priv.*; by non-use, or contrary use, if they injure the right of a third party, and this third party has legitimately prescribed against them. C. 15 *de Privil.*; cf. Engel, l. 5, t. 33, n. 19 ff.; Pirhing ib., n. 176; Reiffenst. there, n. 209.

But they by no means cease by abuse, unless regularly after at least a declaratory sentence of a judge, since it is a penalty, C. *Ubi* 7, Dist. 74; or unless the privilege was given to someone under this express condition, that if he abuses it, he loses the privilege by the law itself. 3. On the part of the privilege itself, granted under a condition, even a tacit one, or to a day, when the condition has been fulfilled and the day has elapsed.

C. 4 *de Off. et pot. iud. deleg.*; C. 5 *de Rescr.* in 6. But a personal privilege ceases by the death of the person; a real one, by the absolute and legitimate destruction of the thing or place, or when the dignity and office cease. - But when the final cause ceases, even forever, the privilege does not cease, since it is a kind of donation, Suarez, l. 8, c. 2, n. 5, unless it ceases contrarily, so that the privilege becomes illicit and unjust. Suarez, l. c., n. 6. Indeed, when the cause ceases merely negatively, the privilege does not therefore become a useless benefit; as, e.g., the privilege of a private oratory granted to a sick person or to a person established in dignity, when health has been recovered or dignity lost. L. 14-17; E. M.

259. Note: No one is held in itself to use a privilege, because each person can renounce his own right; nevertheless sometimes by accident the privileged person is obligated to the use of the privilege: 1. By reason of charity; hence he would sin who, having the faculty of absolving from reserved cases, would be unwilling to absolve a sinner placed in grave necessity. 2. By reason of the common good, namely when the privilege is not personal but real, attached to a place or dignity or state; thus a cleric cannot renounce the privilege of canon or of forum, nor a religious the privilege of exemption. - L. 3; l. 3, n. 318, Claus. XI, Dub. 3, n. 324; Ithur., Cas. 32, n. 20.

IX. Privileges of Clerics, Bishops, Regulars

260. What are the privileges of clerics and churches? - 1. The privilege of forum, by which they are exempted from lay magistrates in civil and criminal matters. C. *Nullus* 2 *de For. comp.* This privilege belongs to clerics constituted in sacred orders, beneficiaries, and others, whether regular or secular, if nevertheless these latter, i.e., simple clerics, "wear the clerical habit and tonsure, serve some Church by command of the Bishop, or are engaged in some school or University by license of the Bishop, as on the way to receiving major orders." Trent, s. 23, c. 6 *de R.*; s. 25, c. 20 *de R.* Wherefore ecclesiastics enjoy exemption concerning their persons, and cannot be judged and punished by a lay court. They also enjoy the privilege of exemption from military service and other civil offices which are by no means fitting for a cleric. Pr. 32, Syll. - They likewise have exemption, says St. Alphonsus, 20, as regards their own goods, both ecclesiastical and acquired in whatever other way; whence in respect of these they are not held to pay any tax. - But various Concordats and legitimate customs must be attended to. Indeed, as regards taxes to be paid, these are paid everywhere; nor is any protest had against them. Wherefore this privilege at least de facto is not in force. - Schmalz., l. 2, t. 2, n. 80 ff.; Bened. XIV, *de Syn.*, l. 12, c. 6, n. 5; L. 18 ff.; *A. S. S.*, vol. 2, p. 128, 431, 584. Judges compelling laymen to drag ecclesiastical persons to their tribunal incur excommunication reserved in a special way to the Supreme Pontiff. C. *Apostolicae Sedis*. Cf. vol. 2, n. 1170.

2. The privilege of C. *Odoardus* 3 *de Solut.*, namely that a cleric debtor not be condemned beyond that which he can give, and therefore with sustenance left to him, if because of poverty he cannot pay his debts, until he has come to a richer fortune. E. M.

3. The privilege of canon, namely of the Lateran Council, A.D. 1139, under Innocent II, by which those who strike clerics incur by the fact itself excommunication reserved to the Roman Pontiff, C. of Pius IX, *Apostolicae Sedis de Censuris*. And notorious strikers of clerics, so that the fact cannot be hidden by any tergiversation, nor excused by any suffrage, are excommunicates to be avoided. Extravag. of Martin V, *Ad evitanda*. From these privileges are despoiled clerics who have been really degraded; jesters, goliards, or buffoons; likewise those exercising the base trade of executioners, butchers, or taverners; married men not wearing clerical habit and tonsure, or, if unmarried, falling into the manner of laymen; if, having been admonished three times, they have not come to their senses within a suitable term, C. *Clerici* un. *de Vit. et hon. cl.* in 6; Clem. *Dioecesanis* 1 *de Vit. et hon. cleric.*; clerics involving themselves in tyranny or enormity, having laid aside the clerical habit, C. *Perpendimus* 23 *de Sent. excomm.*; bigamous clerics, who have taken two legitimate wives or a widow, C. *Altercationis* un. *de Dig.* in 6; C. *Clerici de Cler. coniugat.* in 6: cf. Trent, s. 23, c. 6 *de R.*; Schmalz., l. 5, t. 39, n. 218; clerics constituted in minor orders who lay aside the clerical habit, S. C. Imm., 25 Sept. 1860, to the Ordinaries of the Pontifical Domain; clerics ordained to minor orders, when the See is vacant, within a year from the day of vacancy, unless they have been constrained by occasion of an ecclesiastical benefice received or to be received. Trent, s. 7, c. 10 *de R.* L. 24; l. 6, n. 827; E. M.

4. To churches, public Oratories, the Episcopal Palace, Houses of Regulars, and Hospitals in which there is a public Chapel, immunity belongs as regards the asylum of delinquents, excepting the cases comprehended in the Bulls of Gregory XIV, *Cum alias*, and Benedict XIV, *Ex quo divina*. All delinquents, provided they are Christians, although heretics, or interdicted, or enclosed in prison, who, having broken prisons, have fled to the aforesaid sacred places, enjoy this immunity, except however the cases excepted in law. Public robbers, ravagers of fields, homicides, heretics and rebels against the person of the Prince, those falsifying coins, etc., are excepted. But just as ecclesiastical superiors can extract their own subjects from a Church, so also, if need be, they can grant the same license of extracting to the secular court. Here also various Concordats and various customs of places must be attended to. L. 25 ff.; Schmalzgr., l. 3, t. 49, n. 88 ff.; E. M.

260 bis. What are the privileges of Cardinals? - They are the following: 1. Of hearing confessions everywhere on earth, even of religious of both sexes, and of absolving from all sins and censures, except only censures reserved in the most special manner to the Apostolic See, and those which are annexed to the revelation of the secret of the Holy Office. 2. Of choosing for themselves and their familiars a Priest for receiving confessions, who, if he lacks jurisdiction, obtains it by the law itself, even as regards sins and censures from which the same Cardinals can absolve. 3. Of celebrating, or of permitting others to celebrate before them, Mass on Thursday of Holy Week and three Masses on the night of the Nativity of the Lord. 5. Of celebrating Mass in any private chapel without prejudice to one using an indult. 5. Of enjoying a personal privileged altar daily; likewise a portable altar, in any decent place, according to their prudent judgment, even at sea, with due cautions observed. 6. Of gaining in their own chapels indulgences for the acquisition of which the visitation of some church or

public shrine of the city or place in which the Cardinals are actually staying is prescribed; their familiars also can enjoy this privilege. 7. Of blessing everywhere, by the sign of the cross alone, with all indulgences customarily granted by the Holy See, rosaries and other prayer chaplets, crosses, medals, statues, scapulars approved by the Apostolic See, and of imposing these, without the burden of inscription. 8. Under one blessing, of erecting in churches and even private oratories in which Mass can be celebrated, and in other pious places, Stations of the Way of the Cross with all indulgences which have been imparted to those performing an exercise of this sort; and also of blessing for the faithful, who by reason of infirmity or another legitimate impediment cannot visit the sacred Stations of the Way of the Cross, images of the Crucified with the application of all indulgences annexed by the Apostolic See to the devout exercise of the same Way of the Cross.

9. Of wearing, in the manner of Bishops, a cross before the breast even above the mozzetta, and of using mitre and pastoral staff. 10. Of blessing the people everywhere in the manner of Bishops, but in the City only in churches, pious places, and assemblies of the faithful. 11. Of performing pontificals with throne and baldachin in all churches, the Ordinary having been forewarned if the church is a cathedral; but in the City they do not have the right of throne except in the church of their title. 12. Of enjoying the honors customarily paid to local Ordinaries wherever they betake themselves. 13. Of preceding all Prelates, even Patriarchs, indeed the Pontifical Legates themselves, unless the Legate is a Cardinal residing in his own territory; but a Cardinal Legate *a latere* precedes all others. 14. Of granting an indulgence of two hundred days in places or institutes and for persons of their jurisdiction or protection; likewise in other places, but to be gained only by those present, each time. 15. Of performing consecrations and blessings of churches, altars, sacred furnishings, abbots, or other similar things, except the consecration of sacred oils, everywhere, with those things observed which must be observed. From the Audience of His Holiness, on the 20th day of December, A.D. 1911, Our Most Holy Lord Pope Pius X graciously deigned to grant that the Cardinals of the Holy Roman Church may use the privileges which precede, even before the promulgation of the Code. - PETER Cardinal GASPARRI.

261. What are the principal privileges of Bishops? - As regards preserving their dignity. If Bishops commit a crime which is forbidden under penalty of suspension or interdict, they do not incur these censures unless they have also been laid upon them by name. Their causes are to be terminated through the Supreme Pontiff. Trent, s. 13, c. 8 *de R*. But those who injure Bishops incur excommunication reserved in a special way to the Roman Pontiff. C. *Apostolicae Sedis de censuris*. - From the same Constitution *Apostolicae Sedis*, those violating an interdict and excommunication imposed by the Ordinary are punished with interdict from entrance into a church. They can wear a small skullcap of violet color, even in sacred offices and while they celebrate Mass, but not from the Preface to Communion, S. C. Cons., 1 May 1910. From the day of election they can wear a small skullcap and biretta of violet color.

262. As regards Mass. - "A Bishop can dispense for celebrating on another altar, or in a church not designated by the founder, when another just cause is present." L. 60; l. 6, n. 329. - "He can dispense for just causes both with himself and with others for celebrating after midday." L. 61; l. 6, n. 344. - They can celebrate not only in their own episcopal house, but also in lay houses, in which on occasion of visitation or a journey they are received with hospitality, and when, in cases permitted by

law, or by special license of the Apostolic See, being absent from the house of their own habitation, they therefore make a stay in another's house after the manner of a similar habitation.

But not only can they themselves, wherever they dwell, celebrate even on a portable altar, but they can also permit another Mass for their own convenience; and the faithful hearing either one satisfy the precept. S. R. C., 22 Aug. 1818; 8 June 1896; L. 63; l. 6, n. 358; Bened. XIV, *de Sacr. miss.*, l. 3, c. 6, n. 6. - They can grant the faculty of celebrating outside a church in a non-sacred place, if grave and proportionate causes are present; and in private houses, from just and reasonable causes, but by way of an act and in a decent place. S. C. de Sacram., 20 Dec. 1912; L. 64; l. 6, n. 344, 359; Lucidi, *de Visit. Sacror. Limin.*, vol. 1, p. 97, n. 108. - When Bishops have died, Masses can be celebrated through the whole morning in the larger hall of their own residence, where the body lies exposed. S. R. C., 3 Apr. 1894; Ferraris, Supplementum, v. *Missa de Requie*, n. 7; E. M.

263. As regards baptism, Confession, Communion. They can permit that, besides when danger of death is imminent or necessity urgent, baptism be administered to infants at home from a just and reasonable cause. S. C. de Sacram., 20 Dec. 1912. - They can choose for themselves a confessor outside the diocese, provided he is their subject, and they can take him with them to different places; but if he is not a subject he must be approved by his own Ordinary. - They can permit that the Holy Eucharist be carried privately to the sick from the church to the home, or without the prescriptions of the Ritual being observed. S. C. de Sacram., 20 Dec. 1912. - L. 65; l. 6, n. 565.

264. As regards censures and irregularities. - Bishops can, by themselves or by another specially deputed, absolve subjects from hidden papal cases, except those which are reserved in a special way to the Supreme Pontiff. From the Declaration of S. O., 17 June 1866 and 4 Apr. 1871, there is also excepted the case of a person of whatever sex falsely denouncing a priest concerning the crime of solicitation in confession. They can likewise absolve those who strike a cleric lightly; and, if these are living collegially, although the striking was grave, but not if it was enormous. From the same censure they can also absolve those who are impeded from going to Rome. Cf. vol. 2, n. 1182. Various cases, however, are reserved to them by the law itself. C. *Apost. Sedis*; Decr. S. C. C. concerning the trafficking of Masses, etc. Cf. vol. 2, *de Censuris*.

They can besides dispense in all irregularities, and absolve from all suspensions incurred on account of hidden delict, except voluntary homicide, and other matters brought to the contentious forum. Trent, s. 24, c. *Liceat*. Probably they can dispense also in doubtful irregularities from defect. Moreover they can dispense in non-hidden irregularities from defect of birth for minor orders and simple benefices. As regards inabilities enjoined by Pontiffs as penalty, whether they can dispense is disputed, and the matter is very doubtful. Concerning homicide, "the common opinion is that the Bishop can dispense when danger of soul is imminent; or another most grave cause, and it would be difficult to have recourse to the Pontiff, etc." L. 51, 29, 35, 46, 47, 49, 52, 53; l. 3, n. 397; l. 6, n. 593, 705; l. 7, n. 353, 392, 394; E. M.

265. As regards orders. - A Bishop can dispense in the interstices prescribed by Trent as regards the ordination of clerics, as is established in the same Trent. S. 23, c. 11, 13 *de R.*; L. 59; l. 6, n. 775, 780, 789. Dispensation of interstices pertains to the Bishop also as regards regulars. - Ferraris, Supplementum, v. *Episcopus*, n. 16.

266. As regards marriage. They can dispense: In publications of banns, and in impeding impediments, excepting the vow of perpetual chastity, the vow of entering Religion, betrothals, the impediment of disparity of worship between Catholics and heretics, reasonable dissent of parents, etc. Cf. vol. 2, n. 991. In impediments supervening after marriage has been contracted, in order to petitioning the debt; e.g., if they have contracted affinity for this reason, that either one had carnal commerce with blood relatives of the other; or if one has vowed chastity. Indeed the Bishop can also dispense a spouse from a vow of perpetual chastity which he emitted before marriage, so that he may exercise matrimonial rights. - In doubtful diriment impediments. By accident, in certain diriment impediments, both before and after marriage has been contracted, when recourse to the Pope is very difficult and there is danger in delay, or where danger of scandal, infamy, incontinence, etc., is imminent; but especially in the article of death. Cf. vol. 2, n. 1044.

L. 54-58; l. 6, n. 613, 1122; E. M. Through quinquennial faculties Bishops have the faculty of absolving from many cases reserved to the Holy See, of dispensing in many impediments of marriage, and also of habitually subdelegating to pastors the faculty of dispensing over a hidden impediment of affinity from illicit intercourse in marriages to be contracted, when all things are prepared for the wedding.

267. As regards enclosure. "Bishops are delegates of the Apostolic See for protecting the enclosure of monasteries of nuns, even exempt ones, and of those which are subject to regulars." L. 66, 67. And as regards Institutes of simple vows, it also belongs to the Bishop to care that enclosure be rightly observed, and to restrain whatever fault creeps into it. Leo XIII, C. *Conditae a Christo*, VI Id. Dec. 1900.

268. As regards other ecclesiastical laws. - Bishops can dispense for particular cases and persons, and for a brief time, as has already been said at n. 243. For particular cases and persons; for by common law Bishops do not have the faculty of dispensing with the whole community. But whether a Bishop can dispense in canonical statutes not expressly reserved, St. Liguori judged that the negative opinion must altogether be held, l. 1, n. 191. Yet the same Holy Doctor, in the work H. A., tr. 2, c. 6, n. 58, says that the affirmative opinion is sufficiently probable. And in the Appendix *de Privil.*, 71, he has these words: "Probably the Bishop can dispense in all things in which dispensation is not specially reserved to the Pontiff." And it can be admitted, if the matter is of lesser moment and frequently recurs. Cf. L. *de Priv.*, n. 53. - S. Th. 1. 2. q. 97, a. 4, ad 3; Gennari, *Cons.*, vol. 1, c. 97, n. 6; cf. here n. 1626.

269. As regards vows and oaths. - Bishops can dispense: 1. In all simple private vows, except the five reserved to the Pope, namely of perpetual chastity, of Religion, and of pilgrimages to Jerusalem, to the thresholds of the Apostles, and to St. James of Compostella. - 2. In all oaths, if you except oaths accepted by a third party, which were not extorted by fear or fraud. - Hence Bishops cannot dispense in vows, whether perpetual or temporary, of Institutes of simple vows, after the Holy See has commended them at least by Decree of Praise. C. cited *Conditae a Christo*.

269 bis. Are there also privileges of other Prelates? - The privileges of Protonotaries are many. Four orders of these are had: Apostolic Protonotaries of the Number of Participants, seven, who exclusively constitute the College; supernumerary Apostolic Protonotaries; Apostolic Protonotaries after the likeness of Participants; titular, or honorary, Apostolic Protonotaries outside the City. The privileges of all these are contained in the Motu Proprio of Pius X, 21 Feb. 1905, concerning

Apostolic Protonotaries, concerning Urban Prelates, concerning dignities, canons, and others who enjoy some privileges proper to Prelates. Cf. Declar. S. R. C., 14 Mar. 1906, n. 4182. There are also privileges of the Common Chaplains of the Pontifical Chapel, S. R. C., 16 Mar. 1907, *Acta S. Sed.*, vol. 40, p. 311; of the Loreto Chaplains, S. R. C., 11 Dec. 1912; of Apostolic Missionaries, Decr. S. O., 21 Apr. 1909.

269 ter. Note: 1. A canon duly enrolled in a Chapter which collegially enjoys privileges or insignia and rights pertaining to Apostolic Protonotaries, either supernumerary or after the likeness of participants, acquires no right by which he is numbered by the Supreme Pontiff among Domestic Prelates with the expedition of a Brief. S. R. C., 24 May 1911. - 2. To perform sacred rites in pontifical rite belongs to Bishops. From privilege this is also conceded to Protonotaries after the likeness of Participants, and to other inferior Prelates, but with more moderate adornment. The Constitution of Benedict XIV, *In throno iustitiae*, 28 Feb. 1752, establishes the manner of using the Indult of Pontificals. - 3. Since precedence is a sign of honor, it is to be deduced from the grade of dignity and from the power of jurisdiction and dominion. A collegiate church has precedence over pastors and a college of pastors. S. R. E., 23 Mar. 1619, n. 372; 5 Feb. 1639, n. 664; 6 Apr. 1647, n. 908. Collectan. S. R. C., Ind. v. *Praecedentia*.

The print's appendix has more on this paragraph: [Addenda] (/manuals/bucceroni/addenda). (ed.)

270. What are the principal privileges of Regulars? - As regards communication of privileges. All regular orders communicate in the privileges of other orders, whether mendicant or not. L. l. 4, n. 60. "These mendicant religions communicate in the privileges of the other religions, or congregations, or monastic or non-monastic colleges... And this holds even if in a privilege granted to another religion or congregation there is a clause that it is not to be communicated... Both lay brothers, for they themselves are truly religious, and novices enjoy privileges of this sort... religious promoted to the episcopate also enjoy them, provided there is not question of things by which, if Bishops used them, some prejudice would come to religion, as would be dwelling in a monastery, giving a vote." L. 9. - Male tertiaries who live collegially enjoy the privileges of Orders. S. C. EE. et RR., 20 Dec. 1616; Bizzarri, *Collect.*, 1885, p. 569 ff. Nuns enjoy the same privileges (understand favorable ones) of which they are capable, as religious of the same order. The reason is that since they themselves live under the same rule, they are part of the order, and therefore deservedly ought to enjoy the privileges of the order. Hence an abbess can dispense in fasts, office, etc., according to the privileges granted to the prelates of her order; because, although she herself cannot dispense by herself on account of defect of spiritual authority, she can nevertheless do this by commission of the prelate, which is presumed to have been made to her as soon as she was elected abbess. L. 10; l. 4, n. 60, 63. As regards women of the third order and their privileges, cf. Collectan. S. C. de P. F., n. 445; Benedict XIV, Not. 29, 105, n. 59 ff. - As regards secular Franciscan tertiaries, cf. Constitution of Leo XIII in Ferraris, Supplementum, v. *S. Franciscus Assis.*, etc.

More recent Institutes of simple vows are excluded from this participation in privileges. Nevertheless the Carmelite Sisters of France obtained it by special Decree of S. C. EE. et RR., 23 Mar. 1869, so that they participate in the spiritual graces of the Carmelites of solemn vows, exemption excluded. Ferraris, Supplementum, v. *Carmelitae*, n. 9. Privileges granted to some place or person, not as to a particular person, but as to a member of a community, are understood to be granted also to other places and religious of the same dignity and grade, both of that order and of others which have

communication, namely when the same or a similar reason applies. L. 11. Privileges are not communicated: 1. When they are odious or contrary to proper statutes, so that they prejudice the good or common observance of religion. 2. When they are granted to some private person, or to some congregation, but for a determined time, or through particular Briefs, or on account of a particular reason which has no place in the others, or concerning an exorbitant thing which is usually granted with difficulty and is worthy of special commemoration; or, from the General Decree of S. C. R., 20 Mar. 1706, concerning those things which regard Masses and offices. 3. Likewise the privilege of receiving sacred orders from any Bishop is not communicated. Benedict XIV, C. *Impositi nobis*, 27 Feb. 1747, par. *Quod vero*. Privileges granted to religious families by Canon Law or by the Holy See are understood to be granted in such a way that they do not prejudice the legitimate power of superiors. Wherefore the same Prelates can from a just cause take away, at least as to liceity, or limit for subjects the use of privileges. L. 6; l. 4, n. 64; E. M.

271. As regards interpretation of privileges. - Privileges "which are granted to some order, convent, community, or to another pious cause, all are to be interpreted not only broadly but even most broadly, even if they are contrary to Common Law or to some third party. For privileges granted to communities are all presumed to be remuneratory of services furnished, and therefore all are held as favorable." L. 8.

Bishops and other secular Prelates are prohibited from juridically and authentically interpreting the aforesaid privileges. If any doubt arises, let judgment be made concerning it among skilled men, or let the Apostolic See be consulted. Generals of religions for the whole order interpret privileges not only doctrinally, but also juridically and authentically, so that all subjects are held to stand by their interpretation, when they interpret either laws and customs, or privileges. The same power was given to other regular Prelates, even immediate ones, but let them proceed prudently and from the counsel of skilled persons, so that for the forum of conscience they may be able, by Apostolic Authority, to interpret and declare authentically and juridically all the said things. L. 6.

272. As regards exemption. - Regulars have the privilege of exemption from the jurisdiction of Bishops, which they cannot renounce, C. *Cum tempore de Arbitris*. Wherefore regular Prelates have in their churches and monasteries quasi-episcopal jurisdiction, both as regards persons and as regards places. - The privilege of exemption is enjoyed not only by professed and lay brothers, but also by novices and tertiaries who stay within the cloisters; likewise, as regards censures, sacraments, and burial, by servants of regulars, who actually serve and reside within the cloisters of monasteries as, so to speak, of the family and perpetual table companions, no otherwise than the lay brothers themselves. Trent, s. 25, c. 11 *de Reg.* This exemption is not universal, but has several exceptions, especially for men, as regards delicts committed by regulars living outside the monastery, as regards hearing confessions of seculars, as regards the celebration of Masses; and for nuns, as regards enclosure. Trent, s. 6, c. 3 *de R.*; s. 22, Decr. *de Observ.*, etc.; s. 25, c. 5, 9, 14 *de R.*; Gregory XV, B. *Inscrutabili*, 5 Feb. 1622; Clement VIII, B. *Suscepti muneris*, 23 Feb. 1596; Benedict XIV, *de Syn.*, l. 9, c. 16. Likewise it has no place when subjection to the jurisdiction and laws of the Ordinary is necessary for avoiding scandal or for procuring the common good. Schmalz., l. 1, t. 2, n. 38. "But all exempt persons, both secular clerics and any regulars whatsoever, even monks, when called to public processions, are to be compelled to come, except however those who live perpetually in stricter enclosure." Trent, s. 25, c. 13 *de Reg.* Monasteries are not to be erected without the permission of the

Bishop of the place. Trent, s. 25, c. 3 *de Reg.* Besides, permission of the Supreme Pontiff is required, which is required also for abandoning monasteries already built. C. un. *de Excess. praelator.* in 6; Benedict XVI, C. *Instaurandae, de Syn.*, l. 9, c. 1, n. 9; Leo XIII, C. *Romanos Pontifices*, VIII Id. Maii 1881; Ferraris, v. *Regulares*, art. 2; L. 72, 74, 82, 83, 91.

The Bishop proceeds also against exempt persons, in causes of faith, as an Apostolic delegate. And in causes of faith of this sort, which pertain to the Holy Office, Regular Prelates cannot involve themselves; and whether they themselves or other religious, not denouncing to the Holy Office, or impeding superiors, subjects, or confreres who are heretics or suspect concerning the faith from being denounced to the same Holy Office, incur excommunication. Commonly speaking, it is certain that regulars who dwell in mission residences are exempt from the jurisdiction of the Ordinary, although they are few in number; and, outside mission places, both the persons and the monasteries and churches of regulars are exempt from the visitation of the Bishop, provided that at least twelve or six religious dwell in them; indeed only three suffice at present for Italy. S. C. EE. et RR., 26 Mar. 1897. But except: 1. Churches of seculars whose pastor is a religious. 2. Churches of regulars, if they are parishes, yet only as regards those things which look to the parish and to the pastor, insofar as he carries out that office. Cf. Benedict XIV, C. *Firmandis*, 4 Nov. 1744; Leo XIII, C. *Romanos Pontifices*, VIII Id. Maii 1881; Benedict XIV, *de Syn.*, l. 3, c. 2, n. 1; *A. S. S.*, vol. 38, p. 147.

The Bishop can oblige secular confessors, and also regulars, to the conference of Cases of Conscience, if they do not have it in their own Convents. In England and Scotland, all Rectors of Missions, Vicars, and other religious men, missionaries, who inhabit hospices and small Mission houses, must attend the conferences of the clergy from the cited Constitution of Leo XIII, *Romanos Pontifices*. Regulars in mission places, deputed to the care of souls, can be recalled by their superiors, or removed by the bishop, according to equitable judgment, no cause assigned by either, Benedict XIV, C. *Firmandis*; but if the regular superior recalls them, he must propose others to be substituted, with the Bishop approving, S. C. de P. F., 27 July 1882. Insofar as they are religious, they are subject to Regular Superiors; but insofar as they exercise the care of souls, to the Vicar Apostolic. S. C. de P. F., 18 Jan. 1886. Likewise the goods of religious are exempt from the jurisdiction of the Bishop. But administrators of monasteries of nuns must render an account to the Bishop of the administration of goods. L. 79, 80, 81; Benedict XIV, Inst. 29. As regards more recent Institutes of simple vows which have already been approved by the Holy See, the Bishop can demand no account of the administration of goods which those same Institutes possess, Leo XIII, C. *Conditae a Christo*, VI Id. Dec. 1900. They render this account every three years to the S. C. of Religious. Cf. *A. S. S.*, vol. 25, p. 622 ff.

Constitution of Leo XIII, *Romanos Pontifices*, VIII Id. Maii 1881. Some heads of controversies concerning Bishops and Regular Missionaries of England and Scotland are defined. The aforesaid Constitution was then extended to many other places, to all Latin America, Plenary Council of Latin America; to the Philippine Islands, Secretariat of State, 1 Jan. 1910; to all the provinces of the Canadian Dominion, S. C. Cons., 14 Mar. 1911. It is disputed whether regulars can have recourse to the Bishop for obtaining graces. Many deny it, founded on this, that such recourse implicitly says a desertion of exemption. Others better affirm with Schmalz., l. 2, t. 2, n. 149, and Bouix, *de Iud.*, vol. 1, p. 256, and teach that recourse to the Bishop is licit in those things which pertain to gracious jurisdiction, of which sort is absolution from sins and censures; dispensation in vows, oaths, irregularities; in laws of recitation of the breviary, fast, etc. But they require a threefold condition,

namely: 1. that the Pope or his legate cannot easily be approached; 2. that the superiors of the order lack the faculty of dispensing; 3. that there is permission of the prelate, at least presumed. Cf. 263. But there is no doubt that regulars can use Lenten indults, which are rather given by the Holy See and promulgated by Bishops, unless they are prohibited by a special vow. S. O., 20 Dec. 1871. - E. M. Modern Institutes approved by the Holy See also enjoy exemption as regards internal government. Cf. cited Leo XIII, *Conditae a Christo*, *A. S. S.*, vol. 28, p. 499 ff.

273. As regards the Eucharist. - Besides public churches, Regulars also have private oratories. Now they can admit others in both, both for celebrating and for hearing the prescribed Mass. In public churches they retain the Most Holy Sacrament. But the license of the Ordinary is necessary for regulars, even exempt ones, so that they can publicly expose the Most Holy Sacrament uncovered; yet this is by no means required either for exposing the sacred Eucharist veiled, with the people present, or for exposing it uncovered, seculars being excluded. From the Constitutions of Julius II, Paul III, and St. Pius V, regulars can distribute the Most Holy Eucharist daily and to individual faithful, not even excepting Easter day. Regulars cannot in any way be prohibited by the Bishop from distributing the Most Holy Eucharist in their churches from Palm Sunday to Low Sunday.

Thus S. C. C., 9 July 1644; S. C. C., 27 Nov. 1912. Cf. Benedict XIV, *de Syn.*, l. 9, c. 15, 16; l. 11, c. 14. Pius VI, 14 Jan. 1783, granted to the Congregation of Purity the faculty of celebrating two hours after midday and before dawn; and all who have communication in the privileges of regulars enjoy this privilege. "Regulars can celebrate one hour before dawn; wherefore they can celebrate Mass three hours before sunrise. Indeed, when some just cause is present, they can celebrate immediately after two hours after midnight. And this holds only for their own churches; in which, however, secular priests can also use a privilege of this sort. Moreover Eugene IV granted to regulars license of celebrating three hours after midday, yet from a just cause."

L. 122; Salmant., tr. 15, c. 7, p. 4, n. 94, 45; Pellizzar., *Manuale Regul.*, tr. 8, c. 2, n. 97. But the same Holy Doctor hands down the opposite, l. 6, n. 342. Moreover in this latter place, n. 344, the Holy Doctor affirms that the faculty is present to all superiors of dispensing, in some particular case, from a reasonable cause, concerning the hour of Mass, "privilege set aside, toward their own religious, since they are their Ordinaries." Mendicants, at least superiors or prelates, have the privilege of blessing sacred vestments. L. 62, 121, 123; l. 6, n. 239, 240, 300, 357, 360, 363, 376, 378, 381; H. A. tr. 12, n. 41; Lugo, *de Euchar.*, d. 18, n. 49-50; Diana, tom. 2, tr. 2 *de Praec. div. et eccles. sacrae commun.*, r. 22, 23; *Compend. Privil. Soc. Iesu*, n. 409; E. M.

274. As regards Confession. - Regulars cannot confess licitly and validly except to Confessors deputed by their own Superiors. "With seculars, when the faculty of choosing a confessor for oneself is granted, it is always supposed that he is approved by the Bishop; but regulars, from express or tacit license of their own superior, can confess to any simple priest... Wherefore all regular superiors can choose for themselves as confessor any priest." L. 110.

As regards cases reserved in the order to be absolved, the faculty can and ought justly to be denied by the superior if there is question of harming others, i.e., when scandal or any harm whatever would perhaps be imminent either to religion, or to the house, or to another, or to the penitent himself; nor could it be met otherwise except by furnishing knowledge of the matter to the superior. But, "if the superior denies to the confessor of regulars, deputed for this, the faculty of absolving, but the confessor judges that it ought to be granted, he can absolve on that occasion," i.e., as often as that

case occurs. This is established from the Decree of Clement VIII. Cf. Constitution of Urban VIII, *Sanctissimus*, 21 Sept. 1624; Ferraris, v. *Praelatus regularis*, n. 58; Pellizzar., *de Monial.*, c. 9, n. 29.

Exempt Regulars are not subject to episcopal reservation, since they are exempt from the jurisdiction of the Bishop. Indeed neither novices nor familiars of regulars are subject to the reservation of Bishops. Thus from the Bull *Superna* of Clement X. But if a novice has fallen into a reserved case before entrance into religion, he can be absolved by the confessor of the religion by privilege. - L. 102, 103, 111, 112; l. 6, n. 583, 586, 602. Religious of Institutes of simple vows are altogether subject to episcopal jurisdiction as regards censures and reservation of cases, as also as regards dispensation of non-reserved vows and dispensations which local Ordinaries impart to their faithful.

C. cited *Conditae a Christo*. The Supreme Pontiff Pius X decreed that all Confessors approved in the City can hear the Confessions of all Regulars, of whatever Order, Congregation, Institute they may be, without any permission of Regular Superiors; and therefore they can also absolve them from all reserved cases in the same religious Orders, Congregations, Institutes, even with censure. S. C. de Relig., 8 Feb. 1903; *Pagella Confessarior. in Urbe*. The same Supreme Pontiff afterward extended this faculty to all Confessors of the whole world approved by local Ordinaries. S. C. de Relig., 5 Aug. 1913.

275. As regards orders. "Regulars do not receive dimissorial letters from Bishops, but from their superiors; otherwise they sin gravely, and incur suspension... They can be ordained outside the times," nevertheless on feast days and interposed days, unless they have another special privilege. L. 113, 115; l. 6, n. 797. Cf. *Cas. Consc. de Ord.*, and here vol. 2, n. 906, 907, 1222. A privilege was granted to the Congregation of St. John the Evangelist by Clement VIII, 23 Nov. 1596, that its alumni be ordained without the interstices being observed. The same privilege was likewise granted to the Order of St. John of God by Pius IV, B. *Circumspecta*. Wherefore other Orders which have communication of privileges with these Orders can do the same. But directly this privilege was granted to the Society of Jesus by Gregory XIII, Const. *Pium et utile*, but in this Constitution a faculty of this sort is excluded from communication of privileges.

276. As regards preaching. - Outside the churches of their own orders regulars cannot preach without having obtained the license of the Bishop. - But in the churches of their own order they can preach, the blessing of the Bishop having been sought, even if they have not obtained it, provided nevertheless the Bishop does not contradict. A Bishop about to grant license to regulars wishing to preach in churches which are not of their own orders can examine them as to doctrine, although they have been nominated by universities or by lay magistrates, and even if the predecessors of the Bishop had been accustomed for immemorial time to grant this license without examination, if this seemed good to his judgment, which ought to be moderate and discreet. But as to those wishing to preach in the churches of their own orders, it does not belong to the Ordinary to examine them, but to their superiors. The Bishop can suspend the license of preaching once granted to them, for reasonable causes, although hidden, yet concerning preaching. Nevertheless the Bishop cannot prohibit regulars generally from preaching in the churches of their own orders. - From the Council of Trent they are first to be examined and approved by their own superiors concerning life, morals, and knowledge. Trent, s. 5, c. 2 *de R.*; s. 24, c. 4 *de R.*; Gregory XV, B. *Inscrutabili*; Bouix, p. 148, 263 ff.; L. 124 ff.; S. Th. 2. 2. q. 187, 188.

277. As regards ecclesiastical censures. The privileges of absolving from papal cases having been revoked by the Constitution *Apostolicae Sedis*, regulars can still absolve from cases reserved to Bishops by the same Constitution, and from the censure of the canon, as before the aforesaid Constitution. - All regulars of either sex, in the time of a general interdict, can privately perform divine offices in their monasteries and receive the sacraments; and they can also celebrate publicly on several feasts: Easter, Pentecost, etc. L. 95 ff.; l. 4, n. 61.

278. As regards irregularity. - "Regulars can dispense with their subjects in all hidden irregularities in which Ordinaries can dispense with their diocesans. And they can do the same with seculars." L. 104. "They can besides dispense with subjects in any irregularity, either on account of delict or on account of defect," namely those which are usually regularly dispensed. L. 105; Frassinetti, Comp., 6th ed., vol. 2, n. 681. In the cited place the Holy Doctor soon descends to particular cases, concluding: "Finally regulars can dispense with their subjects in all inabilities and penalties contracted by reason of delict... even if those are reserved to the Pontiff." Cf. L. l. 7, n. 355, 358, 364, 396; Lehmkuhl, 11th ed., vol. 2, n. 834.

279. As regards the right of burying. - When a deceased regular cannot be buried in the church of the convent, because, e.g., of civil law standing in the way, regulars can carry the corpse to the common cemetery, with stole and cross of the convent, without the intervention of any pastor, provided nevertheless that the corpse is carried without solemn pomp and by a direct path to the cemetery S. C. EE. et RR., 24 Jan. 1846. The same right belongs to exempt nuns: wherefore it pertains to their chaplain or confessor to conduct the funeral, the pastor being excluded. Now the solemnity which is prohibited does not consist in singing, but in the gathering of the people, in the assistance of ministers clothed in sacred vestments, etc. S. C. EE. et RR., 26 Feb. 1864, declared: "Dispersed religious as regards funerals are subject to the pastor of the place, just as the other parishioners." *A. S. S.*, vol. 1, p. 168. L. 91 ff.; Bouix, p. 345; E. M.

280. As regards oaths, vows, impediments of marriage, ecclesiastical precepts. Cf. 246. Here it must be noted that it is not improbable to St. Alphonsus what very many affirm, namely, that regulars can in a case of necessity dispense with spouses, as Bishops can, in a vow of chastity for contracting marriage, l. 3, n. 258; l. 6, n. 1128. It must also be noted that there is no privilege of reciting the office only mentally. No regular order has ever used such a privilege, nor do the Friars Minor themselves, to whom such a privilege is said to have been granted, acknowledge it. Custom is the best interpreter and proof of laws. Cf. Lugo, *Resp. Mor.*, l. 3, d. 18; Melata, *de Recit. mentali div. off.* Nevertheless there are many other privileges, especially as regards missionaries, as may be seen in the *Compendium of the Privileges of the Society of Jesus*.

281. As regards indulgences. - "All professed regulars enjoy the indulgences granted to any religious order," L. l. 4, n. 64, namely according to the Brief of Leo X, *Dudum per Nos accepto*, 10 Dec. 1519, and the Brief of Paul V, *Romanus Pontifex*, 23 May 1606, indulgences exclusively proper to each order being excluded from this communication, S. C. Indulg., 25 Apr. 1735; Theod. a Spiritu S., p. 2, p. 88 ff., p. 114. "It must be noted that the privilege of a privileged altar is not communicable by general communication of privileges, from the Decree of S. C. Indulg., dated 5 Feb. 1748, and approved by Benedict XIV on 2 Mar. of the same year." L. l. 6, n. 339. More recent nuns of simple vows, in France, of ancient religious orders, from a special indult, "can gain all indulgences which were granted to the

religion or Institute of other nuns emitting solemn vows, according to the respective Institute or rule." S. C. Indulg., 10 July 1843; S. Poenit., 12 July 1847.

But Institutes of Tertiaries dwelling in Community and emitting simple vows participate in all Indulgences directly granted to the First and Second Orders, provided they are legitimately aggregated to the Orders. S. C. Indulg., 28 Aug. 1903; E. M., *de Stat. part.*, n. 248.

It must further be noted that personal privileges and indulgences in churches of regulars vanish when the religious have been driven out, although some religious remains in the church as chaplain or custodian. But real privileges, such as the right of burying, when a religious is left there under the name of chaplain or custodian, must be exercised by him. S. C. C., 29 May 1841; 29 Aug. 1864; 16 Sept. 1871; S. C. Indulg., 24 May 1819; *A. S. S.*, vol. 1, p. 287; vol. 4, p. 228; vol. 7, p. 34. - E. M.

281 bis. Secular Tertiaries of St. Francis, by force of the Apostolic Letters of 5 May 1909 and the Rescript of 17 May 1909, enjoy communication of all Indulgences and spiritual fruits with the First and Second Order of St. Francis, the extension then having been made to General Absolutions. S. O., 12 June 1913, *A. A. S.*, vol. 5, p. 306 ff. Secular Franciscan Tertiaries reciting in place of the canonical hours twelve Our Fathers, Hail Marys, and Glory Bes cannot by this recitation alone satisfy all other obligations, as regards prayers, which they have contracted from enrollment in other pious sodalities. S. O., 11 June 1913. Third Orders proceeding collegially, in their own habit and under a cross, always and everywhere have precedence over any Sodalities whatsoever. S. R. C., 18 Feb. 1899; E. M.

282. Latin America. Many privileges were granted to Latin America by the Constitution *Trans Oceanum* of Leo XIII, 18 Apr. 1897. This Constitution, as also the Constitution *Romanos Pontifices* of the same Leo XIII, VIII Id. Maii 1881, was extended to the Philippine Islands. Cf. 272; *A. A. S.*, vol. 2, p. 220. Children of mixed persons or mestizos can use the privileges granted to Latin America by Leo XIII through the cited Letters *Trans Oceanum*, provided both parents are truly mixed or mestizos, that is, each of them separately has an absolute half of Indian or Black blood. S. C. NN. EE. EE., 15 Sept. 1908. - To the Bishops of Latin America and of the Philippine Islands many other faculties were granted for ten years. They are contained in Suppl. II, p. 11 ff. They can, among other things, lease ecclesiastical goods up to nine or twelve years; alienate ecclesiastical goods up to the value of 20,000 lire; and, except for certain designated principal parishes, confer all the rest without a concursus and at will; and they can also confer canonries of office without a concursus. - The Bull of Crusade having been abrogated for all Latin America and the Philippine Islands, and likewise the Lenten Indults and Summaries having been abrogated, a new recent Indult for ten years, concerning abstinence and fast, was granted to all, without petition being necessary or any tax to be paid. And this Indult can be used also by Regulars not bound by a special vow, and even as regards abstinences and fasts prescribed in their own Rules. By force of this Indult, fast without abstinence is to be observed on Wednesdays of Advent and Lent. Fast with abstinence is to be observed on Ash Wednesday, Fridays of Lent, and Thursday of Holy Week. In the morning collation, milk-products are permitted, eggs excluded. Abstinence from meats without fast is to be observed on the four vigils of the Nativity of Our Lord Jesus Christ, Pentecost, the Assumption of the Blessed Virgin Mary, and the Holy Apostles Peter and Paul. - This indult also has force in all the Antilles and the other islands of the Caribbean Sea. S. C. NN. EE. EE., 10 Dec. 1912. - E. M.

Spain: In Spain, the jurisdiction of Ordinaries over Religious cast out from the cloisters in the year 1835, if any of them still survives, and over exempt monasteries of nuns, was prolonged for three

years. It is the mind of His Holiness that Ordinaries, unless because of peculiar circumstances of things and monasteries they should judge otherwise in the Lord, in deputing vicars, confessors, moderators, or spiritual directors of the same monasteries, should choose Religious of the same Order, insofar as they are found endowed with knowledge, uprightness of life, prudence, and the other qualities. Therefore Ordinaries themselves will be able, without further Apostolic faculty, by themselves to depute as ordinary Confessors Religious of the respective Orders, nevertheless with the previous consent of the respective Regular Superiors, this law always being observed, that the same Religious designated as Confessors live in their own Convent, unless in some determined case and on account of altogether peculiar circumstances the Most Reverend Ordinaries together with the Major Superiors of the Order have obtained and secured a special Indult from the Apostolic See; with the other things to be observed by law being observed as regards the triennial change of ordinary Confessors, and the remaining Apostolic prescriptions. Likewise the Ordinaries themselves will be able, if and when they judge it opportune, to employ Regular Superiors to perform the canonical Visitation of monasteries of the respective Orders. Yet these Visitators have only those faculties which the Most Reverend Ordinaries have committed to them, and which, notwithstanding this delegation, remain intact for the Bishops. S. C. Relig., 24 May 1911.

Crusade: The Bull of Crusade contains many privileges. It still flourishes in Spain. The poor in Spain, in order to enjoy the Lenten Indult, are not held to give alms; but they are held if they wish to enjoy the other privileges of the Bull of Crusade. The poor in Spain, not having paid the alms assigned for the Bull of Crusade, can enjoy the Indult as regards eggs and milk-products which is contained in the aforementioned Bull. Equestrian Orders: Their privileges are contained in the Brief of Pius X, 7 Feb. 1905, and in the Letters of 3 May 1909 to the Patriarch of Jerusalem. To Knights of the Golden Fleece the privilege of a portable Altar does not belong. S. C. de Sacram., 19 Jan. 1912.

X. On Rescripts

283. What is a Rescript; what are its necessary conditions?

R. To the first: Privileges and dispensations are usually granted for the most part through Rescripts. Dispensations and privileges which proceed from the Holy See, without letters expedited according to custom, do not support one in the external forum, although they are ratified from Reg. 27, 31, 52, Canc. Apost.; and we can use them in the forum of conscience, because the letters pertain not to the form, but to proof. Pius X, C. *Sapienti consilio*, *Ord. serv.*, Norm. pecul., c. 3, n. 1, 2; L. 5 C. *de Transact.*; L. 4 *de Pignorib.*; De Iustis, l. 1, c. 3, n. 25.

Hence a Rescript is a written Response of the Prince, by which the graces and dispensations conceded by him are contained; and one is of justice for ending lawsuits, another of grace, which contains the benefit of the Prince. - But graces are granted either at the instance of petitioners, or *motu proprio*; or in gracious form, or in commissory form. If they are imparted in gracious form, by their own nature they do not demand an executor. But an Apostolic Rescript must be exhibited to the Ordinary for recognition, if a public matter is involved, or if the conditions imposed must be verified. But if it is granted in commissory form, an executor is certainly needed. But it is not licit for the Ordinary to refuse execution, if the things set forth are true and the petitioner cannot be shown unworthy of the grace. Moreover, no compensation is to be demanded for the testimony of recognition. *Ord. serv. in R. C.*, Norm. pecul., c. 3, art. 1, n. 4, 5. If a grace granted through a Rescript is conceded immediately by

the Supreme Pontiff, without any intermediate executor, it is understood as granted from the day of expedition of the Rescript. But if it is granted through an intermediate executor, it is understood as granted when it has been committed to execution. C. 9 *de Rescript.* in 6.

R. To the second: From C. *Nonnulli* 28 h. t., someone cannot obtain Rescripts in favor of another unless he has an express mandate. Nevertheless the contrary has at present been received by custom. - But by the other it is regularly to be accepted, so that the Rescript may obtain its effect.

In order that a Rescript be valid, it is necessary that in the supplicatory petition there be no substantial subreption, unless it is granted *motu proprio* and not at the instance of the party, nor obreption, although it is granted *motu proprio*, because then the superior can be deceived. Subreption is the silence of a truth necessarily to be expressed; obreption is the setting forth of a falsehood. Wherefore subreption is had unless all and only those things are expressed which, from law or from the style of the Roman Curia, must be set forth. C. *Quam gravi* 1 *de Crim. fals.* Cf. Sanch., *de Matr.*, l. 8, d. 21, n. 10, etc. All things, and neither ignorance nor good faith excuses. Only those things, otherwise no grace would any longer be safe and certain. And so in the provision of benefices it must altogether be expressed whether someone has been provided with another benefice, unless the provision is made *motu proprio*. Consequently it must always be expressed whether someone is by law incapable of obtaining the grace, whether the grace sought is against some particular right of a place or person. C. cited *Sapienti consilio*, III Kal. July 1908; *Ord. serv. in R. C.*, Norm. pecul., c. 3, a. 1, § 1. Graces and dispensations of every kind conceded by the Holy See, even to those entangled in censure, are ratified and legitimate, unless there is question of those who are excommunicated by name, or likewise by name punished by the Holy See with the penalty of suspension from divine things. *Ord. serv. in Rom. Cur.*, Norm. pecul., c. 3, a. 2, n. 6. Error or fraud concerning the economic condition of the petitioner will never at all harm the validity of the grace. Ib., Norm. comm., c. 11, n. 3.

But obreption is had if the motivating cause, namely that which moves or determines one to dispensation, is false. And if several are set forth, and only some are false, the dispensation is valid if at least one is true. But the impulsive cause, namely that which only impels, excites, helps toward dispensing more easily, added to the motivating cause, even if it is false, does not harm the dispensation; since that clause, *if the things set forth are true*, C. *Ex parte* 2 *de Rescr.*, is referred to the motivating cause, not to the impulsive one. And the same must be said if several false impulsive causes are added. But if one sole cause is set forth, whether motivating or impulsive, and it is false; or if several false impulsive causes only are set forth, which all together are computed as one motivating cause, the Rescript is not valid if only one is false. The motivating cause holds itself rather on the part of the object itself, insofar as an object of this sort in the present circumstances becomes liable to some special difficulty or inconvenience. And thus dispensation becomes reasonable and fitting in the case, since the condition of this subject is dissimilar from the condition in which others commonly are found. The impulsive cause holds itself rather on the part of the person himself who gives or to whom the dispensation is given, as, e.g., the benevolence of the Prince to be shown, and the uprightness of the subject.

If the Rescript is in gracious form, subreption and obreption are to be judged present only if they are present when the grace is granted by the Prince, or rescripted. Wherefore the cause must then be present, and that clause must be verified: *if the things set forth are true*, namely at the time of the dating or expedition of the letters. But if the Rescript is in commissory form, the cause must be present

when the grace is given to execution by the delegate. The reason is that the aforesaid clause must be verified when the grace is granted. But the grace is granted when it is granted by the Prince in the first case; but in the other when it is granted by the delegate, not when the mandate is given by the superior to the delegate to grant it. And this is altogether clear if the delegate is a voluntary executor, since then the delegate in reality grants the grace in the name of the one delegating. To him is given the power and license of granting the grace. But this is more truly so if the delegated executor is necessary, since even then the superior does not grant the grace when he commands it to be granted; but then, when the delegate communicates it, he himself truly grants it, not the delegate. Then the delegate has the simple ministry of executing the mandate, namely of communicating the grace which the superior himself then bestows, as if previously given under the condition of execution, which condition is then verified when the grace is committed to execution. But otherwise it would have to be said if the delegate merely communicated or manifested a grace already absolutely bestowed by the superior. C. 1 *de Const.* in 6; C. 2, 19 *de Rescript.*; C. 4, 8, 9 *de Rescript.* in 6; C. 23 *de Praeb.* in 6; Clem. 5 *de Praeb.*; L. 178, 181, 185; Struggl, q. 4, n. 14, 16; Sanch., *de Matr.*, l. 8, d. 21; Riganti on Reg. 52; *Ord. servand. in Rom. Cur.*, Norm. pecul., c. 3, c. 7, a. 3; E. M.

The print's appendix has more on this paragraph: [Power of the Sacred College](/manuals/bucceroni/power-of-the-sacred-college). (ed.)

284. Resolves: A dispensation is invalid whenever an error has crept into the petition concerning the motivating cause, or concerning the very object of the dispensation, concerning its quality or quantity, whether this has happened by fault of the petitioner or of another, or even from mere inadvertence; e.g., if you place in the petition the impediment of affinity in place of the impediment of consanguinity, or the third degree for the second; otherwise, however, if you place the second for the third, because a lesser grace is contained in a greater one of the same kind; if you place one impediment of consanguinity in place of double or triple consanguinity; or only an impediment of consanguinity without another of affinity, etc. C. *Si is* 2 *de Fil. Presb.*; L. 185, 202; l. 6, n. 1131. A dispensation is valid if the error has crept into the Rescript of the superior, e.g., by carelessness of the secretary, because it supervenes upon the concession already made, and the superior thus grants: Let it be done as is petitioned. A dispensation granted from a just cause to some dishonest person, whom the superior considered honest, is valid, even if, had the dishonesty been known, he would not have dispensed, because uprightness is not reputed a motivating cause, but merely an impulsive one. Except unless someone was moved on account of uprightness. - It is also valid if a cause false at the time of petition becomes true at the time of concession, whether this is made immediately by the superior himself or mediately through a delegate; but not vice versa. - A dispensation is likewise valid if, while the truth of the motivating cause and of other essential things stands, another truth was kept silent, or a falsehood was set forth; nevertheless the petitioner, if he proceeded in bad faith, can for his fault and fraud be deprived of the grace of dispensation, or otherwise be punished according to the gravity of the fault. C. 20 *de Rescript.* - Likewise it is valid even if it is granted in bad faith, as when the dispenser thinks that a cause is not present which in reality is present; for validity does not depend on subjective knowledge, but on the objective existence of the cause. - Suarez, *de voto*, l. 6, c. 27, n. 13; Laymann, l. 1, tr. 4, c. 22, n. 21.

Generally speaking, a dispensation granted by a superior is valid, although it had already been denied by an inferior. Indeed it is also probably valid if, denied by a superior, it is granted by an inferior and even by a delegate; because the power of the inferior is not taken away or restricted by the denial of the superior, unless the latter expressly restricts it, or this is prohibited by some law. A fortiori a

dispensation denied by one superior and given by his successor ignorant of the denial is valid. The reason is that the successor has the same power as the predecessor, nor is he ruled by the judgment and will of that predecessor. Cf. vol. 2, n. 1041. Consequently a dispensation denied by one Superior and granted by another of the same authority is valid. Nevertheless Rescripts obtained against the Decree of Innocent XII, *Ut occurratur*, 4 June 1692, are invalid, namely if someone again proposes to another Sacred Roman Congregation petitions in a matter of grace or justice which had been offered to and rejected by one of the Sacred Roman Congregations, this circumstance having been kept silent. What is said of dispensation is to be said of any other grace.

And "although, the cumulation of rights in the Offices of the Holy See having been abrogated, its own seat has been constituted for each business; nevertheless, because in peculiar cases there can be place for doubt or error, the ancient law remains firm, by which, once a supplicatory petition has been delivered to and accepted by some Office for obtaining a matter whether pertaining to grace or to justice, it is permitted to no one, for any cause, to approach another Office on his own initiative for the same end; but there is need of the consent of the Office itself with which the matter was begun, or of a decree of the Consistorial Congregation by which permission is given for transmitting the business. Any concession proceeding from another Office, against the aforementioned law, is void." A dispensation first denied, and afterward granted by the same superior, forgetful of the matter, is also valid. For in no way is it consonant with reason that the superior should wish to deny a dispensation for this reason alone, that he denied it at another time. For, if a just cause is really present, it is more fitting to temper the prior rigor than to confirm it. But no mention of the denial is to be made; for this is commanded by no law. And if a double faculty has been granted to someone, e.g., of absolving from reserved cases and dispensing in irregularities, when one of them, even the greater, has been taken away, the other is not therefore taken away, but remains. L. l. 4, n. 50; Lugo, *de Fide*, d. 23, n. 130.

285. What things are to be furnished by a delegate in the execution of Rescripts? - The mandate, and therefore jurisdiction, is not yet had in the delegate until the autograph letters of the mandate have come to him. C. *Super eo* 12 *de Appell.*; Sanch., *de Matr.*, l. 8, d. 29, n. 10. Nevertheless it seems to suffice if the officials of the curia have received and read letters sent to the vicar general, and have announced them to him; since the officials pertain to the same office. Whether it also suffices if it has been announced by telegraph that the Rescript was expedited? By Circular Letter of the Secretary of State, 10 Dec. 1891, it was prohibited to admit supplications for graces by telegraph. And from the Holy Office and from the Sacred Penitentiary, matrimonial dispensations have been declared invalid unless the telegraphic notice was transmitted officially, by authority of the Holy See.

But the delegate must investigate whether the things set forth are true. If the investigation is omitted, and in the mandate the clause is had: *if the petitions rest upon truth*, the dispensation is valid, since this clause does not introduce a new substantial form, but is tacitly present. But if the clause is had: *if you shall find the petitions to rest upon truth*, then the first opinion still holds that it is valid, provided they are in reality true; since the dispensation is given on account of the motivating cause, not on account of knowledge of it. Nor indeed is a new substantial form introduced by this clause; for it too is tacitly present. Navarr., c. 27, n. 37, calls this opinion very well received. But the second, more common opinion, and the one to be held, affirms that by that clause a new substantial form is introduced, and therefore, if investigation has been omitted, the dispensation is void. L. l. 6, n. 1131;

C. Benedict XIV, *Ad Apostolicae servitutis*, 10 Mar. 1742. But the inquiry need not necessarily be made in the order of law; a summary and extrajudicial inquiry in the external forum suffices. And in the internal forum faith is to be given to the petitioner. Trent, s. 22, c. 5 *de R.*; Sanch., *de Matr.*, l. 3, d. 33, n. 4; l. 8, d. 34, n. 21 ff.; De Iustis, l. 1, c. 6, n. 249; Benedict XIV, Not. 87, n. 34.

The delegate must, in itself, discharge the mandate only for that case which is expressed in the mandate, with the form of the Rescript and its essential conditions observed. C. 22 *de Rescript.*; C. 13 *de Off. et pot. iud. deleg.*; C. *Susceptum* 6 *de Rescr.* in 6; C. *Cui* 27 *de Praeb.* in 6. The Decree of execution for the external forum is to be issued in writing, but if it is made orally it is valid. Execution cannot be denied if the truth of the Rescript is evident. But if the concession of the grace is remitted to the discretion of the executor, he cannot licitly deny it without a just cause. The executor of a Rescript of the Supreme Pontiff can execute it by himself, or even through another, unless this is prohibited either expressly or implicitly, because the industry of the person appears to have been chosen. In which case, he will be able to substitute another for himself only as regards examining the truth of the Rescript and taking other necessary information. C. 43 *de Off. et pot. iud. deleg.*; C. 62 *de Appell.*; S. O., 14 Dec. 1898. - A Rescript can be committed to execution by the successor in office of the executor, unless the industry of the person appears to have been chosen in him. S. O., 28 Aug. 1885; 20 Feb. 1888. An executor given by the Pope over a grace made, after the Pope has died, can execute the grace even while the matter is entire. C. 9 *de Off. et pot. iud. deleg.* in 6.

Praxis Apostol. Dispens.; L. 202 ff.; Alois. Trombetta, *Praxeos Regulae circa contr. rer. eccl.*, c. 6; E. M. If execution is committed to the Ordinary of the place, it can be made by the Bishop, or by his Official or Vicar General in spiritual matters; or even, if it has not yet been made, by the Administrator or by the Capitular Vicar. - Matrimonial dispensations committed to the Ordinary of the petitioners are to be executed by that Ordinary who gave the testimonial letters, or transmitted the petitions to the Apostolic See, whether he is the Ordinary of origin, or of domicile, or of residence of both spouses or of either of them, even if the spouses, at the time when the dispensation is to be given to execution, have departed into another diocese, and are not going to return any more. It is lawful for the aforesaid Ordinary, for the execution of the matrimonial dispensation, to delegate another Ordinary, especially him in whose diocese the spouses are actually staying. S. O., 20 Feb. 1888.

286. Does the observance of various clauses pertain to the validity of the act? Clauses which contain only an admonition or precept pertain only to liceity. But those which contain a condition, and which are expressed by the conditional particle *if*, *provided that*, or another equivalent, look to validity; unless perhaps that which is expressed by the clause must be observed from the very nature of the matter concerned, or by law. For if that which the clause enjoins to be done is of such a kind that even if it were not enjoined, nevertheless it would have to be furnished either from the nature of the thing or from common law, by commemorating it in the clause, nothing else is thought to be intended than to recall to mind and urge the obligation coming from elsewhere. On account of this cause, e.g., the clause, *the publications having been made*, which is the form of Common Law, when it is expressed in letters of dispensations, does not introduce a new form and condition, but is an admonition that the form of Common Law itself be observed.

Sanch., l. 3, d. 33, n. 3; Zitelli, *de Disp. matr.*, c. 5; cited *Praxis*; Collectan. S. C. de P. F., n. 1484, 1486-1488, 1434, etc. The clause: *in the forum of conscience only*, excludes the grace from being valid in the external forum. The clause: *sacramental confession having first been heard*, or *in the act of sacramental*

confession, renders confession necessary for the value of the grace, which is still valid although the penitent, because indisposed, cannot be absolved. The clause: *Motu proprio, and with certain knowledge, and from the fullness of power*, regularly supplies the defect of obreption or subreption.

On Sins and Virtues

I. On the Nature of Sin

287. What is sin? - Since "where there is no law, neither is there transgression," Rom. 4:15, sin, which is an evil human act, is rightly defined by St. Augustine as: a word, deed, or thing desired against the eternal law. S. Th. 1. 2. q. 71, a. 6. Deed, for "sin can happen whether someone does what he ought not, or by not doing what he ought." S. Th. 1. 2. q. 71, a. 5, ad 1. By doing, it is a sin of commission; by not doing, of omission. Against the eternal law, because every law, whether human or divine, has its force from this law; because there is no power except from God; because no transgression of law would be a sin unless it offended God; because in this which is said, *against the eternal law*, aversion from the end and all other disorders are touched.

Against law; if it is not against law but against counsel, it is imperfection, which is merely negative if it is a mere defect in a human act of further perfection, e.g., of greater fervor in an act of love of God; and positive if it is an involuntary transgression of a law lightly obliging, e.g., praying with distraction. But it is rather only material sin than imperfection. Or it is the voluntary omission of a greater good, notwithstanding divine inspiration of it; and this, practically and regularly, is not without venial sin, by reason of the disordered motive or end, as, e.g., for a religious to violate rules not obliging to sin. Sin is formal if the law is violated freely and knowingly; it is material if the transgression of the law is altogether involuntary. - Sin is a delict. Delict is so called because good is abandoned. Hence "delict, taken commonly, signifies any omission; sometimes, however, it is taken strictly for this, that something is omitted from those things which pertain to God; or when knowingly, and as if with a certain contempt, a man abandons that which he ought to do; and thus it has a certain gravity, by reason of which it needs greater expiation." S. Th. 2. 2. q. 79, a. 4, ad 1. L. 1, 11; S. Th. *de Malo*, q. 2, a. 1, 2; 1 p., q. 63, a. 1; a. 7, ad 2; 1. 2. q. 71, a. 6, ad 5; q. 87; q. 76, a. 2, ad 1; 2. 2. q. 20, a. 3; *Compend. Theol.*, c. 119; Wirceburg., D. 1, c. 1, 2; E. M.

288. Is actual advertence and consent of the will necessarily required for actual sin? - R. Affirmatively. For sin is the free transgression of law. But an actual free transgression cannot be had without an actual act of the will, either here and now or in the cause. Likewise an actual free transgression of law cannot be had unless someone in some way, either here and now or in the cause, at least confusedly notices the sin; for nothing is willed unless first known. - But he who here and now is ignorant, notices nothing, doubts nothing, here and now sins in nothing, although perhaps the ignorance or inadvertence was culpable in the cause. For if previously he foresaw the effect of his ignorance or inadvertence, he is indeed guilty of what he does in the cause, but only in act. Yet it is not necessary for sin that the offense of God be apprehended explicitly and reflexively; but it suffices that it be apprehended implicitly and directly, namely by knowing that the thing is evil; for then it is also implicitly apprehended as prohibited by God. Proposition 2 condemned by Alexander VIII. Nor indeed are faith or charity simply required for avoiding sin. Proposition 31 condemned by Leo X; proposition 8 condemned by Alexander VIII; proposition 48 condemned by Clement XI. L. 1-5, 10; S. Th. 1. 2. q. 74; q. 75; q. 76, a. 3; *de Malo*, q. 2, a. 1, 2; q. 7, a. 6; E. M. 287, 288, 313.

289. Resolves: No sin is had if the use of reason is disturbed and freedom is taken away, as in a most vehement movement of anger; if advertence is had, but consent of the will is lacking, as in depraved movements against chastity as long as they are displeasing; if advertence and consent are had, but not as to an evil thing, e.g., if someone on a day of abstinence indeed eats meats advertently and altogether voluntarily, but thinking nothing of the precept of the Church. A human act has only that malice which is apprehended. Wherefore, if in some matter of multiple malice, the malice of only one species is noticed, only this is contracted. Likewise if negligence, e.g., of guarding against drunkenness or the events usually following from it, was only venial, even the evils which could have been foreseen are only venial. Since they are free not in themselves, but in the cause, they cannot have greater guilt than in the cause itself. - L. 2, 4; l. 1, n. 165.

290. Is sin contained only in an internal act, or also in an external one? Sin formally is an internal act of the will. For sin according to its nature is properly only from free will and in the will. "Sin," says St. Thomas, *de Malo*, q. 3, a. 1, "according as it is properly said in morals, has the nature of fault, and comes from this, that the will falls short of the due end, through this, that it tends toward an undue end." Another internal act, and the exterior action of other faculties, are the object of the internal act of the will, and as it were its complement. For from that internal act of the will, and from the internal act of other faculties, or an exterior action, one total moral concrete is effected; for that other internal act, or exterior action, as moral acts, in their whole extent, pertain to the very moral individual of the internal act of the will, to which they are subject, and from which they receive their moral being. Therefore sin is begun by the internal act of the will; it is perfected and consummated by another act or another action of other internal or external faculties. Hence, since a part differs essentially from a whole, the sin which is contained only by the internal act of the will differs essentially, morally speaking, from the sin which is perfected by another internal act of another internal faculty, or which proceeds even to an external work, which consequently must necessarily be accused in confession. Whence it is not sufficient to confess the will of homicide, but it is necessary also to confess the homicide itself committed. S. Th. 1. 2. q. 17, a. 4; q. 72, a. 7; q. 74; q. 75; L. 5.

291. What are the merely internal sins of the will, and what is their nature? All sins which are committed by the interior will alone can easily be reduced to desire and delectation. - Desire is the purpose of some thing, or an act of the will by which we will to attain some good. One is efficacious, and is a purpose absolutely efficacious of itself, whence it is that someone in reality undertakes means to lead it to effect. Another is inefficacious, and is a purpose only conditionally efficacious, which someone would execute if he could; e.g., if he could steal the treasure of the Church, he would steal it. Now the desire of an evil thing is evil, since the object of action and of desire is one and the same. Hence a depraved desire has the species and malice, mortal or venial, of the sin which the exterior thing has toward which it is borne. Namely desire tends to this, absolutely or at least conditionally, that it execute the thing and constitute it as really existing. But if someone truly executed the thing, he would contract every malice both of the object and of the circumstances. Therefore the same must be said if someone pursues the thing by affection and desire; for since this affection of desire is joined with the very existence of the object, it is necessarily joined with all things necessarily connected with the object itself. Wherefore Titius having relations with Caia, another's wife, commits adultery if he knows her to belong to another, even if he would not wish her to belong to another; in the same way one desiring Caia, another's wife, is also guilty of adultery if he knows her to belong to another, and even if he would not wish her to belong to another, because

desire tends, as the execution itself does, into the same existing work, and thus concrete with all its circumstances. Consequently in confession of the desire, e.g., of fornicating, the circumstances of consanguinity, marriage, the vow of chastity of the person, etc., are to be declared. L. 12. By no means, however, is there need to add whether the act concerning the object was absolute or conditioned. La-Croix, l. 6, p. 2, n. 1032.

Delectation is a certain simple rest and complacency of the will from the presence of a fitting good, either possessed according to the thing, or according to cognition and apprehension. Delectation does not properly differ from joy, except insofar as joy is rather called the delectation of the rational appetite, and delectation rather is called that which belongs to the sensitive appetite with a certain transmutation of the body; and this delectation is also called sensible or sensual, and if it is with transmutation of the organs and spirits serving generation, it is called carnal or venereal delectation. S. Th. 1. 2. q. 31; q. 72, a. 2; Sanch. in Dec., l. 1, c. 2, n. 33. - But according to St. Alphonsus, 15, as desire regards future time and the work to be committed, so joy regards past time, namely when someone is pleased with himself concerning an evil work committed; and delectation regards present time, that is, when someone through imagination and thought renders present to himself the work of sin, e.g., fornication, and with deliberate consent delights in it, as if he were actually fornicating, yet without the desire of executing it. Morose delectation in a depraved thing is sin, because love is present in delectation. For that depraved thing would never delight unless it were loved according to itself. Suarez, *de Pecc.*, d. 5, s. 7, n. 5. Moreover delectation is the rest of the appetite in good. "And therefore according to the delectation of the human will a man is chiefly judged good or evil. For he is good and virtuous who rejoices in the works of virtues, but evil who rejoices in evil works." S. Th. 1. 2. q. 34, a. 4. Morose delectation is voluntary delectation; for it is called morose not on account of a necessary delay of some time, but on account of the necessary consent of the will. For not delectation, but consent to delectation, is sin. S. Th. 1. 2. q. 74, a. 6, 8; q. 88, a. 5, ad 2. In a depraved thing; for delectation is twofold. One is concerning a depraved work, so that the evil work is the object of delectation, and this is always evil; another is delectation concerning the thought of an evil object, so that not the evil work, but the very thought concerning the evil work is of itself the object of delectation. And this can either be good, if there is a just cause of thinking, e.g., for the sake of study, consultation, etc., with abhorrence of the object; or it can be venially evil, if it is done from curiosity, etc.; or it can sometimes be even gravely evil, if there is proximate danger of consent. S. Th. *de Verit.*, q. 15, a. 4; L. 16, 17.

Morose delectation in a depraved thing, insofar as delectation is distinguished from joy according to time, has malice and species according only to the variety of objects exhibited by the mind. For simple delectation does not tend into the object as something to be placed in reality, but rests in it as represented by the intellect. But the intellect abstracts from the other properties of the object except that one which moves delectation. L. 15, 28. But joy, as desire, takes on the malice and species both of the object and of the circumstances really annexed to it. For joy, since it is a volition pleased with itself, and therefore approving the past thing, is borne into it such as it existed in itself, namely clothed with its circumstances. Hence, in recollection and complacency over past sins, it is necessary in confession to declare the nature and specific circumstances of the object. L. 15. In recollection and complacency. For sin is not had by simple recollection of a sin formerly committed, from the fact that it neither pleases nor displeases the one remembering, because by no law are we commanded to repent several times of sins, if we have already done penance for them, or here and now to repent, if

we have not yet repented of them. Laymann, *de Poenit.*, d. 2, s. 8; Sporer, *de Poenit.*, n. 192; Lugo, *de Poenit.*, d. 16, n. 376 ff.; S. Th. Quodl. 12, a. 33.

Lest in this matter the confessor scandalize the penitent by indiscreet questions, it must be noted that the confessor, from the general rule, ought to make judgment concerning sins as they are set forth, according to the obvious and natural sense of the accusation. Thoughts about a venereal matter, delectations, desires, are regularly borne, the former into carnal commotion, the latter into pollution and copulation. Wherefore the confessor satisfies his duty if he asks the penitent concerning consent furnished; for the aforesaid acts are not always voluntary and deliberate, nor is consent always explicitly explained. Consent often in these acts is not concerning some determined object, but is indeterminate consent into venereal delectation, pollution, and copulation, which is regularly followed by delectation arising from the commotion of the genital organs. And into this ordinarily are simple delectations borne. Desires, on the contrary, are borne into the completed act. Therefore the confessor will then be able to ask the penitent only whether the aforesaid acts regarded himself or another person, of a different or the same sex. But even from this question one must abstain if the penitent is still ignorant of these matters, especially since it is a lesser evil that confession not be exact than that the penitent be scandalized. Besides, if at times extraordinary species are present, and penitents know them, they are ordinarily accustomed to declare them themselves. Reuter, p. 2, n. 209.

292. Resolves: To rejoice concerning the manner, e.g., new, clever, vigorous, by which a thing was accomplished is not illicit, since the object of delectation is not evil. L. 18. If the thing, as it happened, is not evil, not even materially, nor harmful to another, to desire it is not of itself illicit, although otherwise it would be intrinsically evil, e.g., pollution which naturally happens in sleep. To desire, namely by simple affection and without any cooperation. But if it is licit to desire, it is also licit to rejoice concerning it already done. The reason is, "because what it is licit to desire that it be done, it is also licit to rejoice that it has been done; and conversely, if it is right to rejoice concerning the fact, it is also licit to desire that it be done; for these are of the same morality: for joy necessarily results from the desired good obtained, and supposes or implicitly includes desire." Lessius, *de Iust. et Iur.*, l. 4, c. 3, n. 104; Laymann, l. 3, s. 4, n. 17; Lugo, l. c., n. 389. "I, however," says the same Lessius, l. c., "am not an author that desires of this sort be admitted to anyone; both because, although they are not evil in themselves, nevertheless they indicate an imperfect affection of chastity; and because holier remedies, and those used by holy men, are not lacking. I would say the same about joy. Also in all matters of this sort, as we have already often warned, every cooperation and danger of consent must be avoided." - Billuart, tr. *de Temp.*, diss. 6, a. 4, Obj. III; S. Th. 2. 2. q. 154, a. 5; L. 19, 20; l. 3, n. 478.

It is not a sin, speaking in itself, at least not mortal, if spouses delight, only by the rational appetite, concerning an act of marriage past, future, or possible, with respect to the co-partner present or absent. The same must be said if a spouse-to-be desires future copulation, or likewise delights in it only by the rational appetite, or a widow concerning a past one, with the danger of consent into venereal delectation arising from it set aside. The reason is that these acts have a licit object. Nevertheless they are full of danger on account of the aforesaid venereal delectation often arising from them. Lugo, *de Poenit.*, d. 19, n. 376, 385; Sanch., *de Matr.*, l. 9, d. 47, n. 1, 4, 7; L. 23, 24, 25.

Sadness concerning a good accomplished which was commanded under grave obligation is gravely culpable; concerning a good which was commanded under light obligation, it is light. Likewise concerning a good under neither grave nor light precept, it is light, unless there is a just cause now of regretting it; for it is a certain disorder to be saddened over a good accomplished, although not commanded by precept. But if sadness is borne not into the good itself, but into the annoyance, the labor, etc., it is of itself not a sin. Sanch. in Dec., l. 4, c. 12, n. 2; Suarez, l. 5 *de Voto*, c. 7, n. 4; S. Th. 1. 2. q. 39.

293. Is it licit to desire evil under the condition, if it were licit?

R. Affirmatively in itself, if the condition added removes the whole malice of the work, e.g., I would eat meats in Lent, unless the Church prohibited it. For such an affection involves no disorder, neither in itself nor in the object, from which all malice is excluded by the condition. - But otherwise negatively, e.g., I would sin if there were no hell, because the affection tends into an evil object, and indeed absolutely, since the condition does not remove malice from the object, even as represented, and therefore the whole malice of the object is poured back into the act of the will. And indeed there are certain objects concerning which a condition, however added, cannot remove malice, e.g., if it were licit, I would destroy God. For those things which are intrinsically evil cannot be changed; and therefore the condition would be applied uselessly, since to wish such things is to desire that the law and order of nature be changed, which would be still worse. Yet probably he would be excused from grave sin who, by such a desire, would not certainly will that what is intrinsically evil become licit, but would only show his natural inclination toward that object, e.g., I would avenge myself if it were licit, but I do not wish it because of the law of God; or would state the matter only enunciatively, e.g., younger, I would have avenged myself, signifying not what he would now wish if he were younger, but what perhaps as a younger man he would have done; yet with the danger of efficacious desire always removed, and also of true inefficacious desire, namely every will of doing, and every simple affection of the will. What has been said of desire must consequently also be said of delectation and joy of the rational appetite. For it is not licit to rejoice and delight in that good which it is not licit to love and desire; and, conversely, it is licit to rejoice and delight by the rational appetite in that good which it is licit to love and desire. For love and desire are the way to joy and delectation, as motion tending to rest. Lugo, *de Poenit.*, d. 16, n. 284 ff.; Sanch. in Dec., l. 1, c. 2, n. 22 ff.; Billuart, tr. *de Temp.*, diss. 6, a. 15, § IV, You ask third; S. Th. *de Verit.*, q. 15, a. 4; L. 12, 13, 14.

294. Is it licit to delight concerning some evil thing, if it was done without any guilt? - If that thing is intrinsically evil, it is not licit to delight in it according to itself. The reason is that that object is evil in itself; but that it was not sin is for this reason, that it was not voluntary. Therefore, if now the will accedes, approving such an act, or rejoicing concerning it, which happens in delectation, it will be sin.

La-Croix 89; Suarez, *de Peccat.*, d. 5, s. 7, n. 14. - If that thing is not intrinsically evil, and delectation concerning it is not had under the aspect of prohibition, e.g., if someone delights that he inadvertently ate meats on Friday, some think it licit to delight in it according to itself, because according to itself it is not evil; but others think it illicit, because it was not without material sin, or was materially evil. Lessius, *de Iust. et Iure*, l. 4, c. 3, n. 104; L. 20, 27.

If delectation is referred to a past act evil not according to itself, insofar as it is objectively evil, but exclusively insofar as it was the cause of a good effect, and the right order of justice or charity is not perverted, some affirm that it is licit, others illicit. The reason of the first opinion is that then we do

not rejoice concerning the evil work on account of the good effect, in this sense, insofar as on account of the good effect we rejoice that that evil work was done; but, supposing that that evil work was done, we rejoice concerning the causation of good, which belongs to such a work. This is not illicit, since it concerns an honorable object, namely that good quality and power which an otherwise evil work had. Abstraction is made from the objective malice, which does not move the affection, and delectation falls precisely upon the predicate which is causative of good, which is good. But the restriction added, *nor is the right order of justice*, etc., is clear in itself, and is confirmed from propositions 13, 14, 15 condemned by Innocent XI. The reason of the second opinion is that by the very fact that someone delights concerning an evil work insofar as it is causative of good, he already implicitly delights in the evil work itself according to itself, or according to its existence. For real causality implicitly includes real existence.

"Nevertheless in any case it is licit, speaking in itself, for anyone to delight not concerning the cause, but concerning the effect that followed, namely concerning relief caused by pollution even voluntary, or concerning the obtaining of an inheritance on account of homicide, provided the cause is detested." L. 20. And indeed the object of this delectation is good. La-Croix 91; Suarez, l. c., n. 15; Lugo, *de Poenit.*, d. 16, n. 389; Ithur., Cas. 18, n. 6; Lessius, l. c.; S. Th. 4 D. 9, q. 1, ad 5; 3 D. 30, q. 1, a. 1, ad 4; L. 19-22; E. M.

295. "Does he sin gravely who behaves negatively, and does not positively resist a movement of the sensitive appetite concerning an object prohibited under mortal sin? - There are three opinions. The first affirms that one sins gravely, even when the danger of consent ceases... The second opinion says that such a one does not sin even venially, with danger of consent removed...

The third and true opinion holds that, when the danger of consent ceases, it is venial not to resist illicit movements positively, but not mortal. And this seems expressly confirmed by St. Thomas, 1. 2. q. 74, a. 4, where he says: mortal sin cannot be in sensuality, but only in reason. Therefore the reason is, both because consent to sinning gravely does not arise from the sensible appetite, but from the will, and when it does not positively consent, mortal sin is not committed; and therefore venial sin is committed insofar as man ought to beware lest the appetite draw the will after itself; but this obligation, when the danger of consent is not proximate, is only light. And also because, if under grave obligation we were held positively to repel all disordered movements, we would be held to the impossible; for it is impossible positively to coerce all these movements taken collectively." L. 6, 29; Diana, vol. 8, tr. 6, *de aliq. cas. circa mat. lux.*, r. 8; S. Th. 1. 2. q. 74, a. 8, ad 3; q. 79, a. 1; La-Croix, l. 5, n. 111.

296. "Note: There is no obligation to resist carnal movements positively, if there is a just cause of not resisting, namely if someone has experienced that by resisting the movements are more excited and increased; or if the movements have their origin from a necessary or useful action;... if it is not an easy business to repel them. It is enough, therefore, then to behave negatively, with the firm purpose of never consenting; for the actual care of not consenting itself then suffices to free a man from fault, at least mortal fault, although not from venial fault, if the resistance is tepid." L. 9. Therefore when temptation lasts long, and it would be too troublesome continually to repel its movements positively, it is no sin to permit them by behaving negatively. And to do thus is counseled to those who are of timorous conscience. L. 9.

297. How is resistance made positively? - Positive resistance can be furnished in two ways: 1. Directly, by repelling those movements; and indeed there is no obligation to employ this direct resistance, which, as regards carnal movements, often excites them more; much less is there an obligation to material resistance, which itself also often, as regards those carnal movements, is harmful. 2. Indirectly, by diverting the mind to other things. As regards movements against chastity and against faith and charity, this indirect resistance is more to be counseled than any direct resistance or attack; and if the movements are slight, it is better to despise them. L. 8; S. Th. 1. 2. q. 74, a. 3, ad 2.

II. On the Specific Distinction of Sins

298. Whence is the specific distinction of sins to be derived? St. Thomas, 1. 2. q. 18, a. 2; q. 72, a. 1, 4, 6, 9, etc., teaches that it is to be derived from the object, because sin is a human act; and a human act takes its species from the object, and from the different aspect of the same object. And thus homicide, detraction, theft differ in species, because life, reputation, and a thing are goods which differ in species among themselves.

S. Th. *de Malo*, q. 2, a. 7. - Scotus, on the contrary, in 2 D. 37, q. 1, n. 9, thinks that it is to be derived from the virtue which is injured, and from the mode, whether opposite or merely different, by which the virtue is injured; because sin formally consists in the privation of the rectitude of the opposite virtue. But every privation is specified by the form opposed to it. And thus heresy, fornication, theft, are sins distinct in species, because they are opposed to virtues distinct in species: faith, chastity, justice. Presumption and despair, omission of the love of God and hatred of God, are distinguished in species, because the former injure hope in a contrary mode, the latter charity by defect and by excess. Detraction, calumny, theft, adultery, homicide, likewise differ in species among themselves, because they injure justice in a different mode. Likewise perjury, violation of vow, blasphemy, although they are against the same virtue of religion, nevertheless are diverse in species, because they are opposed to it in a different mode.

The one opinion is not opposed to the other, for sin is both: a human act and a privation, a human act materially, a privation formally. S. Th. 1. 2. q. 72, a. 1, 6. Wherefore one opinion perfects the other, and it can be said that sin is proximately specified from the rectitude or honorableness of the virtue to which it is opposed, remotely and fundamentally from the object. Laymann, l. 1, tr. 3, c. 2, n. 2. But both opinions fall back into nearly the same thing: "for virtues are distinguished in species according to objects." S. Th. 1. 2. q. 72, a. 1, ad 2. Whence the same St. Thomas, 2 D. 42, q. 2, a. 2, q. 1, ad 1, says: "Therefore it must be said that the division of sin into its essential species is through the opposite of virtue, because it must be according to the object, from which sin and virtue are specified." For the matter is the same "about which virtue operates rightly, and the opposed vices recede from rectitude." S. Th. 2. 2, Prologue.

Cf. 1. 2. q. 71, a. 1; q. 72, a. 4, 8. But then there is had either a different object, or a different aspect of the same object; or a different virtue, or a different mode of injuring the same virtue, which bear before themselves a new moral species of sin, when these exhibit before themselves a special order of reason, or a special agreement or disagreement with right reason, namely when from this there is had a special reason why something is morally good or evil. "Wherever a different motive occurs,

inclining the intention to sinning, there is a different species of sin." S. Th. 1. 2. q. 72, a. 8, 9; q. 71, a. 2; q. 79, a. 2, ad 3; 2. 2. q. 154, a. 11; L. 30, 31, 32.

299. Can there be a multiple species of one sin? - R. Affirmatively, since circumstances can be present to the object which change, or rather multiply, the species. And thus he who, bound by a vow of chastity, sins with a married blood relative commits four sins, diverse in species: against chastity, religion, piety, and justice. S. Th. 1. 2. q. 73, a. 7.

300. Are several sins distinguished in species from different precepts concerning the same thing? - When positive laws command or prohibit something, they constitute the act in that virtue with a view to which they command or prohibit it. Wherefore the transgression of the law is attributed to the vice opposed to that virtue. But this happens in four ways: 1. When they command or forbid something indifferent with a view to some special virtue, as, e.g., to abstain from servile works on a feast day with a view to religion; whence not to abstain from them is irreligiosity; to observe the natural fast by reason of due reverence toward the Most Holy Eucharist, whence not to observe it is sacrilege. - 2. When they command or prohibit an act of some special virtue or vice with a view to the same virtue, as to be present at Mass on a feast day with a view to religion, whence to be absent is likewise a species of irreligiosity; ecclesiastical fast with a view to temperance, whence to break it pertains to intemperance; marriage not to be entered with blood relatives, relatives by affinity, adoptive relatives, with a view to piety, whence to marry those persons is incest. - 3. When they command or prohibit an act of some special virtue or vice with a view to another virtue; whence he who steals a thing of the church, or strikes a cleric, from the intrinsic nature of the act itself, or by natural law, injures justice; but from the extrinsic law of the Church, he besides offends religion. Lugo, *de Poenit.*, d. 16, n. 139; L. l. 1, n. 167; l. 6, n. 808. 4. If law commands or forbids something with a view to no special virtue, e.g., not to read proscribed books, that which is done according to that law looks to the virtue of obedience; that which is done against it pertains to the vice of disobedience. Of obedience, namely broadly taken, because in the proper signification of obedience its object is precepts, not laws; these are properly the object of legal justice.

Now, if various precepts all look to the same virtue, and are distinguished only on the part of the legislators, as in theft, which is prohibited by natural, divine, canonical, and civil law, they by no means induce a specific distinction of sins; because diversity of legislators does not make the precept formally diverse, but only materially. It is otherwise, however, if the precepts are distinguished on the part of the object itself, namely on the part of the proximate motive of the precept itself; because then diverse virtues are injured, as if someone were to break a fast commanded by the Church, and to which he had also bound himself by vow; for then he would injure temperance, from which the Church commands fast, and religion, from which God commands vows to be observed. L. 33; l. 1, n. 167; l. 4, n. 145; Lugo, l. c., n. 144 ff.

301. Resolves: Diverse causes by which some precept is imposed do not change the species of sin, nor increase sins in number. Hence, although by one and the same virtue of religion, with the precept of the Church acceding, both one who possesses a benefice and one who is constituted in sacred orders are obligated to the canonical hours, nevertheless a priest, for example, who has a parochial benefice commits one sin by not reciting the canonical hours. Likewise a religious priest who acts shamefully commits one sin of sacrilege besides the sin against chastity, although he is held to chastity both as priest and as religious. L. 33; l. 3, n. 455; l. 4, n. 145; l. 6, n. 808.

302. Note: He who sins from culpable ignorance, or because he acts while doubting, and he who sins in the cause, admits a sin of that species whose danger he undergoes and at least confusedly foresees; for each implicitly and, as it were, consequently wills it. Sanch., *de Matr.*, l. 11, d. 41, n. 7. "Acts concomitant with omission, such as playing, eating, while, e.g., Mass is omitted, are not sinful unless they are the cause of the omission, for instance when play is the cause of omitting Mass.... But then the influencing acts put on the same malice of the omission, not a diverse one.... Wherefore it then suffices only to confess the omission. But if the action which is the cause of the omission is also a grave sin, namely if someone omits Mass in order to steal, the theft can be said in confession separately from the omission of Mass, because then the theft is only an aggravating cause, not one changing the species." L. 9, 60.

III. On the Numerical Distinction of Sins

303. Whence is the numerical distinction of sins to be taken? It is to be taken: 1. from the diversity of total objects; 2. from the multiplicity of acts morally interrupted. Here that is called a total object which, either from its intrinsic nature or from the extrinsic intention of the agent, is completed in itself, and is not referred to another as a part. Thus in homicide there is had one total object, although the homicide has placed beforehand various previous acts, e.g., by seeking weapons, laying ambushes, and striking several times; because all those previous acts are to be held as parts of the principal act, and are ordered to it.

But if the homicide first intended only a striking, and afterward, with the will changed, killed, there will be a double total object; because from the intention of the agent one is not ordered to the other, but is intended separately in itself. - Morally interrupted; because, although any interruption physically suffices for the numerical distinction of acts, nevertheless in order to confession they are not multiplied unless they are morally many; because, just as a moral act is to be attended to in confession, so also moral multiplication and distinction must be attended to. Proof of the first part. Because the object, as St. Thomas teaches, 2. 2. q. 18, a. 2, is in a certain way the form of the act.

Therefore the act is such as the object is. Therefore where there are several objects in number in the genus of morals, there are several acts in number in the same genus; where there is one object, there is reputed to be one act. Therefore there are as many sins as there are total objects. - Proof of the second part. For when acts of the will are morally interrupted, they become complete in number, and each is constituted in its own malice; since the following act cannot be called the continuation of the preceding one. Therefore those acts by moral interruption become diverse; therefore by repetition they are multiplied. Thus he who, on several occasions morally interrupted, strikes another or steals, commits as many sins as there are those strikes or those thefts, because these constitute so many diverse acts. L. 35, 36; Lugo, d. 16, s. 14.

304. Is there one sin or several when there are several objects materially and physically total, but they are referred together to one act of the will? - It is disputed. There are two opinions, and for each many and grave theologians stand. The first opinion, which St. Alphonsus follows, 45, teaches that diversity of objects materially and physically total constitutes in one and the same act different sins in number. The reason is that sin is the motion of the will into its term, or object. Therefore, just as by specific diversity of objects it is distinguished in species, so by their numerical distinction it is distinguished in number. Ioann. De Dicastillo, *De Poenit.*, d. 9, dub. 4, n. 216 ff.; La-Croix 150. "Hence

it is inferred that the following commit sins diverse in number: 1. He who by one blow kills several men, or detracts from several... And the same must be said if someone intends to kill or defame a whole family.... But otherwise, if someone were to injure goods which some city, monastery, or chapter possesses in common; for then the right does not belong to individuals in particular, but only to the whole community, whence one right is injured. 2. He who by one act desires to approach several women, or several times the same woman; much more, he who in the same night several times knows the same woman... for each fornication has its own completed term. 3. He who steals from several. 4. He who on one occasion gives scandal to several. 5. He who by one act wills through several days to omit the canonical hours or fast. 6. He who by one act desires evil to three persons." L. 46.

The second opinion holds that diversity of objects materially and physically total, in one and the same act, constitutes only one sin in number. The reason is that those objects, materially and physically several, are attained by one act after the manner of one adequate object, and therefore constitute one total formal and moral object. In one and the same act, namely one and the same interior act of the will; and if there is question of an efficacious act of the will, also one and the same exterior act. For if the exterior act is not one and the same, but there are several, since each is terminated and completed at an object total in itself, it can no longer be united with another. - Lugo, *de Poenit.*, d. 16, n. 126 ff.; Suarez, *de Poenit.*, d. 22, s. 5, n. 34. Hence resolves: He commits one sin who by one blow kills several men. But he would not sufficiently explain his sin by saying, "I committed homicide," which signifies the killing of one man; but it ought at least to be explained under some confused generality signifying plurality, e.g., by one blow I killed several, or many. Lugo, l. c., n. 141. The same must be said of him "who by one act of the will wills to approach, for example, ten women of the same condition, or wills to approach the same woman several times. For it is enough if he says: I willed to approach several times an unmarried woman, or unmarried women, or married women, without necessity of expressing the number of objects of such a single volition." Tambur., *Meth. Conf.*, l. 2, c. 1, § 9, n. 59; Dicastillus, *de Poenit.*, d. 9, dub. 4, n. 256, 257. "He who by one act of detraction has injured many at the same time, for the same reason, need not open the number of persons injured.... If someone detracts from a family or house or religion, whether it is numerous or small, it is enough if he says: I detracted from a certain family, etc." Tambur., l. c., n. 63; Lugo, l. c., n. 135. It is also one sin if someone detracts from another before many, since the right to reputation is not multiple, but one among all. Likewise it is one sin if someone by one act gives scandal to several. Lugo, l. c., n. 112, 164; L. 49. Likewise it is one sin if someone by the same act denies several articles of faith, because the formal object of faith is not multiple, but one, namely the authority of God revealing. L. 50; Lugo, l. c., n. 288 ff. He who by the same impulse of passion wishes several diverse evils to an enemy, for instance infamy, death, poverty, commits one sin in number and species, namely if all are sought under the generic aspect of evil. Lugo, l. c., n. 260; L. 50. Besides, it is one sin if someone steals a purse belonging to several, or a thing which exceeds grave matter several times. Lugo, l. c., n. 137; Diana, tom. 1, tr. 7, r. 18, n. 8. "I infer that one willing not to recite the office through the whole year, and afterward executing this, commits several sins.... Similarly, he who wills to practice robberies and slaughters on the road through his whole life, does not afterward commit one sin, but several." Lugo, l. c., 546; L. l. 4, n. 149. The same must be said of sin committed with three women: it is triple, not one, etc.

305. Does he commit diverse sins who detracts from someone in several matters, or affects him with diverse insults? St. Alphonsus, 48, more probably affirms. But the common opinion of grave doctors denies it. For reputation and honor are always of the same species, whatever the matter concerned may be. Whence this is not necessarily to be explained in confession. Lugo, *de Poenit.*, d. 16, n. 265; Diana, tom. 1, tr. 7, r. 14, n. 2, 3; Elbel 552.

306. Note: If someone married sins with a married woman, or one having a vow of chastity sins with one also having a vow of chastity, he admits a double sin, by reason of marriage and vow. "For the prior malice is against the fidelity which he owes to his wife.... But the latter is insofar as he is the cause, by his cooperation, that his accomplice violates the laws of marriage." Likewise "one species of malice is contracted from the violation of one's own vow; but another from cooperation in the violation of the vow of someone to whose observance I am not held by vow, as is established." Lugo, l. c., n. 140, 141; L. l. 2, n. 46; l. 3, n. 456.

307. When is there had a moral interruption of acts? - An act of the will is interrupted in three ways, namely: 1. By retraction or express revocation of the will, because this prevents the later act from being joined with the prior one, e.g., if someone retracts a depraved will of acting evilly, and afterward resumes it, unless a very brief delay intervened. 2. By voluntary cessation from the act, or by application of the mind to diverse objects, e.g., if someone freely ceases from an evil purpose, and then returns to it; unless there is present the purpose immediately of continuing the same sins, as if someone conversing shamefully with a woman, when another arrives, ceases meanwhile, but with the intention of continuing when he departs. 3. By involuntary cessation sufficiently notable, account being taken of the nature of the act, according to the judgment of prudent persons, e.g., by sleep, distraction, etc. Sufficiently notable; for if a sufficiently brief time intervenes, the acts, morally speaking, are not discontinued. These three things can easily be applied to a threefold class of acts, namely merely internal acts, internal acts with the purpose of placing an external action, and external acts, or acts externally consummated. L. 35, 38; Lugo, *de Poenit.*, d. 16, n. 551; Struggl, q. 1, 41.

Merely internal acts, which are altogether perfected inwardly, e.g., hatreds, heresies, morose delectations, shameful inefficacious desires, rash judgments, etc., speaking in themselves, are multiplied as soon as they are retracted or abandoned by free will, or involuntarily deserted. The reason is that such acts, since they have an object complete in itself and are ordered to no external effect by reason of which they could be continued with one another, are acts altogether complete in themselves. And therefore the penitent must explain, if he can, how many times he consented by internal will to a depraved thing; but if he cannot, because, e.g., the depraved mind was long-lasting, then it suffices to say approximately, or at least to confess the time in which he persevered with such a mind, and whether very frequently or rarely. For thus the confessor will sufficiently understand that ordinary interruptions intervened, or, on the contrary, more rare ones. Speaking in themselves, for if several acts of this sort proceed from the same impulse of passion, they constitute one mortal sin, even if some brief interval intervenes between the acts. Likewise one mortal sin is had if the depraved wills have order among themselves, so that one depends on another. For then the later wills, without new deliberation or consultation, are placed by force of the first will. Lugo, *de Poenit.*, d. 16, n. 562 ff.; Suarez, *de Poenit.*, d. 22, s. 5, n. 11; Struggl, q. 1, n. 36; Tambur., *Meth. Confess.*, l. 2, c. 1, § 5, n. 30 ff.; L. 35, 37.

Internal acts with the purpose of placing an external action are likewise multiplied: 1. By retraction of the will. For then, if someone returns to an evil will, there will be a new sin, since the later act does not proceed from the first. 2. By voluntary cessation, namely if someone voluntarily and freely ceases from a depraved purpose, with a notable delay interposed; for then also it is verified that the later act is a new sin, since it does not proceed from the first. 3. By involuntary cessation, if a long time intervenes; for if a brief time intervenes, the acts are not morally discontinued. - L. 35, 38, 39. Difficulty is present here as regards defining the aforesaid notable delay and long time. Now a double hypothesis can be made: the first, that the internal acts are ordered immediately to several external acts, directed and subordinated to some one and common end; the second, that the internal acts are ordered to one external act. In the first hypothesis the first thing which St. Alphonsus has, 40, holds: "Acts of the will, if they proceed from the first will, and morally remain in some effect, through whatever time the depraved will lasts, constitute only one sin. Hence it is inferred that if someone proposes to kill a man, and for this reason prepares weapons, takes the road, and kills the enemy, he commits one sin, although through many days he has sought him, and several times repeated the will." But in the first and the other hypothesis, if no exterior effect is yet had, what is to be judged a brief time or a long one, so that the aforesaid acts are judged to be continued or discontinued, no certain rule can be assigned. That brief or long interval can be defined in particular cases by the judgment of prudent persons alone. For the same purpose endures for a greater or lesser time according to its varying intensity, and also according to the varying circumstances of persons, age, sex, character, etc. A purpose of committing theft can be continued for several days; a purpose of reading a prohibited book ordinarily scarcely endures for one or two hours. Generally speaking, however, the aforesaid acts are not discontinued by brief and common, or ordinary, interruptions, which occur through sleep, a meal, conversation with a friend, etc. Therefore, suppose that after these you again repeat the depraved purpose of killing an enemy, fornicating, etc.; you commit one sin, because, since the first will remains virtually, it is united and continued with the second. Salmant., tr. 20, c. 12, n. 38. But something else must be said concerning an extraordinary interruption, which indeed removes the moral unity of the human action. For then the prior will no longer persists. If someone, for example, wills to kill an enemy, so that for a month he continues this will, notwithstanding brief and ordinary interruptions, but afterward for a year, for several months, or for a month he is ill, and by this change of circumstances he no longer thinks about killing the enemy, that prior will growing cold, indeed entirely vanishing, if after he has recovered he again resumes that prior will, this later will can no longer make one with that prior one, since wills so distant cannot any longer be joined among themselves even by moral estimation. Tambur., *Meth. Confess.*, l. 2, c. 1, § 5, n. 34; Lugo, *de Poenit.*, d. 16, n. 545.

External acts, or acts externally consummated, are multiplied as often as the object is disparate, or terminated in itself; but they are not multiplied, even with a notable interval of time interposed, when they are like parts of a more principal act, or tend to one end, because they effect something morally one, which is not completed except when the principally intended act has been consummated; or when, although those partial acts are not ordered to the principal act, they nevertheless proceed from the same impulse of passion. Understand that all preceding acts effect something morally one with the more principal and intended consummated act, unless by themselves they introduce a new species, which of itself does not tend to the completion of the sin. Let the example be one who, wishing to kill a man, burns his house so that he may perish by the fire. For

since these things are disparate, they cannot effect one thing. Therefore he commits one sin who, intending fornication, shamefully touches a woman, kisses her, entices her by shameful conversations, and finally fornicates; because all the preceding acts by their nature are ordered to the consummated act. But if from the beginning he had wished only to touch the woman, and afterward, induced by lust, completed copulation, there will be a double sin, and therefore it will not be enough if he confesses the copulation.

A priest commits one sin who wills to omit the whole office on one day, because the individual hours are ordered to completing one office. But he would commit two sins who had wished only to omit Matins, and afterward did not wish to recite the remaining hours, because there would be a twofold distinct act of evil will, having an object terminated in itself. He perpetrates one sin who from the same impulse of passion repeats an evil act many times, e.g., one who several times shamefully touches himself or another, even with some interruption; one who several times strikes an enemy, or imprecates very many evils upon him, etc.; because there is one depraved affection of the will, and those various actions are morally united. Likewise he probably commits one sin who blasphemes against God in several matters, as, for instance, if he said that God is false, unjust, cruel; and he who by the same continued act blasphemes against several Saints, e.g., against the twelve Apostles, since all blasphemies against the Saints derive their malice from one relation to God.

He commits one sin who, intending to steal some definite sum of money, takes it away at several times, morally not interrupted, lest he be discovered, because there is one depraved act of the will, which is consummated in the last theft. On the contrary, he commits several sins who at several times steals something from the same money without having decided from the beginning to carry off the whole, because the individual thefts effect a total object in themselves. He commits several sins who fornicates successively several times with the same woman, although on the same night. Likewise he commits several sins who omits a prescribed fast through several days, although those fornications and omissions arise from one and the same will; for any fornication and omission successively made is terminated in itself, and constitutes a total object. Nevertheless, if someone in mortal sin hears several confessions successively but continuously, one after another, there are theologians who affirm that one sin is present because of moral union. Lugo, *de Poenit.*, d. 16, nn. 135, 546, 556, 557, 561; Tambur., *Meth. Confess.*, l. 2, c. 1, n. 52; Struggl, q. 1, n. 43; L. 41, 42, 43, 44, 46, 47, 50; l. 3, n. 538.

308. Resolves: If someone consents in mind to heresy, and then, while reading a book about religion, or hearing a sermon about religion, positively does not wish to amend the sin, he sins as often as he again positively does not will it; since individual acts of this sort of the will are independent among themselves, and stand perfectly by themselves. If someone, on the contrary, decides not to restore another's thing, and always remains in the same will, even for a year, he commits one sin, although he also often renews this purpose of his. The reason is that in that retention, never retracted, the first will virtually remains, and the later wills are morally united. Elbel 551; L. 40, l. 3, n. 683; Diana, tom. 1, tr. 7, r. 158, nn. 3, 4. Moreover, as D'Annibale well observes, p. 1, n. 288, ed. 4, in practice the conscience alone of those sinning numbers sins; for such persons commonly do not know these subtle and refined distinctions. This also must be attended to in practice concerning the various species of sins. Indeed, as the praised author notes, ibid., n. 290, note 14, many things are most certainly lethal for theologians which to rude or unlearned persons seem scarcely reprehensible.

309. Are touches which immediately follow fornicatory copulation a new sin? All these acts, as also complacency concerning the copulation had, are not a new sin if they are had immediately after copulation, and are in no way directed to a new copulation, because they are very probably employed as the complement of the copulation obtained. L. 41; Tamb., l. c., 72.

310. Must the means used for sinning be explained in confession, if the sin afterward was not consummated? - R. It seems that it must be denied altogether, if those means are not evil in themselves, for then they constitute no special sin; but it suffices to say generally, in order to explain the external action of the sin: I tried, for example, to kill an enemy; I prepared the means for killing him, etc. - But it must be affirmed if those means are evil in themselves; and then they must be indicated, and indeed all of them according to species, if they are diverse in species, such as touches had with oneself, or obscene words used for soliciting. And the reason is that, the sin not having been consummated, those various means, evil in themselves, can no longer be referred to the end and constitute something one in the consummation of the sin, whence they would take their ultimate species.

Therefore those individual acts are to be considered with their own proper malice. Therefore they are to be accused separately in confession. - But if those means, evil in themselves, repeated several times in the same way, or diverse among themselves, are of the same species, all must also be explained according to number, if they have not coalesced morally into one act; for the sin not having been consummated, from which they receive moral unity, they remain acts distinct and many in themselves. Otherwise, however, if they constituted morally one act, for instance because they proceeded from the same impulse of passion, or because one was ordered to another and was continued by it. - Lugo, *de Poenit.*, d. 16, n. 240; Tambur. 66 seqq.; L. 42.

IV. On the Gravity of Sin

311. What is the gravity of sin, and whence is it to be derived? The gravity of sin is the quantity or measure of malice by which a sin is more or less offensive to God, and consequently worthy of a greater or lesser punishment. The greater or lesser gravity of sins is to be derived generally: 1. from the object, end, and circumstances, as they are more or less repugnant to rational nature or to law; 2. from the excellence of the virtues or precepts to which sins are opposed; 3. from the various modes by which virtues or laws are violated; 4. from the greater or lesser advertence to the malice of the act, or from the different degree of consent given to the depraved act; 5. from the duration of the evil act, or from its intensity; 6. from its effects. S. Th. 1. 2. q. 72, 73, 77, 78, 79, a. 4; 2. 2. q. 39, a. 2; q. 65, a. 4; *Quodl.*, 5, a. 20; Wirceb. D. 2, c. 1, 2.

Hence sins are distinguished as sins of ignorance, infirmity, and malice. For those are committed from culpable ignorance, these from weakness of powers, the latter from the full affection of the will. Sins are moreover distinguished as deliberate and surreptitious or semi-deliberate; sins of heart, mouth, and deed, according as they are completed by mind alone, or also by words or deed; sins of commission and omission, perpetrated by action against the law or by neglect of the law; spiritual and carnal, according as they are opposed to goods merely spiritual or sensible, or bodily; against oneself, against one's neighbor, against God, according to their various object. Likewise certain graver sins are said in the Scriptures to cry to heaven, namely because they most vehemently provoke the wrath of God, and merit most grave punishments. They are voluntary homicide, Gen. 4:10; the

unspeakable crime of impurity, Gen. 18:20; 19:13; injury inflicted upon the poor, especially the widow and orphan, Ex. 3:7; 22:22, 23; defrauding the wages of workers, Deut. 24:14, 15; Jas. 5:4. Furthermore certain sins are specially said to be against the Holy Spirit, which most greatly oppose divine grace, and as it were close the approach to pardon, Matt. 12:31, 32; Mark 3:29; Luke 12:10; 1 John 5:15, 16, namely presumption concerning the mercy of God, Ecclus. 6:6; despair, Eph. 4:19; impugnation of acknowledged truth, Matt. 12:31; obstinacy in sins, Acts 7:51; envy of another's spiritual good; final impenitence, 1 John 5:16.

312. How many kinds of sin are there? - Sin is either mortal, or venial, according as it is the transgression of a law obliging gravely or lightly, a grave or light offense against God. Mortal sin of itself, as it is such, has some disorder distinct in species from every disorder which is in venial sin. For that depravity which is directly contrary to the last end, and by reason of which man is turned away from it and turned toward a creature as toward his last end, is a proper species of disorder and moral depravity; and this is proper to mortal sin, and cannot be found in venial sin. Suarez, *de Peccat*., d. 2, s. 5, nn. 2, 3; S. Th. 1. 2. q. 71, a. 4; q. 72, a. 5; q. 74, a. 9; q. 88, 89; *de Malo*, q. 2, a. 8; *Quodl*. 6, a. 16.

Mortal sins are such: 1. By their whole genus, when their object or matter, whatever it may finally be, contains a grave disorder, as in lust, blasphemy, perjury, heresy, etc. 2. By their genus, but not the whole genus, when their matter, remaining in the same species, can be grave, although it also can be light, as are sins against justice. But venial by their genus are called sins which, considered according to the matter or nature of the object, do not admit grave guilt, and therefore, so long as they remain within their species, that is, another species does not accede, mortal by its genus, they cannot be mortal. S. Th. 1. 2. q. 77, a. 8 ad 1; q. 88, a. 5; L. 11, 51; Trid. s. 6, C. 15, cc. 27, 28; E. M.

313. What things are required for mortal sin? For mortal sin there are required and suffice: 1. grave matter; 2. full advertence to the grave malice; 3. full consent in the prevarication. Proof of the first part. For light matter induces only a light obligation, and therefore its transgression cannot be a grave sin. Proof of the second and third parts: because, since by mortal sin man totally recedes from God, his last end, so that he may totally adhere to creatures, and rest in them as in his end, this cannot happen unless man fully, deliberately, and consequently with full knowledge of the thing, prefers the creature to the Creator. Therefore sin mortal by its whole genus can become venial by reason of imperfect advertence and imperfect consent. He does not sin gravely who indeed knows that he acts badly, but nevertheless does not attend to the gravity or lightness of the matter, namely if he does not even confusedly have knowledge of the gravity; this can more easily be presumed to have been lacking in rude persons and children, but not likewise in others, where the matter treated is notably grave. And indeed the sin would always be grave if someone were so disposed in mind that he wished to act even if there were grave fault. - S. Th. 1. 2. q. 74, a. 10; q. 88, a. 6; 2. 2. q. 35, a. 3; q. 36, a. 3; L. 52 seqq.; E. M.

314. In a case of doubt, what are the signs of imperfect advertence and deliberation? - The signs of imperfect advertence are: 1. If you apprehended that it was evil faintly, and as if half-asleep. 2. If afterward, when you consider better, you judge that you would not have done it if you had apprehended it in that way. 3. If you labored under a most vehement passion, apprehension, or distraction, or were disturbed, so that you almost did not know what you were doing. The signs of imperfect consent are: 1. If someone was so disposed that although he easily could have carried out

the sin, nevertheless he did not carry it out. 2. If someone doubts whether he consented, especially if he is a God-fearing man. 3. If someone is accustomed to be so affected that he would rather die than expressly sin mortally, because such a person does not easily consent. 4. If someone remembers that he proceeded very timidly and hesitantly. 5. If he was half-asleep, not fully master of himself, etc., and judges that he would not have done it if he had been fully awake. The continuation alone of a depraved thought is not a judgment of consent having been given, because a temptation can be long-lasting, to which one resists according to his strength. Struggl, q. 2, n. 6; L. 54, 55; l. 6, n. 476.

315. Does he sin gravely who deliberates about giving consent to an object gravely evil, if at last he does not consent? - The solution of the question depends on the quality of the deliberation. For if this is imperfect, i.e., if it is only a certain hesitation, or omission of resistance from dullness, sluggishness, or negligence, it does not exceed venial sin. But if the deliberation is full, insofar namely as the will is prepared and affected toward either side, it will be a mortal sin, because the will then shows itself ready to place God after sin; and it has a deliberate affection toward evil.

316. What things are required for venial sin? For venial sin there are required and suffice some advertence, however slight, to the malice of the act, and some consent of the will, however imperfect. These indeed are required, because, these being removed, there can be no knowledge and willing of evil, and therefore no sin. But they suffice, because, these being posited, the knowledge and willing of evil, which are necessary for constituting sin, are had in some manner. E. M.

317. Can several venial sins constitute one mortal sin? R. Negatively, by reason of multiplication, and speaking per se. For the essences of things are immutable. - R. Affirmatively, by reason of lightness of matter, if this, although light in itself, nevertheless acceding to others coalesces into one and constitutes grave matter by reason of continuation, as from several small fragments taken several times on a fast day. Struggl, q. 2, n. 26; S. Th. 1. 2. q. 88, a. 4.

318. In what ways does venial sin become mortal per accidens? 1. By reason of erroneous conscience, as is clear. 2. By reason of an attached end gravely evil, as if someone lies lightly in order to commit fornication. But it suffices in confession to confess the fornication; it is not necessary also to explain the lie. - 3. By reason of the last end, which someone constitutes even in a light thing, e.g., in a game, in a person inordinately loved, etc. "If someone, from love of gaming, were prepared to commit any mortal sin whatever, it would be a sin of rashness, and indeed most grave, but without species." L. 60. 4. By reason of absolute and formal contempt, "namely when therefore formally and absolutely the precept is violated because you refuse to be subject to it or to the superior, which is a sin of consummate pride; or when therefore you do not wish to obey the precept because it is a precept, and this is a sin of formal disobedience; both of these gravely fight against the charity owed to the superior. Therefore it is one thing to contemn the law or the legislator, even human, not as such a person, but as legislator, which is mortal; another thing to contemn the thing commanded, which is venial if the matter is light." L. 61; l. 4, n. 161; S. Th. 2. 2. q. 105, a. 2; q. 186, a. 9 ad 3; a. 10 ad 3. 5. By reason of the grave scandal of others, which gravely repugns to charity. 6. By reason of grave harm to others, which gravely repugns to justice. 7. By reason of the proximate occasion and proximate danger of sinning.

"In this matter it is most certain that a work venial in itself or indifferent passes into mortal sin, if the one acting exposes himself to an occasion so proximate that it places him in a moral and proximate danger of sinning mortally. But this moral proximate occasion, or this moral proximate danger,

occurs when from its genus the occasion is such that it frequently induces men of similar condition to mortal sin, or it is established by experience that it has such an effect in this man.... just as he is exposed to the danger of incurring temporal harm who undertakes a work at such a time and place and with such circumstances that he can scarcely avoid that harm.... And in this probable danger of sinning mortally, the circumstances of that sin to whose danger he exposed himself must be confessed.... Since it is of the same malice to place oneself in moral danger of committing some crime as to commit it.

For by the same precept by which one is bound to avoid a crime, he is also obliged to avoid its proximate danger." Sanch., *in Dec.*, l. 1, c. 8, nn. 1, 4. - Except: 1. unless such caution is used that the danger ceases; 2. unless a grave cause is present; for then the danger is not morally voluntary, but one is compelled unwillingly by that necessity to undergo it. Sanch., l. c., nn. 2, 3; S. Th. 2. 2. q. 10, a. 9; L. 63; E. M.

319. Does he sin gravely who would wish to avoid only mortal sins, and would have the purpose of committing all venial sins? R. Negatively, speaking per se, apart from the case of peculiar frailty, so that a proximate danger of sinning gravely would be induced. For neither will the multiplication of venial sins ever constitute a mortal sin, because the individual venial sins will always remain in an inferior species; nor does a mind so disposed per se induce a proximate danger of sinning. But, speaking practically, he who spurns small things is gradually disposed also to spurn greater things. Lugo, *de Poenit.*, d. 16, nn. 49, 50; Suarez, *de Rel.*, tr. 8, l. 1, c. 4, n. 18; Ithur., Cas. 35, n. 28; L. l. 4, n. 12; S. Th. 1. 2. q. 87, aa. 3, 4.

V. On the Capital Vices

320. What are the capital vices? - "Vices are called capital from which others arise, chiefly according to the account of final cause.... Accordingly, therefore, those vices are called capital whose ends have certain primary accounts of moving the appetite; and, according to the distinction of these accounts, the capital vices are distinguished." S. Th. 1. 2. q. 84, a. 4; 2. 2. q. 118, a. 7. "But it is not required that a capital vice always be a mortal sin, because even from a venial sin a mortal one can arise, insofar namely as the venial disposes to the mortal." S. Th. 2. 2. q. 132, a. 4 ad 3. The capital vices are numbered as seven: Pride, Avarice, Lust, Envy, Gluttony, Anger, Acedia. S. Th. 1. 2. q. 84, a. 4; q. 34, a. 5.

321. What is pride? "Pride is named from this, that someone by will tends above that which he is." Whence it is clear that it is a sin. Insofar as it is an inordinate appetite of one's own excellence, it is a special sin. But insofar as all vices can arise from it, because to one's own excellence "there can be ordered everything which someone inordinately desires"; and because "man through pride contemns the divine law, by which he is prohibited from sinning," it has a certain generality, or is a general sin. S. Th. 2. 2. q. 162, aa. 1, 2, 7, 8. - Hence the same Holy Doctor, 2. 2. q. 132, a. 4; q. 162, a. 8, posits pride not as a capital vice, but as the queen of all vices; and he posits vainglory as the capital vice, which arises immediately from it.

Commonly, however, pride is constituted as a capital vice. Pride by its genus is a mortal sin. For "pride is opposed to humility. But humility properly regards the subjection of man to God. Hence, on the contrary, pride properly regards the defect of this subjection, according namely as someone exalts

himself above what is fixed for him according to the divine rule or measure.... But it is manifest that this very thing, namely not to be subject to God, has the account of mortal sin; for this is to be turned away from God." S. Th. 2. 2. q. 162, a. 5.

"And therefore to be turned away from God and his precepts, which is as a consequence in other sins, per se pertains to pride, whose act is contempt of God." S. Th. l. c., a. 6. Moreover, when the aforesaid aversion and contempt cease, and there is had only a certain inordinate movement toward one's own excellence, by willing to excel above equals, pride is had only improperly so called, and it is venial, unless it is done with notable contempt of others, by taking pleasure in their abasement before oneself. But there would be no disorder if someone wished from an honorable motive to excel above inferiors. S. Th. 1. 2. q. 77, aa. 4, 5; q. 84, a. 2; L. 65.

322. What are the daughters of pride and vainglory? "Those vices which of themselves are apt to be ordered to the end of some capital vice are called its daughters." S. Th. 2. 2. q. 132, a. 5. The daughters of pride are three: 1. Presumption, which is an inordinate appetite of undertaking something above one's powers. It is commonly only venial. S. Th. 2. 2. q. 130, a. 1; q. 134, a. 2 ad 4; q. 21, a. 4. Nevertheless it becomes mortal if it brings grave harm, e.g., if someone presumes to obtain ecclesiastical jurisdiction, the office of physician, etc., without due knowledge. But insofar as presumption is a special sin, opposed to theological hope, it is always a mortal sin, unless imperfection of act excuses. 2. Ambition, which is the inordinate appetite of dignity and honor not owed, or in an undue way and by an undue means. It is per se a venial sin. S. Th. 2. 2. q. 131, a. 1. But it becomes mortal by reason of the matter from which; or by reason of the means by which; or by reason of the end for which honor is sought; or by reason of the harm which is inflicted on one's neighbor. 3. Vainglory, namely the desire of empty glory, whose end is the inordinate manifestation of one's own excellence, whether true or fictitious. It is per se a venial sin. It is often mortal per accidens, as was just said concerning ambition. But to perform even sacred things on account of vainglory, e.g., to preach, does not exceed venial sin. S. Th. 2. 2. q. 132, aa. 3, 4; q. 162, a. 7; L. 66. Pusillanimity corresponds by opposition to the three daughters of pride, by which someone, distrusting himself too much, refuses honors, glory, or an office for which he is worthy. It is venial from its genus; and it becomes mortal if you refuse that to which you are bound under mortal sin. L. 67.

Moreover, the daughters of vainglory, which St. Thomas constitutes as a capital vice, are assigned thus by the same Holy Doctor, 2. 2. q. 132, a. 5. A man can tend to the manifestation of his own excellence in two ways: "in one way directly, either by words, and thus there is boasting; or by deeds, and thus, if they are true things having some admiration, there is presumption of novelties, which men are accustomed to admire more; but if they are false, thus there is hypocrisy. In another way someone strives to manifest his own excellence indirectly, by showing himself not to be less than another, and this in four ways. First indeed as to the intellect, and thus there is pertinacity, by which a man cleaves too much to his own opinion, being unwilling to believe a better opinion. Second as to the will, and thus there is discord, while he does not wish to depart from his own will so that he may agree with others. Third as to speech, and thus there is contention, when another by words quarrels noisily against another. Fourth as to deed, and thus there is disobedience, namely while someone does not wish to execute the precept of a superior." And thus these vices are fittingly called the daughters of vainglory.

Boasting is a certain vain proclamation of one's own excellence, and is per se venial if it is concerning good things; and it can be grave per accidens. If it is concerning lightly evil things, it is likewise per se light, grave per accidens, if, for example, it proceeds from a grave cause against God or neighbor. But if it is concerning gravely evil things, it is grave, because the approval of a work has the same species as the work, which therefore must be expressed in confession, at least when complacency concerning the same sin was joined with the boasting. At least when, etc.; because, if it was without that complacency, many hold that it is not necessarily to be explained. For any boasting concerning mortal sin, abstraction made from complacency in it, is of the same species, namely that someone glories in this, that he has offended God. S. Th. 2. 2. q. 112; L. 26, 66, 67; l. 3, n. 426; Lugo, *de Poenit.*, d. 16, n. 266 seqq.

Presumption of novelties, which is also called ostentation, if those deeds have nothing of admiration, is also per se venial. And thus it is light to be dressed in foreign garments, or to adorn oneself too much from lightness of mind, vanity, etc.; but grave if it is such as notably to corrupt morals. L. 66, 67. Presumption of novelties can be in opinions, in a mode of speaking, in a mode of acting, etc.

Hypocrisy, by which someone "does not care to have holiness, but only to appear holy... is a mortal sin.... To simulate holiness from which one is deficient through mortal sin... is not always a mortal sin, but sometimes venial," according as it happens to oppose charity or not. S. Th. 2. 2. q. 111, a. 4. Likewise to simulate improbitity is a sin, and can be mortal. S. Th. ibid., a. 1; L. 66, 67.

Pertinacity. "Someone is called pertinacious who is imprudently holding, as if wholly tenacious." Hence pertinacity is opposed to perseverance; for the persevering person persists in his own opinion "according as he ought"; but the pertinacious person perseveres in it "more than he ought." And therefore it is a sin because of excess. S. Th. 2. 2. q. 138, a. 2.

Discord is a dissent of wills concerning the good which we ought to will from charity. Moreover, since certain goods can be owed to one's neighbor not only from charity, but also from justice, discord and dissent from the rendering of similar goods is opposed both to charity and to justice. Discord is per se from its genus a mortal sin. For it directly repugns to charity. But per accidens it can become venial, from the smallness of the owed good in the rendering of which we do not wish to consent. Indeed, sometimes it will be no sin, if it arises, namely, from a probable judgment, from which one person judges this, another that, for the honor of God and the utility of neighbor, and if the mode of dissenting is not opposed to charity. - Struggl, tr. 4, q. 5, n. 38; S. Th. 2. 2. q. 37.

Contention is the impugnation of truth with confidence of shouting. Contention is from its genus a mortal sin. The reason: because by charity we ought to will and communicate to others truth necessary or useful for the salvation of the soul, or even of the body; and therefore to impugn it, and to wish to defeat it, is opposed to the virtue of charity, and is from its genus a mortal sin. - Struggl, tr. 4, q. 5, n. 39; S. Th. 2. 2. q. 38.

Disobedience, properly and speaking per se, or formal disobedience, is had only when "someone contemns a precept, because moral acts have their species from the end. But when he does something against a precept, not on account of contempt of the precept, it is disobedience only materially, but formally pertains to another species of sin," according to various motives, e.g., to the species of theft, homicide, etc. Therefore disobedience by its nature is a grave sin. For not to obey the precepts of God and of Superiors is contrary to charity. S. Th. 2. 2. q. 105, a. 1.

323. What is avarice? Avarice is the inordinate appetite of temporal goods. An inordinate appetite, by being unwilling rather to lose them than God; by denying alms to the poor when the obligation of charity urges; by unjustly desiring others' things; by loving or desiring riches too much, or by taking too much delight in them. Too much, beyond due measure, namely by acquiring or retaining them according as they are necessary for life, according to one's own condition. Avarice, insofar as it is precisely opposed to the virtue of liberality, is from its genus only a venial sin. Nevertheless it can become mortal in three ways: 1. Against charity toward oneself, by constituting the last end in riches, or by transgressing the precepts of God rather than suffer loss in temporal goods. 2. Against charity toward neighbor, by not helping him when constituted in grave necessity, etc. 3. Against justice, by taking what belongs to another, etc. S. Th. 1. 2. q. 84, a. 1; 2. 2. q. 118; L. 68.

Liberality is the virtue by which we use well all those external goods which have been granted to us for our sustenance. There is a twofold use of exterior goods, one toward oneself, another toward others. And therefore it pertains to liberality that on account of immoderate love of money someone not be impeded from fitting expenditures, nor from fitting gifts. But to give pertains most of all to liberality, since this is more perfect than to receive, or to spend upon oneself. S. Th. 2. 2. q. 117, aa. 1, 4. As avarice, so also prodigality is opposed to liberality, both according to excess in giving, and according to defect in retaining and acquiring. S. Th. 2. 2. q. 118, 119.

324. What are the daughters of avarice? - They are the following: 1. Hardening of heart, against mercy, by not compassionating the needy and poor, by reproaching them, by demanding debts too harshly when the debtor is not able to pay, etc. By this one can sometimes sin mortally, when the precept of almsgiving or charity urges, and nevertheless from such hardness he is not helped. L. 69. 2. Disquiet of heart, i.e., a vehement and inordinate application of the mind to acquiring or conserving riches, with empty and vain fear lest they not be acquired or lest they be lost. It is mortal when it withdraws from spiritual things or other things to which we are obliged by grave precept, or induces superfluous fear, and from this distrust toward God. It is venial if it is concerning a good matter, but at an undue time or place, e.g., concerning family, harvest, vintage, when someone is in church, or should be free for God. S. Th. 2. 2. q. 55, a. 6; L. 69.

3. Violence, namely the usurpation of another's thing by force. It is mortal if it concerns a grave thing, or inflicts grave force. L. 69. 4. Fallacy, or deceit in words; it can be mortal by reason of the end or of the means. S. Th. 2. 2. q. 55, a. 4; L. 69. 5. Perjury, if confirmation by oath is added. 6. Fraud, or deceit in deed. It is mortal from its genus; and it occurs in many ways in contracts. S. Th. 2. 2. q. 55, a. 5; L. 69. - 7. Betrayal, which is deception against faith given or owed, to the harm of another. It is mortal from its genus. It occurs in almost three ways: 1. concerning persons, in which way Judas betrayed Christ; 2. concerning things, as if you show to the enemy the manner of taking a fortress, or show to a robber money, clothing, etc., that has been hidden; 3. concerning a secret, either by revealing one committed to oneself, or by reading others' letters. But if this is in a grave matter, it is per se mortal. L. 69; S. Th. 2. 2. q. 118, a. 8; q. 55, a. 8.

325. What is lust? - Lust, which is opposed to chastity, is the inordinate appetite of a venereal thing. Inordinate; venereal things are ordered to the generation of offspring, and they are had licitly only in marriage. Therefore those things are inordinate which are not ordered either to generation or to this

in marriage. Lust is grave by its whole genus if it is deliberate and directly willed. Hence it does not admit smallness of matter. For the use of venereal things by its nature has been instituted for the conservation of the human race, which is a great good of men, and an external good of God; consequently he who abuses it gravely offends God, and injures human society. If it is deliberate and directly willed; for if deliberation and willing are concerned only with its cause, then smallness of matter can be given in this matter. S. Th. 2. 2. q. 153; L. 71. Cf. here 37 seqq.

326. What are the daughters of lust? - They are eight, four on the part of the intellect, and four on the part of the will. 1. Blindness of mind, when someone is so addicted to shamefulness that he does not think of heavenly things. 2. Precipitation, by which someone from the same cause acts without counsel. - 3. Inconsideration, when he offends in the manner, acting inconsiderately in things which are unbecoming to his state or person. 4. Inconstancy, when someone from the same affection of pleasures quickly falls away from pious purposes. 5. Love of self; for the lascivious man on account of pleasures makes himself, not God, the end of his actions. 6. Hatred of God; for the lascivious man is accustomed to abhor divine things, indeed God himself, as the avenger of sins. - 7.

Affection for the present age; because love of carnal pleasures so affects the mind that at times it would be prepared even to renounce eternal blessedness, if it were permitted always to enjoy present things. - 8. Horror of the future age, when one immersed in pleasures inordinately fears death, and, unwilling to think about it, strives to prolong life by illicit means, etc. - The first four are mortal when some precept of God gravely obliging is omitted. But if they are concerned only with the matter of lust, they are not sins distinct in species; otherwise, however, if other precepts are violated. The latter four, if there is full consent of the will, are per se mortal and distinct in species; from indeliberation or another imperfection of acts they are often venial. L. 71; S. Th. 2. 2. q. 15; q. 46; q. 53, a. 6; q. 153, a. 5.

327. What is envy? Envy is sadness concerning the good of another, insofar as it is diminutive of one's own glory. - Moreover, in five ways can someone be saddened concerning the good of another: 1. When someone is saddened concerning the good of another absolutely, because it is the good of the neighbor; and properly this is hatred of enmity, or simply hatred or aversion of the person to whom we will evil, insofar as it is his evil; and this indeed from its genus is mortal. 2. When someone is saddened concerning the good of neighbor relatively, because he fears some evil from him; and properly this is fear, which will be licit unless it is inordinate, e.g., if he fears evil is to be inflicted on himself or on others unjustly. 3. When someone is saddened concerning the good of another because he thinks the same person unworthy of such good; and this is indignation or abomination, which is not a sin; nevertheless it will be a sin, and indeed mortal, if it either accuses God's providence, and is blasphemy, or if it so affects that it leads men to imitate evil. 4. When someone is saddened concerning the good of neighbor, not because the neighbor has it, but because he himself lacks the same, and this is not envy, but emulation or zeal, which, if it concerns honorable good, is praiseworthy; but if it concerns temporal goods, sometimes it is venial, as if the good is disproportionate to the one grieving, such as it would be if a peasant grieved that he is not a king. 5. If someone grieves that another equal to himself, or not greatly unequal, grows in glory and excellence, so that thereby he becomes superior to him, and he apprehends the very increase of glory and excellence as an impediment to his own good and as an evil to himself, insofar as it is diminutive of his own glory and excellence; and this is envy properly so called. For he is called envious because

he is not seeing, since he cannot see the goods of another without sadness. Equal or not greatly unequal, because the good of those who greatly excel us is not usually apprehended as diminishing our excellence and glory. The goods of another, especially those in which there is glory, and in which men love to be honored and to be in good opinion.

Envy is mortal from its genus, Gal. 5:21. For it is directly against charity, which rejoices concerning the good of neighbor, which envy desires destroyed or grieves is not destroyed. - S. Th. 2. 2. q. 36; L. 72. "Pride alone and envy are purely spiritual sins, which can belong to demons." S. Th. 1 p., q. 63, a. 2 ad 2.

328. What are the daughters of envy? - They are hatred of neighbor, whispering, detraction, exultation in the adversities of neighbor, and affliction in his prosperities. These are mortal from their genus, since directly against charity. Whispering is speech by which, without cause, something is reported to one person concerning another, which indeed of itself is apt to break the friendship of both; and the detractor is therefore bound to restore and reconcile that friendship. It is mortal from its genus both against charity and against justice. Detraction also is both against charity and against justice. S. Th. 2. 2. q. 36, a. 4 ad 3; q. 34, a. 6; q. 74; L. 72.

329. What is gluttony? - Gluttony is opposed to abstinence, and is the inordinate appetite of food and drink. Inordinate, namely if food and drink harms health; for their proximate end is the conservation of life and health, according to necessity and fittingness. S. Th. 2. 2. q. 141, a. 6. According to necessity, of body and mind; according to fittingness, and thus it will not be inordinate to prepare a sumptuous banquet to celebrate a feast, to honor friends. Inordinate furthermore, if it is not taken fittingly. And this disorder is committed in five ways: 1. if you eat before the time; 2. if things are too exquisite; 3. if more than is right; 4. if voraciously; 5. if too delicately.

Gluttony from its genus is a venial sin, because it is not gravely opposed to charity toward God or neighbor. It can become mortal under multiple respects: 1. Against charity toward God, by constituting one's end and blessedness in it. 2. Against charity toward oneself, by reason of grave harm of soul or body, if someone, for example, thereby becomes unfit for functions which he is bound under mortal sin to fulfill, or notably harms health. 3. Against charity toward neighbor, against piety and justice, as happens when nobles given over to gluttony gravely oppress subjects, dissipate goods necessary for the family, contract debts which they are unequal to paying. 4. By reason of scandal, if a cleric, for example, publicly indulges in feasting and drinking bouts. 5. When on account of gluttony someone transgresses the precepts of the Church, e.g., by eating flesh-meat on a day of abstinence, by eating several times in a day to satiety on a fast day, by not hearing Mass on a Sunday because of feasting. 6. By reason of perfect drunkenness, concerning which something will be said immediately. S. Th. 2. 2. q. 148; L. 73; E. M.

330. Resolves: "To eat or drink up to vomiting is probably only venial from its genus, unless there is scandal (namely grave), or notable harm to health, as they more commonly say.... But those who voluntarily vomit what they have taken, so that they may eat and drink again, are scarcely excused from mortal sin; for this seems to involve great deformity. Thus probably." L. 73. And indeed others probably deny this, because there is had there only avidity of delight in foods, which from its genus is venial, unless another species of sin accedes. But there is scarcely doubt that it is licit by eating or drinking or otherwise to bring about vomiting, if it is judged to be healthful. For then it has the account of medicine. It is judged mortal to feed on human flesh and blood, both because it is against

the piety owed to the dead, and because it is against the instinct of nature, unless it is done for the sake of medicine, or another just cause, e.g., extreme hunger. Laymann, l. 3, s. 4, n. 3; Diana, tr. 5, *de Scand.*, r. 76.

331. What are the daughters of gluttony? - They are the following, which from their genus are venial, but become mortal when they are gravely opposed to another virtue; namely, on the part of the soul: 1. dullness of mind or stupidity, born from crapulence, concerning the consideration of spiritual goods; 2. inept joy, which moves to shameful acts; 3. much-speaking; 4. scurrility in words and gestures; 5. on the part of the body, uncleanness, vomiting, and emission of seed. S. Th. l. c., a. 6; q. 15; L. 74.

332. What is drunkenness? - The malice of drunkenness is in the voluntary privation, by an artificial, unnatural, and violent mode through immoderate intoxicating drink, of the use of reason, not merely negatively, as in sleep, but contrarily through the disturbance of reason. "Drunkenness is a mortal sin, because according to this man willingly and knowingly deprives himself of the use of reason, by which he operates according to virtue and avoids sins; and thus he sins mortally by committing himself to danger of sinning. Hence drunkenness, speaking per se, is a mortal sin." S. Th. 2. 2. q. 150, a. 2; 1. 2. q. 88, a. 5 ad 1; Gal. 5:21; L. 75. Drunkenness is opposed to the virtue of sobriety, whose office is to apply measure "concerning drink, not any whatsoever, but that which by its smokiness is naturally apt to disturb the head, as wine, and everything which can intoxicate." S. Th. 2. 2. q. 149, a. 1. Alcoholism pertains to drunkenness. By alcoholism is signified drunkenness produced by alcoholic drinks, abuse of alcoholic drinks, and the grave effects produced by abuse of this sort. But since these effects, gravely harmful to health, are produced gradually, it is difficult practically to define when, by this reason, the sin begins to be grave.

332 bis. Note: The promise (the pledge), which is customary in America and other regions, of abstinence from every intoxicating drink, of itself brings no obligation under grave or under light sin. For it is a certain simple purpose, and the declaration made of it, of not drinking wine and other alcoholic drinks. Nevertheless, there is no doubt that it can also be made under sin. But societies which are established for extirpating the vice of drunkenness are greatly to be praised.

333. Resolves: If someone knowingly and willingly takes so great a draught of wine as is apt to intoxicate, he is in no way excused from mortal sin, although before he is deprived of his senses he gives himself over to sleep, by which he may escape the effect of the wine; because that drink is already intrinsically evil, since of itself it is already apt to deprive man of the use of reason, and it is per accidens that he himself is deprived of the senses through sleep. Nor indeed in sleep does he have the proximate power for the use of reason. He does not sin mortally who from drinking wine does not totally lose the use of reason, although the mind is disturbed, yet so that he is able to discern between good and evil, as theologians commonly say. Theologians also commonly add that drunkenness is not mortal if it deprives one of reason for a little time. But La-Croix says that a long time seems to be one hour, and that it is licit, in order to avert pain, sadness, and melancholy, to drink up to hilarity, as also to propose a toast to someone's health, or to foster the union of friends and charity. La-Croix, l. 5, nn. 314, 317, 327; L. 75, 78.

334. Is it licit, in order to drive away illness, to take drink, if drunkenness is foreseen to follow from it? R. More probably affirmatively, if the drink is taken to correct depraved qualities; for then the privation of reason follows per accidens and indirectly, and therefore can licitly be permitted. But if

the drink is taken in order directly to procure drunkenness or privation of reason, St. Alphonsus and others deny it, because to deprive oneself of the proximate faculty of the use of reason is intrinsically evil; but Busemb. and others affirm it, relying chiefly on the authority of St. Thomas, 1. 2. q. 88, a. 5 ad 1, where he says: "For that man, without necessity, should render himself incapable of using reason, by which man is ordered to God and avoids many occurring sins, from the pleasure of wine alone, is expressly contrary to virtue." Note "without necessity, from the pleasure of wine alone." Therefore, if necessity is present, and not from the pleasure of wine, it is not contrary to virtue. Laymann, l. 2, s. 4, n. 5; La-Croix, l. 5, nn. 310, 311, 312, 313; Struggl 25; S. Th. 2. 2. q. 150, a. 2 ad 3; L. 76.

335. Is it licit for someone to intoxicate himself in order to avoid death, which otherwise is threatened to him unless he becomes drunk? - The first opinion, more probable according to St. Alphonsus, denies it, because to deprive oneself directly of the proximate power of using reason is intrinsically evil. But since here the danger of death is from without, that immoderate drink up to drunkenness cannot here be had as a cause producing two effects. Therefore the intoxication would be directly intended and willed. The second opinion, which Lessius and Pal. hold with Busemb., and which Laymann and others think probable, affirms it, because the privation of reason is not here intended, but only permitted; for the excess of wine is assumed not with the intention of making oneself drunk, nor without necessity, from the pleasure of wine alone, which would certainly be intrinsically evil, but as a means for fleeing death. - La-Croix, l. 5, n. 321; Struggl 25; L. 76.

336. Is drunkenness licit for undergoing a surgical operation? - The first opinion, which St. Alphonsus, 76, and others hold, denies it, because in this case drunkenness would be directly intended, or the privation of reason, which is intrinsically evil, as a means of removing the pain of the senses. But the second opinion affirms it. 1. Because privation of the use of reason at least for a brief time, and from a grave cause, does not seem intrinsically evil. 2. Because drink is not directly given for causing the privation of reason, but for the sleep of the senses; and therefore drunkenness follows indirectly per accidens. For neither does the sleep of the senses proceed from privation of reason, but from relaxation and dulling of the nerves; and from the sleep of the senses proceeds privation of the use of reason. Gur. Baller. 182.

Therefore in no way is to be condemned the use of other medicines whose primary power is to bring on sleep, or to make the nerves numb, such as opium and the inhalation of ether. Antonelli, vol. 1, p. 2, *de 5 Praec.*, c. 6; La-Croix, l. 5, n. 314. Chloroform: Its use is licit for lessening or preventing pains in a surgical operation, in difficult childbirth, and even in ordinary childbirth, since the danger which some affirm would arise to mother and child does not in reality exist. Morphine: Taken in great quantity it causes death; in small quantity, it produces sleep of the senses and privation of the use of reason; in smallest quantity, it is useful for calming the nerves and for restoring strength. Injections, for lessening pains, if they are done sometimes and in small quantity, are not illicit. In great pains they provide true relief. But if they are used repeatedly, and in greater quantity, they gravely harm bodily health, and consequently are illicit. Cocaine: Insofar as it is used for lessening pains, if it is done with due moderation, and no grave danger afterward is present either to health or even to life, it is licit per se.

337. Is it licit to induce someone to drunkenness, so that he may be impeded from a graver evil, e.g., from committing sacrilege or homicide? - The first opinion affirms it, because this is to diminish an

evil which otherwise cannot be impeded. "That which is contrary to reason has more of the account of evil than that which removes the use of reason for an hour."

S. Th. 2. 2. q. 150, a. 3 ad 2. The second opinion distinguishes, and says that it is licit to induce another to material drunkenness, i.e., when the other becomes drunk without sin, for instance by setting before him very strong or medicated wine, because then on the one hand he does not sin, and on the other the harm of drunkenness is permitted in order to avoid a graver harm of others. But they say it is not licit to induce him to formal drunkenness, namely with his own sin, since this is intrinsically evil, and therefore never to be permitted. But the third opinion grants neither, because, since such a person is in no way thinking about wine, to induce him positively to drunkenness is accordingly evil. "Nevertheless, these things notwithstanding," St. Alphonsus, 77, concludes, "the first opinion seems sufficiently probable to me and to other learned men consulted by me, whether the drunkenness is material or formal, on account of the reason already brought forward, because it is licit to induce another to a lesser evil, so that he may be impeded from a greater." Namely then it is not to counsel evil, but good, that is, the choice of the lesser evil.

338. Is it licit to intoxicate someone so that he may reveal secrets? Struggl, 25, has these things: "It is licit materially to intoxicate another... for eliciting secrets which the other is bound to manifest; but if this were done to elicit secrets which the other could manifest with a good conscience, yet is not bound to manifest, an injury would be done to him, because he is reasonably unwilling against such intoxication and such a mode of eliciting secrets. This is true a fortiori when the other cannot manifest similar secrets with a good conscience." La-Croix has the same, l. 5, nn. 328, 329.

339. Does someone sin gravely by inducing a madman into drunkenness? R. Negatively per se, because a fool, as already deprived of the use of reason, cannot any longer be deprived of the use of reason. Per se, because if a fool after excessive drink is accustomed to do shameful things, or to break out into blasphemies, and the one who induces him to drink knows this, the latter will sin gravely against the natural law; because the fool violates it materially, since he is subject to it in first act. Elbel 679-681.

340. Are evils committed in drunkenness imputable? - R. Negatively, if they were not foreseen at least in confusion, as is clear; affirmatively, if they were foreseen at least in confusion, at least evils of deed, as again is clear from what has been said. At least evils of deed; for injurious words, or even contumelious deeds, probably are not imputable if they are uttered against men, since according to common estimation they are judged to inflict no injury and contumely; otherwise, however, if they are uttered against God, as blasphemies, etc., because even that material utterance alone of blasphemies, voluntary in the cause, tends to the diminution of divine honor. Nevertheless St. Alphonsus, 78, does not dare to call the contrary opinion of the Salmanticenses improbable. - But since blasphemy uttered in drunkenness does not have in itself the true nature of blasphemy, although it was foreseen, it is not subject to reservation and censure, if perhaps there is any. - Likewise obscene words, by reason of the scandal of others, are also imputable as sin if they are foreseen. - L. 2, 78; S. Th. 1. 2. q. 76, a. 4; Ithur., Cas. 30; Sanch., *in dec.*, l. 1, c. 16, n. 42 seqq.; C. B. 827; C. A. 1307; C. I. 1151; C. L. 2361.

341. What is anger? Anger is an inordinate appetite of revenge.

This disorder can occur in two ways: 1. On the part of the mode of being angry, as, for example, if you are too much inflamed inwardly, or outwardly reveal anger too much through signs. - 2. On the part of the object, as, if you desire revenge for a cause plainly unjust, or greater than is just, e.g., by wishing death to an enemy who has not deserved it, or revenge to be executed by one's own authority, or finally, although the revenge is just, nevertheless you do not desire it as just, but as satisfying your malevolent mind. If revenge is desired in an ordered way, there is no sin of anger, as when superiors are angry at the faults of subjects, and punish them, or avenge them. Anger inordinate in the first way mentioned before is from its genus a venial sin; nevertheless it can become mortal by accident, on account of the violation of another virtue, e.g., religion, piety, charity, etc., as if blasphemy, malediction, or scandal is added; and also, if a movement of the soul of this sort is truly vehement and deliberate. Anger inordinate in the second way is from its genus mortal, because it is directly against charity and justice, Gal. 5:20. - S. Th. 1. 2. q. 88, a. 5 ad 1; 2. 2. q. 108, 158; L. 79.

342. What are the daughters of anger? - Some are from the heart: 1. Indignation, which is an inordinate affection from the fact that someone reckons himself treated unworthily by such a person. It is commonly venial. Indeed, if it proceeds from a just judgment of reason, it is nothing. Nevertheless it could be mortal if it increased up to deliberate hatred and grave contempt of the person. 2. Swelling of mind, by which someone morosely thinks out diverse ways of revenge, and by those thoughts puffs up his mind. What kind of sin it is must be judged from the quality of the revenge which is thought out. - Some are in the mouth: 1. Shouting, when an angry person raises his voice, pouring forth many things inordinately and confusedly. It is commonly venial, unless something else is added. 2. Blasphemy against God, and it is mortal. 3. Contumely against men, by which someone casts some evil upon his neighbor, with the intention of dishonoring him. 4. Malediction, by which someone wishes and imprecates evil upon another, under the account of evil. - Some are in deed, as quarrels, fights, seditions, wounds. "Quarrels, by which are understood all harms which are inflicted in deed on neighbors from anger." S. Th. 2. 2. q. 158, a. 7. When "someone intends to harm another, with the latter knowing and resisting, this is imported under the name of quarrel." S. Th. 2. 2. q. 42, a. 1. Quarrels, if they do not exceed measure, as also slight fights, are venial; otherwise, if they progress to seditions, wounds, killings. And these are commonly mortal sins on the part of the one beginning the quarrel; for the other can defend himself with the moderation of blameless defense. L. 80, 83; S. Th. 2. 2. q. 40, 41, 42.

Contumely: From its genus it is mortal. It is only venial if it is small, or only material without the mind of dishonoring, provided that no notable injury to the neighbor's honor follows. And thus many parents are excused at least from mortal sin when they call their children asses, etc.; likewise women, children, and men of the lowest sort, burdening one another with insults, because, since credit is not given to them, honor is not gravely injured. Nor indeed is it a sin if it is done with the mind of correcting, humbling, or for another reason. And thus a superior can cast forth some word otherwise contumelious. Yet in this one can sin if the mode of due correction is exceeded, or the subject is more gravely dishonored than he deserved. Likewise, if for the sake of a joke, through fitting recreation, light defects are cast forth, it is pleasantness, according to S. Th. 2. 2. q. 72, a. 2, provided the other is not saddened, nor moved to anger. Contumely is also done by deed, both indirectly, as if you trample or burn the image or letters of another, etc., and directly, as if you beat an honorable man with a club, set horns at his door, or represent something which injures the honor of another.

To this belongs mocking, derision, and ridicule, when it is done by signs, as by wrinkling the nose, stretching out the lips, etc., intending the neighbor's confusion; and if this is grave, or at least the neighbor is gravely saddened by it, they are mortal. - Concerning these things note that one who has injured another's honor by contumely is bound to restore it, even if reputation has not been injured. But this can be done either through an honorable and friendly greeting, or an invitation to table, or a petition for pardon, sometimes even on bended knees and before witnesses, according as the injury was grave. It is not necessary to explain in confession the varied quality of mortal contumely. L. 81, 82. "Malediction, of which we now speak, is that by which evil is pronounced against someone either by commanding or by wishing. But to will, or by command to move toward, the evil of another, according to itself repugns to charity, by which we love our neighbor; and so according to its genus it is a mortal sin, and so much the graver, the more we are bound to love and revere the person whom we curse.... Nevertheless it happens that a word of malediction uttered is a venial sin, either because of the smallness of the evil which one imprecates upon another by cursing, or also because of the affection of the one who utters the words of malediction, while from a light movement, or jest, or from some surreption, he utters such words, because sins of words are weighed especially from the affection." S. Th. 2. 2. q. 76, a. 3; L. 83.

343. What is acedia? Acedia, or weariness of soul, can be used in two ways: 1. Generally, for every weariness of soul and slackening in the exercise of virtues, because some labor is joined to it. "Acedia is a certain sadness by which man is rendered slow toward spiritual acts because of bodily labor." S. Th. 1 p., q. 63, a. 2 ad 2. 2. Specially, for sadness and weariness concerning divine friendship, because it must be preserved through laborious exercises of virtues; and thus someone does not care for that friendship. Acedia taken in the first way is then finally a mortal sin when therefore a work forbidden under mortal sin is done. Acedia taken in the second way is of itself mortal, because it repugns to the charity of God. "Acedia is not a mental withdrawal from any spiritual good whatsoever, but from the divine good, to which the mind must adhere of necessity. Hence if someone is saddened by this, that someone compels him to fulfill works of virtue which he is not bound to do, it is not the sin of acedia, but when he is saddened in those things which are incumbent upon him to be done for God." S. Th. 2. 2. q. 35, a. 3 ad 2; q. 35; L. 84; E. M.

344. What are the daughters of acedia? - They are the following: 1. Malice, namely a special malice by which, by reason of sadness to be fled, someone hates and detests spiritual goods, and would wish them not to exist, or by which he is sorry that he has done well or fulfilled that to which he was bound, or by which he contemns a benefit of God, e.g., by desiring not to have been born, or not to have known Christ, etc. It is mortal from its genus. - 2. Pusillanimity, by which someone flees those things which are arduous and which fall under counsels. 3. Torpor, by which someone flees those things which pertain to common justice, or precepts, and does good things without due fervor.

4. Rancor, by which those who induce to spiritual things are wearisome; whence rancor is a certain indignation. 5. Wandering of mind, by which someone in the exercise of spiritual things wanders toward exterior illicit delights, whether by thought, and it is called curiosity; or by speech, and it is called verbosity; or by bodily restlessness, and it is called restlessness, which are commonly venial. 6. Despair of salvation, which is flight from the end itself, and mortal. S. Th. 2. 2. q. 20, a. 4; q. 35; L. 84.

VI. On Virtues

345. What is virtue, how many kinds are there, and is it distinguished from the gifts of the Holy Spirit, from the beatitudes, and from the fruits of the Holy Spirit? - R. To the first. Virtue is a good habit of the mind, by which one lives rightly and no one uses badly. S. Th. 1. 2. q. 55, a. 4. A good habit of the mind, namely a good disposition of the soul toward living or operating rightly. If the disposition is simply toward operating holily, it is supernatural and infused virtue, giving the ability to operate. If the disposition is toward operating rightly with ease, it is natural virtue, acquired by repetition of acts. Therefore virtue is not the power itself, but presupposes it, and is in it, giving it the ability to act easily in the natural order, and simply a further ability to act in the supernatural order, beyond the ability to act in the natural order. Habit of the mind, namely of the intellect and will, as are the supernatural virtues of faith, which regards the intellect and attains God, the highest truth; and of hope and charity, which regard the will, of which the one attains God as good for us, the other attains God as the highest good in himself. By which one lives rightly, that is, one operates rightly or operates according to the moral rule of human acts. And thus virtue is distinguished from the habit of vice, which is always toward evil. And no one uses badly; for one can use other intellectual habits, such as the habits of science and art, for good or for evil. Therefore virtue is by no means one kind active, another passive, as the Americanists and Modernists say; since every virtue, as a habit, is a principle of acting rightly, and as an act, is right action.

R. To the second. Virtues, some are theological, so called because they immediately attain God, man's supreme supernatural end; and others are moral, which immediately attain created objects, and through these God. The theological virtues are only three, and they are those three already mentioned, neither more nor fewer; namely faith, hope, charity. But the principal moral virtues are four. For virtue consists in this, that by a dispositive habit it directs our acts according to right reason; and right reason consists in this, that man in his human acts preserves due relations, in intercourse and association with other men and in the use of all creatures. Hence there arises first the most general directive virtue of all, which is prudence, to which it pertains to direct all our operations and all acts of the other virtues according to the dictate of right reason, so that in them there is sin neither by excess nor by defect. There arises second the most noble virtue, which is justice, which renders to others what is owed. There arises third temperance, which inclines us to the moderate use of delightful things. There arises fourth fortitude, by which man reasonably contains and bears himself in the use of things, as regards those things which present difficulty to us and are harmful to us. These four are called cardinal virtues, because all other moral virtues are reduced to these as their parts. Moreover three parts of the cardinal virtues are distinguished: integral, subjective, potential. An integral part is that without which the virtue is not perfect, as a house without a roof, without a foundation, without a wall is not perfect; a subjective part is that which is its species; a potential part is that which is ordered only to certain secondary acts and matters, as not having the whole power of the principal virtue. - Wis. 8:7; S. Th. 1. 2. qq. 58, 60, 61, 62, 63, 68; 2. 2. q. 48, a. 1; q. 128, a. 1; q. 143, a. 1.

R. To the third. From infused virtues are distinguished the gifts of the Holy Spirit, which are infused habits by which man is rendered promptly movable to receiving divine inspirations and to exercising excellent acts of virtues. Therefore they agree with supernatural virtues in this, that they too are infused habits; they differ from them first in this, that virtues dispose man so that he is promptly

moved by reason and follows the dictate of the divine law, but gifts dispose man so that he promptly obeys the Holy Spirit himself as mover and guide. They differ besides in this, that virtues dispose men to doing the ordinary works of the Christian life; but gifts dispose to extraordinary, higher, and more excellent works.

Seven are the gifts, and they are referred to the seven virtues: the gift of fear of God to temperance, the gift of fortitude to the virtue of fortitude, the gift of piety to justice, the gift of counsel to prudence, the gift of understanding to faith, the gift of knowledge to hope, the gift of wisdom to charity. S. Th. 1. 2. q. 68.

R. To the fourth. From virtues and gifts are distinguished the beatitudes, which proceed from the former in a more imperfect mode, from the latter in a more excellent mode. For beatitudes are good, outstanding, and perfect acts, which in a peculiar way lead us to obtaining eternal life, whence we are already blessed in hope. To poverty of spirit the virtue of temperance and the gift of fear dispose. To meekness, the virtue of justice and the gift of piety; to mourning, the virtue of hope and the gift of knowledge. To hunger for justice, the virtue and gift of fortitude. To mercy, the virtue of prudence and the gift of counsel. To cleanness of heart, the virtue of faith and the gift of understanding. To peace, charity and the gift of wisdom. "The eighth beatitude," says S. Th. 1. 2. q. 69, a. 3 ad 5, "is a certain confirmation and manifestation of all the preceding. For from this, that someone is confirmed in poverty of spirit and humility and the other following things, it follows that he does not recede from these goods because of some persecution. Hence the eighth beatitude in some way pertains to the seven preceding."

R. To the fifth. The fruits of the Holy Spirit, which the Apostle names in Gal. 5, are distinguished from the habits of virtues and gifts of the Holy Spirit, for they are their effects or acts; and insofar as they proceed from man, not indeed according to the faculty of his reason, but according to a higher power, which is the power of the Holy Spirit, they are called fruits of the Holy Spirit, as of a certain divine seed. They are also distinguished from the beatitudes. "For for the account of fruit it suffices that it be something having the account of the ultimate and delightful. But for the account of beatitude it is further required that it be something perfect and excellent. Hence all beatitudes can be called fruits, but not conversely. For fruits are any virtuous works in which man delights, but beatitudes are called only perfect works, which also by reason of their perfection are attributed more to gifts than to virtues." S. Th. 1. 2. q. 70, a. 2.

346. What is prudence, what are its parts, and what vices are opposed to it? R. To the first. It is a certain special virtue of the practical intellect, by which in any business occurring we know what is honorable, what shameful. And thus prudence is the right reason of things to be done, or the virtue rightly ordering those things which are toward the end of the whole of life. But every virtue is in the mean; the mean is to do those things which virtue commands, when one ought, where one ought, as one ought; and accordingly the office of prudence is to find a mean of this sort, which is one thing as a mean of reason, another as a mean of the thing. - The acts of prudence are: 1. To take counsel, namely by inquiring what means and what circumstances are necessary, so that the work may be done honorably. 2. To judge concerning the things found, i.e., after diligent consideration, to conclude what is to be done, in what way, in what place and time, and with what other circumstances. 3. To command, namely by prescribing what and when it is to be done, by applying to operation those things which have been counseled and judged. 4. To operate solicitously the things commanded. For

solicitude is that moderated speed by which, by the cleverness and vigilance of the soul, that which has been consulted and defined is quickly committed to execution.

Hence a precept of prudence is not given by reason of itself, but only by reason of another thing, namely of a virtue to be exercised and a sin to be avoided. Therefore as all precepts pertain to prudence, because it is directive of all virtuous acts, so universal Moral Theology pertains to prudence, and especially the treatise on Conscience; since the whole of Moral Theology and the aforesaid treatise in particular hand down rules so that we may act prudently and rightly. S. Th. 1. 2. q. 64; 2. 2. q. 47; q. 56.

R. To the second. The integral parts of prudence, which concur toward its perfect act, are: 1. Memory, which is knowledge of past things. For since experience is required for prudent persons, and experience is from many memories, the memory of many things is required for prudence. 2. Understanding or intelligence, not as it is a certain power, but as it is a certain right estimation of some ultimate principle. For every deduction of reason is from some principle, and prudence is the right reason of things to be done. 3. Docility, by which someone is prompt and easy in receiving instruction from others and acquiring knowledge from them. For prudence consists about particular things to be done, which someone cannot always know all by himself alone. 4. Shrewdness, which is an easy and prompt conjecturing, by which, when something occurs unexpectedly, someone quickly by himself finds what is fitting. 5. Reason. For it belongs to a prudent man to be good at taking counsel; but counsel is a certain inquiry proceeding from certain things to others, which is the work of reason. 6. Foresight, which imports a respect of something distant, or future, to which those things which occur in the present are to be ordered. Therefore foresight is the right ordering of suitable means to the end, and accordingly includes rectitude of counsel, judgment, and command. 7. Circumspection, by which that which is ordered to the end is compared with the things which surround it, and therefore is an accurate consideration of all circumstances. For something is good in itself and fitting to the end, which nevertheless, from certain concurrent things, is rendered either evil or not opportune to the end. 8. Caution, which is consideration of evils and extrinsic impediments, through which it happens that they are avoided, lest good be impeded by evil, lest evil be mixed with good. Of these eight parts, the first five pertain to prudence according as it is cognitive; but the three later according as it is preceptive, applying knowledge to work. S. Th. 2. 2. q. 49.

The subjective parts of prudence are: 1. Prudence simply so called, which is ordered to one's own good. 2. Royal prudence, which is the prudence of the king himself, which rules a city or kingdom. For it belongs to prudence to rule and fittingly to command. And therefore to the king, to whom it pertains to rule a city or kingdom, a more special prudence belongs. For a rule is so much the more perfect, the more universal it is, extending itself to more things and reaching a further end beyond itself. 3. Political prudence, and this is that by which men rule themselves in obeying Princes in order to the common good of the city or kingdom. 4. Economic prudence, by which men direct themselves toward living well according to domestic intercourse, for the common good of the house or family. 5. Military prudence, by which harms from enemies are repelled. S. Th. 2. 2. q. 47, aa. 10, 11, 12; q. 48, 50.

The potential parts of prudence are: 1. Eubulia, or the virtue of taking counsel well, whose office is to suggest good counsel. 2. Synesis, which is the virtue of judging well concerning particular things to

be done, according to common rules. 3. Gnome, which is the virtue of judging about things to be done beyond common principles; and consequently it imports a certain perspicacity of judgment. These parts are potential parts of prudence, because the principal act of prudence is to command execution, to which taking counsel well and judging well are directed. S. Th. 1. 2. q. 57, aa. 4-6; 2. 2. q. 48; q. 51.

R. To the third. Imprudence is opposed to prudence. It is either such privatively, or contrarily. "But negatively it is not properly so called, namely so that it properly imports only the lack of prudence, which can be without sin. Privatively, indeed, imprudence is so called insofar as someone lacks prudence which he is naturally apt and ought to have; and according to this, imprudence is a sin by reason of negligence, by which someone does not apply effort to having prudence. But contrarily imprudence is taken according as reason is moved or acts in a contrary mode to prudence; for instance, if the right reason of prudence acts by taking counsel, the imprudent person spurns counsel; and so concerning the other things which must be considered in the act of prudence. And in this way imprudence is sin according to the proper account of prudence. For this cannot happen, that man acts against prudence, except by turning aside from the rules by which the reason of prudence is rectified. Hence, if this happens by aversion from divine rules, it is a mortal sin; for instance when someone, as if contemning and repudiating divine documents, acts precipitately. But if he acts beside them without contempt and without detriment of those things which are of the necessity of salvation, it is a venial sin." S. Th. 2. 2. q. 53, a. 1.

Generally speaking, every sin is against prudence, as follows from the very nature of prudence and imprudence. But specifically one sins against prudence by excess and by defect. By defect: by precipitation, inconsideration, inconstancy, negligence. By excess, or rather by a certain species of prudence: by prudence of the flesh, cunning, deceit, fraud, solicitude about temporal things, solicitude about future things.

Precipitation is that which, some end having been proposed, immediately undertakes the work, or at least judges concerning the means and mode of executing it, deliberation being omitted, against the office of prudence to take counsel. It is not grave except by reason of the danger of grave sin. - Inconsideration is that which judges while diligent inspection of things from which right judgment proceeds has been omitted, against the office of prudence to judge well. Likewise it is not grave except by reason of the danger of grave sin. - Inconstancy is that by which, without just cause, one's opinion is changed, and one contemns commanding those things which according to right reason had previously been judged and proposed, against firmness of judgment. It is not grave unless from some extrinsic circumstance, e.g., of scandal, precept, vow, someone is bound to persist in the opinion. - Negligence is that which imports defect of due solicitude, and omits to commit to execution at the opportune time a thing deliberated and judged, against the vigilance of reason in executing. It is not grave except in a grave matter.

Prudence of the flesh is that which thinks out suitable means for accomplishing the works of the flesh, so that one may follow the instinct and motions of corrupted flesh. The sin is grave or light by reason of the depraved affection, grave or light, which underlies it. Under prudence of the flesh is comprehended the prudence of the age and of the world, because we also desire the exterior things of the world on account of the flesh. - Cunning generally is the manner of doing something in a hidden mode. But here it is taken specifically for knowledge of depraved means suitable for deceiving, joined

with an affection of executing them. It has place in those things which regard the neighbor. For no one hides something from himself. Therefore cunning is a sin by which someone uses not true ways, but false and simulated ways, for obtaining some end, whether good or evil. It is a grave or light sin according to the account of the affection which underlies it, and the harm which follows for the neighbor. - Deceit is the execution of cunning, whether by words or deeds; for it is a general name. Therefore deceit is the assumption of ways that are not true, but simulated and apparent ways, according to the execution of the work. It differs from cunning because cunning is the assumption of ways of this sort, not in execution, but only in the thinking out of them. Fraud is the execution of cunning through deeds, as when someone spends adulterated coin, and is something more restricted than deceit. Deceit and fraud are used especially in contracts, and they are a grave or light sin according to grave or light harm of neighbor. Concerning fraud and deceit the Rules of Law are: "Fraud and deceit ought to patronize no one," C. *Ex tenore* 16, *de Rescr.*; "Fraud is not done to him who knows and consents," L. *Nemo de Reg. Iur.*

Solicitude about temporal things is excessive occupation of mind, proceeding from inordinate love of having, or fear of losing. For solicitude imports a certain effort applied to obtaining something. - Solicitude about future things is excessive occupation of soul concerning future things, especially so that the necessities of life may be had, joined with anxiety and little confidence in Providence. Each solicitude is a grave or light sin, according as by it someone is prepared to violate a precept in a grave or light matter. S. Th. 2. 2. qq. 53-55; Theol. Wirceb., *de Virt. Card. de Prud.*

347. What is justice, and what are its parts? - R. To the first. Justice is the virtue which renders what is owed according to equality. Hence other moral virtues hold the mean of reason, according namely to prudent estimation. For since they are concerned with ruling passions, that which is right for one person is little or too much for another. But justice attains the mean of the thing, according namely to the equality of thing to thing, so that as much is rendered as is owed. For the equal is really the mean between greater and lesser. And thus the mean of justice cannot vary according to persons, places, and time; but whoever it may be, wherever and whenever, who owes one hundred, and whoever the creditor may be, he ought to render one hundred to him. If he renders fifty he injures justice; if one hundred and fifty he exercises liberality. S. Th. 2. 2. q. 58, 59, 61, 80.

R. To the second. The parts as it were integral of justice are: to decline from evil and to do good, namely to do owed good and to decline from the opposite evil. Owed; for if the speech is about good and evil in common, then to do good and to avoid evil pertains to every virtue. But if it is considered under the account of what is owed, then it pertains to justice. For justice is one kind general, namely legal, another special, namely distributive and commutative; these are the three subjective parts, or its species. To general or legal justice it pertains to do owed good in order to the Community and to God, in order to divine or human law; and accordingly as to the proper account of legal justice it pertains to attend to the debt of the precept, to do good, so to the proper account of transgression it pertains to attend to contempt of the precept, to decline from evil. - But to special justice, distributive and commutative, it pertains to do good owed to the neighbor and to avoid the opposite evil, namely that which is harmful to the neighbor. S. Th. 2. 2. q. 79.

But as to do good is a certain special part of justice distinct from the declining of evil, so omission, which is opposed to the former, is altogether distinguished from transgression, which is opposed to the latter. For omission is properly of owed good, e.g., if someone does not show owed reverence to

parents; and transgression is properly in doing evil, e.g., if someone inflicts contumely or any injury upon parents. The former is opposed to the affirmative precept, to do good; the latter to the negative precept, to decline from evil. Properly omission; for this imports the passing over of good not just any whatsoever, but of owed good. But good under the account of what is owed properly pertains to justice; to legal justice indeed, if the debt is taken in order to divine or human law; but to special justice if in order to neighbor. Properly transgression; for transgression materially taken is common to all species of sins, because by any species of sin man transgresses some divine precept. S. Th. 2. 2. q. 79. "But these two parts of justice, general or special, are called as it were integral, because each of them is required for the perfect act of justice. For it pertains to justice to constitute equality in those things which are toward another. But it belongs to the same thing both to constitute something and to conserve what has been constituted in those things which are toward another. But someone constitutes the equality of justice by doing good, i.e., by rendering to another what is owed to him; and he conserves the equality of justice already constituted by declining from evil, i.e., by inflicting no harm upon the neighbor." S. Th. 2. 2. q. 72, a. 1.

The potential parts of justice, or the virtues annexed to it, are: religion, piety, observance, truth, gratitude, vindication, friendship, liberality. For these virtues are annexed to justice because they too in some way render what is owed according to equality. In some way; for since it belongs to justice to render what is owed according to equality, some of these fall short of the account of the equal, others of the account of what is owed. Religion, piety, and observance fall short of the account of rendering the equal, as is clear of itself. But truth, gratitude, vindication, liberality, and friendship fall short of the account of what is owed. For religion, piety, and observance cannot render worship and service to God, Parents, and Persons constituted in dignity according to equality. But the debt is deficient on the part of the one owing, in truth, so that namely man shows himself in words and deeds such as he is. Likewise the debt is deficient on the part of him to whom it is owed, in gratitude, by which someone recompenses another according to the things he has done in good things; and in vindication, by which another is recompensed according to the things he has done in evil things. Finally the debt is deficient in the account of the debt itself, in liberality and friendship, which are only toward a certain greater honorableness. For liberality renders us prompt to spend easily our things estimable by price, when right reason requires it; to this liberality avarice and prodigality are opposed. But friendship moderates our intercourse with neighbor, so that it may be pleasing to him, and such as according to right reason it ought to be. Likewise the debt is deficient in other things of this sort, which have little of the account of debt. S. Th. 2. 2. q. 80, a. 1.

Obedience is included in observance; for to preeminent persons there is owed both reverence of honor and obedience. In truth is included fidelity, through which the things said are done, as regards the observance of promises. But vengeance which is done by the authority of public power, according to the sentence of a judge, pertains to commutative justice; but vengeance which someone does by his own motion, not however against the law, or which someone requires from a judge, pertains to the virtue joined to justice. S. Th. 2. 2. l. c. ad 1, 3. Friendship or affability is a special virtue according to which "man is fittingly ordered to other men both in deeds and in words." S. Th. 2. 2. q. 114, a. 1. Flattery and quarrelsomeness are opposed to friendship. Flattery is a sin by which someone beyond the due mode of virtue wishes to delight others by words or deeds in common intercourse, with the intention of obtaining some advantage. S. Th. 2. 2. q. 115, a. 1. But quarrelsomeness, by which someone contradicts another because of defect of love toward the person speaking, is a species

of discord contrary to charity; but that by which someone contradicts another rather in order to sadden him than to contradict him is especially opposed to the virtue of affability and friendship. S. Th. 2. 2. q. 116, a. 1.

Since justice renders what is owed according to equality, it of itself brings a precept, and injustice is opposed to justice, which falls short of rendering that debt and of preserving that equality. Justice and its various species are treated especially in the fourth, fifth, sixth, seventh, ninth, and tenth precepts of the Decalogue. But the other virtues annexed to justice are treated in the first, second, third, fourth, and eighth precepts of the Decalogue. - S. Th. 2. 2. q. 122.

348. What is fortitude, what are its parts, and what vices are opposed to it? - R. To the first. Fortitude is the virtue which moderates and strengthens the soul against grave dangers, especially of death. - No precept per se of this virtue is given, but only by reason of some special precept to be fulfilled, e.g., even martyrdom to be undergone, lest faith be denied. But whether and when there is an obligation of observing the law even with danger to life was said in the treatise on Laws, and is explained in the individual treatises, when it is asked whether it is licit to do something at least to avoid death. S. Th. 2. 2. q. 140.

There is a twofold act of fortitude, to attack and to sustain: to attack distinguished and arduous things; to sustain adversities. For the act of attacking two things are required. The first is preparation of soul, namely that someone have a prompt soul for undertaking great things, which magnanimity provides. The other regards execution of the work, namely that someone not fall short in the execution of those things which he began magnanimously, which magnificence provides. For the act of sustaining two things also are required. The first is that by the difficulty of imminent evils the soul not be broken through sadness, and fall away from its greatness; and for this patience is posited, by which someone bears evils with an even soul, without disturbance of sadness. The other is that from long-lasting suffering of difficult things man not be wearied up to the point that he desists; and for this perseverance is posited.

R. To the second. These four virtues, magnanimity, magnificence, patience, perseverance, are integral parts of fortitude if they are concerned with dangers of death; but they are potential parts of fortitude if they are concerned with lesser dangers. But fortitude does not have subjective parts, because it is not divided into many virtues differing in species, since it concerns a very special matter, namely dangers of death, which are all of the same genus, although some are greater than others.

R. To the third. Timidity, fearlessness, and audacity are opposed to fortitude. Timidity is a vice exceeding in fearing; for it fears what one ought not, when one ought not, or more than one ought, whence one does not dare to attack when reason dictates, or as it dictates. If it stands in itself, it is a light sin; but if it impels to sin, it will be grave or light according to the condition of that to which it impels. - Fearlessness is a vice deficient in fearing; for one does not fear when he ought to fear, or the things that ought to be feared. It is not a sin distinct from that to whose danger someone exposes himself; for it is a sin only insofar as it is the cause of that, tacitly containing consent to that danger.

Audacity is that which rashly casts itself into dangers. Rashly, namely without just reason. It is a sin according to the account of the evil and danger to which one exposes himself.

Presumption, ambition, vainglory, pusillanimity are opposed to magnanimity. - Presumption is excessive confidence in one's own powers, by which it happens that someone undertakes something,

or is prepared to undertake something, above his powers. It is a deadly sin when it occurs with danger or injury of another, as the presumption of a physician, judge, confessor; or when it proceeds from error against the faith, as the presumption of heretics. Outside these cases it is almost always a venial sin. Ambition is an inordinate appetite of honor, by desiring more honor than is fitting. It is a light sin, unless honor is desired either with injury and harm of another, or from a gravely illicit thing, or in a gravely illicit mode or end. Vainglory is desire of vain glory. Vain, if glory is sought from simulated excellence or reputation, if greater than is fitting, or from an illicit thing, or among those who cannot judge rightly about things, or by referring it to an undue end. Per se it is a venial sin, nor does it become a mortal sin except by reason of another sin, which is sometimes involved in its effect. Pusillanimity is a sin by which someone from smallness of soul does not attempt those things which are commensurate with his natural virtue. It is grave or light according to the goods from which he recedes.

Small-magnificence and consumption or excessive profusion are opposed to magnificence. - Small-magnificence is the vice by which man falls short of the proportion which ought to be between expense and work. Consumption or excessive profusion is the vice by which someone exceeds the said proportion, namely so that he spends more than is proportioned to the work. Each is per se a light sin; it can be grave by reason of scandal, or notable harm then following to others, or by another extrinsic reason, e.g., of a vow, testament, etc., by which someone is bound to that magnificent work and ought to be contained within due expenses.

Insensibility and impatience are opposed to patience, but softness and pertinacity to perseverance. - Insensibility is had when someone is touched by no evils, neither his own nor those of neighbors. It is a sign either of brutish stupidity or of inhuman hardness. Insensibility or hardness is rarely a mortal sin; certainly per se it is only venial. - Impatience is had when someone grieves too much, or even from grief departs from the right. Impatience per se is only a venial sin, because it is only an excess in grief, or in a movement of anger, expressed by an external sign; nevertheless it can be deadly by reason of scandal or of the evil which someone does from impatience. - Softness is if someone easily recedes from good because of certain difficulties which he cannot sustain; for that is called soft which easily yields to one touching it. But it is manifest that fear of dangers impels more gravely than desire of pleasures; and the desire itself of pleasures moves more strongly than sadness concerning the lack of pleasure withdraws, because lack of pleasure is a pure defect. And therefore he is properly called soft who recedes from good because of sadness caused by the defect of delights, as if yielding to a weak mover. This is a grave sin in a venereal matter or in another matter of great moment, to which someone is bound by law, precept, vow, or oath; but it is light in a light matter. Pertinacity is perseverance in one's own opinion more than one ought; and it is venial or mortal according to the gravity of the matter, e.g., if someone is unwilling to embrace the Catholic religion lest he seem inconstant; if a Prince is unwilling to revoke pernicious laws. - S. Th. 2. 2. q. 123 seqq.; Theol. Wirceb., *de Virt. Card. de Fortit.*

349. What is temperance, what are its parts, and what vices are opposed to it? - R. To the first. Temperance is the virtue which moderates concupiscence and delight of sensible goods, especially in the delights of taste and touch, of which some regard conserving the individual, others conserving the species. Insensibility and intemperance are opposed to temperance. The former consists in this, that someone flees delight so much that he therefore omits even those things which are necessary for

the conservation of nature. But the latter is the sin of excessive concupiscence. S. Th. 2. 2. q. 141 seqq.; *Quodl.* 12, a. 22.

R. To the second and third. The integral parts of temperance are shamefacedness and honorableness. Through shamefacedness someone flees shamefulness contrary to temperance. Through honorableness someone loves the beauty of temperance. - S. Th. 2. 2. q. 143; q. 144; q. 145.

The subjective parts of temperance are: Abstinence, which moderates delight in the use of foods and non-intoxicating drink; and gluttony is opposed to it, cf. 329. - Sobriety, which moderates delight in the use of drink able to intoxicate; and drunkenness is opposed to it, cf. 332. - Chastity, which moderates according to right reason the principal delight of coitus itself; and lust is opposed to it, cf. 325. Modesty, which moderates surrounding delights, for instance in kisses, touches, embraces, looks. Sometimes, however, one is put for the other. - S. Th. 2. 2. q. 143, 146 seqq.

The potential parts of temperance are: Continence, which contains man in the good of reason against the pleasures of touch, especially venereal pleasures; and incontinence is opposed to it, which impels toward those delights and yields to them. S. Th. 2. 2. q. 155, 156. Meekness, which moderates the passion of anger according to right reason; and anger is opposed to it by excess, cf. n. 341 seq.; by defect, lack of anger, which does not stir up anger when it is required by charity or justice, by correcting and punishing. It does not have malice diverse from that of the omitted office to be fulfilled from charity or justice. - S. Th. 2. 2. q. 143, 157, 158. Clemency, which is proper to Superiors, inclines one to impose lesser punishments than by right he could, because of kindness toward neighbor and the decorum of a Superior. Cruelty is opposed to it by excess, which from harshness of soul exacts punishments beyond measure; but by defect, excessive lenity, which mitigates punishments beyond measure or remits them altogether. Cruelty is distinguished from savagery, according to which someone in inflicting punishments does not consider any fault of the one who is punished, but only this, that he delights in the torment of men. S. Th. 2. 2. q. 143, 157, 159.

Modesty, by which someone moderates his internal and external motions and the arrangement of his things, by a measure fitting to him. Hence under modesty the following four virtues are numbered. Humility, which moderates the motions of the soul toward lofty things, and inclines us to profess our lowliness by internal and external signs. To humility is opposed by excess pride, cf. n. 321 seq.; and by defect excessive abjection of self, which inclines to immoderate self-abjection. S. Th. 2. 2. q. 143, 160 seqq. Studiousness, which moderates the zeal of knowing according to the dictate of right reason. To it by excess is opposed curiosity, by which someone is impelled to applying superfluous diligence of knowing, from affection for knowledge alone. But by defect negligence is opposed to it, by which someone omits to acquire owed knowledge. Curiosity and negligence per se are light, per accidens grave, for instance if the former impels you to extort a secret from another, the latter incites a confessor to omit the study of Moral Theology. S. Th. 2. 2. q. 166 seqq.

Modesty of manners, which moderates the external gestures and motions of the body according to the norm of reason, so that namely they agree with the person, both in himself and considered with all circumstances of things. To modesty of manners is opposed by excess petulance, by which a foreign mode is assumed, not agreeing with one's own condition, or an overly common mode is shown; but by defect rusticity of manners, which does not preserve a fitting mode. Each is per se light. A species of modesty of manners is eutrapelia, which imposes due mode on games and places.

By excess and by defect one can also sin in play, by scurrility and excessive austerity. - S. Th. 2. 2. q. 168. Modesty of dress moderates the arrangement of external things according to the prescription of reason. For it is fitting that in human society each one wear clothing convenient to his own condition. Likewise by excess and by defect one can sin in this matter, which per se is only light. S. Th. 2. 2. q. 169.

The end of the precept is charity, through which we are induced to loving God and neighbor. Among the vices opposed to temperance, adultery seems especially to be opposed to love of neighbor, and therefore it is chiefly prohibited by the precepts of the Decalogue not only in deed, but also in heart, the sixth and ninth. - But virtues annexed to the virtue of temperance, as to their effects, can likewise rightly regard charity toward God and neighbor; as, for example, from anger, which is opposed to meekness, someone proceeds to blaspheming God, or to killing a man. And thus a precept is also present concerning these virtues, implicitly in the Decalogue, explicitly in other places of Scripture. As to the integral parts of temperance, shamefacedness and honorableness, cf. 1 Cor. 14:40; 1 Tim. 2:9. As to the subjective parts, abstinence, sobriety, chastity, cf. Num. 6:3; 1 Pet. 5:8; Col. 3:5. As to the potential parts, continence, clemency, meekness, modesty, humility, cf. Ecclus. 10:31; 30:24; Col. 3:12; 2 Tim. 2:24. S. Th. 2. 2. q. 170. Therefore the various precepts of the Decalogue contain precepts of moral virtues. But in the first precept, I am the Lord thy God, the precepts of the theological virtues, faith, hope, charity, are also presuppositively and implicitly contained.

On the Precept of Faith

350. What is faith, and how is it distinguished? - Supernatural faith, about which the speech is here, is defined: the most firm assent to things revealed by God on account of the authority of God revealing. Therefore the material object of faith is every and only truth revealed by God; the formal object is the authority of God revealing. S. Th. 2. 2. q. 1. Faith is one kind formal, another virtual. Formal faith is had when someone believes a truth revealed by God on account of the authority of God revealing. Virtual faith is had when formal faith has been had, and habitually endures, and actually influences another act of virtue, as, for example, when someone, without actually eliciting an act of faith, elicits an act of supernatural charity and contrition.

Likewise faith is one kind explicit, another implicit. Explicit faith is that by which some article of faith is believed in itself, under its own and particular terms, under which it is proposed to us; e.g., he who believes God to be one in nature and three in persons, Father, Son, and Holy Spirit, has explicit faith of the Trinity. True implicit faith is that by which something is believed not in itself, but in another in which it is somehow contained; e.g., he who believes in Christ, God and man, by that very fact implicitly believes in his twofold will, even if he is ignorant of it. - L. 2; S. Th. 2. 2. q. 1, aa. 1-7; q. 2, aa. 1, 2, 9, 10; q. 4, 6, 7; Prop. 25 condemned by Decr. S. O. *Lamentabili*, 3 July 1907; E. M. 345.

351. What are the sins and vices opposed to faith? - To faith is opposed unbelief, which generally is the lack of faith; and specifically it is the lack of faith in one not baptized; and this is threefold: negative, privative, positive. The first is lack of faith in one who has never heard anything about the true religion. The other is lack of faith in one who neglects to procure for himself knowledge of faith when occasion has been given. The third is lack of faith in one to whom faith itself has been sufficiently proposed, and who positively rejects it. - Although negative unbelief, as is clear, is not a sin, nevertheless it is a punishment of sin; because if he had done what was in him, God would not have hidden faith from him. But privative and positive unbelief is a most grave sin. The reason is that the former indirectly and virtually, the latter directly and formally, contains grave contempt and injury of the authority of God revealing. Faith besides is the beginning, foundation, and root of justification. Trid. s. 6, C. 8. Therefore he who voluntarily deprives himself of faith likewise deprives himself of justification, and accordingly sins very greatly.

Heresy is also opposed to faith, and it is twofold: formal and material. The first is a voluntary and pertinacious error against some truth of faith proposed by the Church, in one who has received faith. But the other is that by which someone adheres to error against faith, but without pertinacity. Moreover to err pertinaciously here is not sharply and tooth-and-nail to defend one's error, but to retain it knowingly and voluntarily, after the contrary has been sufficiently proposed; or when it is known that the contrary is held by the universal Church of Christ on earth, to which someone prefers his own judgment, whether this is done from vainglory, or from the lust of contradicting, or from another cause. Merely material heresy is not a sin, for that error proceeds from invincible ignorance of the truth. But formal heresy is a most grave sin, as unbelief itself, for the same reasons.

Finally apostasy is opposed to faith, which is total defection from the truth of the Catholic faith. Therefore it is not distinguished in species from heresy. For whether more or less of the material object of faith is rejected, the formal object is always rejected in the same mode. It is reduced to positive unbelief if someone, departing absolutely from faith, passes over to unbelief. And if someone passes over to a sect in which false worship of God is had, he also sins against religion. Non-Catholics are as many as are not Catholics. Their genus is threefold: schismatics, heretics, apostates. More broadly non-Catholics are also infidels.

Heretics and those suspect concerning the faith must be denounced to the Bishop or Inquisitor from C. *Noveritis* of Nicholas II, and from the natural law, since such a crime tends to common harm. L. l. 4, n. 249 seqq.; l. 7, n. 248. But the Bishop has the faculty of proceeding in a cause of heresy even against regulars, although exempt, C. 9, *de Haeret*. - Those who wish to be converted from heresy to the Catholic Church before absolution must abjure their heresy and make a public profession of faith, according to what is prescribed by C. *Si qui voluerint* 8, can. 1, q. 7, and the Roman Ritual. - An abjuration made privately before someone delegated by the Bishop, such as a notary, and some persons as witnesses, suffices. S. O. 8 Apr. 1786; 28 Mar. 1900; Struggl, q. 2, nn. 1, 9; Suarez, d. 16, s. 1; Lugo, d. 16, n. 187, 291 seqq.; d. 18, n. 3 seqq.; S. Th. 2. 2. q. 5, 10, 11, 12; L. 17 seqq.; Collectan. S. C. de P. F., ed. 1, nn. 1682, 1683, 1689, and ed. 2, nn. 1341, 1496, 2079; E. M. 346.

351 bis. Note: 1. The books of Sacred Scripture whole with all their parts, as the Holy Synod of Trent, s. 4, reviewed them, are divinely inspired, and are sacred and canonical. 2. The heresies of schismatics and Orientals are reviewed in the Epistle of Pius X, *Ex quo*, 26 Dec. 1910, *Acta Apost. Sed.*, v. 3, p. 117 seqq. 3. Modernism is the collection of all heresies. - Bishops must be vigilant that it be extirpated, if it has been present, and must take precautions lest it be present.

Bishops should impede the writings of Modernists from being published and read; especially they should not be permitted to adolescents in Seminaries and to hearers in Universities. - They should establish a council of vigilance, to meet with the Bishop every other month and on a stated day. It will belong to it to investigate judgments of modernism in books and in teaching; likewise to keep watch over books and periodicals, lest dangerous questions be treated in them with weak arguments and prejudged questions; finally, over all writings concerning social matters. - By Modernism there are condemned rash and false novelties against the doctrine of Sacred Scripture and constantly handed down by the Fathers and Catholic Doctors; but by no means is there condemned any modern invention which is proved by solid reason. - Those who are prone to the errors of modernism are to be excluded from Sacred Orders. Pius X, Enc. *Pascendi*, 8 Sept. 1907.

4. Several errors of Americanism are condemned. Its fundamental and chief error consists in this: "It is opportune, for attracting the wills of those who disagree, if certain heads of doctrine, as if of lighter moment, are passed over, or softened so that they do not retain the same sense which the Church has constantly held." Brief to Card. Gibbons, Archbishop of Baltimore, of Leo XIII, 22 Jan. 1899, *Testem benevolentiae*.

352. Is he a formal heretic who doubts concerning some article of faith? R. Affirmatively, if he doubts positively, by judging that a truth is uncertain which he knows to be revealed by God and proposed by the Church; for he voluntarily contradicts faith sufficiently proposed, and accordingly there is truly had voluntary and pertinacious error against some truth of faith, which is the definition of formal

heresy. - R. Negatively, if he behaves negatively, and suspends assent, whether this is done from formal or virtual contempt of divine revelation, or whether it is done from negligence, or because he wishes to turn his mind to other things, etc. The reason is that since he judges nothing, and affirms nothing against the infallibility of faith, as is supposed, he does not err positively in faith and accordingly is not a heretic; although he sins gravely against faith, either from contempt of the word of God, or from negligence by omitting a commanded act of faith. - Struggl, q. 2, nn. 12, 13.

353. Is faith necessary? - The internal act of faith is necessary for all adults, using reason, for justification, by necessity of means. For, as the Apostle says, Heb. 11:16, without faith it is impossible to please God. For he who comes to God must believe that he is, and that he is a rewarder to those who seek him. By necessity of means. Because faith positively influences justification, and if it is not had even inculpably, justification and salvation cannot be obtained. L. 1; S. Th. 2. 2. q. 2, aa. 3-5; E. M. 348.

354. What things must be believed by necessity of means? - There are two things certainly to be believed explicitly by necessity of means: 1. that God exists; 2. that he is a rewarder. This is established from the same text of Paul just cited and from propositions 22 and 23 condemned by Innocent XI. E. M. 345, 349.

355. Are the mysteries of the Trinity and Incarnation also to be believed explicitly by necessity of means? There is a twofold probable opinion: one affirms, the other denies. The reason of the former is that the Incarnation is an object most necessary on the part of the means of our salvation; the Trinity most necessary on the part of the end; and accordingly it is most necessary to believe that God is one and that in him there are three distinct divine Persons, Father, Son, and Holy Spirit; and that the Son of God was incarnate, our Redeemer. The reason of the latter is: no argument of reason is present, and no positive document, from which that necessity can be drawn. For in order that man be converted to God, it suffices to believe that he exists, and to hope that he is propitious to him, and consequently to do penance for his own sins. The former opinion is favored in some way, especially for practice, by Resp. S. O. 25 Jan. 1703. Struggl, q. 1, n. 21; L. 2; S. Th. 2. 2. q. 2, aa. 7, 8; E. M. 350.

356. Can he be absolved who is ignorant of those things which are certainly of necessity of means? - R. Negatively, neither licitly nor validly. The reason is that he, from defect of a means necessary simply, is incapable of justification; therefore he is also incapable of absolution. Besides, no one can have hope of salvation unless he believes God to be a rewarder. Whence from defect of the acts of the penitent, the sacrament is null. - Bened. XIV, C. *Etsi minime*, 7 Feb. 1742.

357. Can one ignorant of the mysteries of the Trinity and Incarnation be absolved? - He cannot licitly be absolved, outside a case of necessity, e.g., danger of death, because the confessor, absolving such a person, exposes the sacrament to danger of frustration of grace. - He probably can be absolved validly if he is in invincible ignorance. The reason is the very probability of the opinion denying the necessity of means for such mysteries. Hence, at least probably, the necessary acts of the penitent are not lacking.

358. Is the internal act of faith also necessary for adults by necessity of precept sometimes in life? R. Affirmatively. Proof 1. from 1 John 3:23: This is his commandment, that we believe in the name of his Son, Jesus Christ. 2. From proposition 1 condemned by Alexander VII, from propositions 17 and 65 condemned by Innocent XI; from C. *Vineam Domini* of Clement XI, 16 July 1703. If someone embraces

not some heretical doctrine, but a doctrine proscribed, with a lower note, by the Roman Pontiff or by the Roman Congregations, he does not sin per se against divine faith; nevertheless he sins gravely against studiousness and obedience, which is owed both to the Roman Pontiff and to the sacred Congregations. But one can also sin by irreligion and scandal if, for example, propositions have been condemned because offensive to pious ears, because scandalous. Conc. Vatic., Const. *de Fide Cath.*, c. 4; Props. 7 and 8 condemned by Decr. *Lamentabili*, S. O., 3 July 1907; Motu Proprio of Pius X, *Praestantia*, 18 Nov. 1907; Mazzella, *Trutina Theol. Rosmin. Propos.*, Pref.; E. M. 353, 356.

Biblical Commission: All universally are bound in conscience by the duty of submitting to the sentences of the Pontifical Council on Biblical matters just as to Decrees of the Sacred Congregations approved by the Supreme Pontiff; nor can those avoid the note both of withdrawn obedience and of rashness, or therefore be free from grave fault, whoever by words or writings impugn such sentences. Pius X, M. P. 18 Nov. 1907.

359. When does the precept of faith oblige? - The precept of faith urges per se and by reason of itself: 1. After the completed use of reason, for beginning the Christian life, after someone has been sufficiently instructed concerning faith and its necessity. 2. When the truth of our faith has been sufficiently proposed to an adult infidel or heretic. 3. In the article of death, according to some, for tending more proximately to God. 4. Several times in life, at least according to many once a year, according to many others in each half-year, quarter-year, or even two-month period; and according to some, each month. But it urges per accidens: 1. When grave temptation is urgent, which cannot otherwise be overcome; and then the obligation arises from the very precept of faith if the matter concerns temptations against faith, but otherwise if it concerns other temptations. 2. By reason of another precept, when, for example, an act of contrition is to be placed in Confession, which, since it must proceed from faith, cannot exist without some act of faith, at least virtual and implicit, concerning its own proper object or motive. 3. After a lapse into heresy, or faith denied, and whenever an exterior profession of faith is to be made. - Struggl, q. 1, nn. 30, 33-35, 46; Suarez, d. 10, s. 2; Lugo, d. 13, n. 23; S. Th. 1. 2. q. 89, a. 6; L. 5-8, 11, 20; E. M. 353, 354.

360. Note: "Anyone in the first moral instant of the use of reason, if he is sufficiently instructed and adverts to this obligation, is bound by divine precept to elicit these acts..., so that, if he delays for a notable time, he sins gravely against this precept." Mazzotta, *de Virt. theol.*, c. 1, § 1. In those who have already learned and believed the truths to be held by faith, generally acts of virtual and implicit faith suffice. Therefore this precept is sufficiently fulfilled by exercising other acts of religion. Hence he satisfies the precept who devoutly hears Mass, adores the Crucified, prays, makes the sign of the cross, receives the sacraments, and fulfills various obligations of Christian life, which also contain an external profession of faith.

By at least general and implicit faith it is necessary to believe all things revealed by God; namely, it is necessary that all those things be believed generally which have been revealed by God and proposed through the Church. For this the authority of God revealing requires. - Struggl, q. 1, n. 25; L. 7; S. Th. 2. 2. q. 2, aa. 5, 6; Bened. XIV, C. *Etsi minime*, 7 Feb. 1742, § 18.

361. What things are to be believed explicitly by necessity of precept? - "The object of faith per se is that by which man is made blessed. But all things which are contained in Sacred Scripture as handed down by God are related per accidens or secondarily to the object of faith.... As to the first credible things, which are the articles of faith, man is bound to believe explicitly, just as he is bound to have

faith; but as to other credible things man is not bound to believe explicitly, but only implicitly, or in readiness of soul, insofar as he is prepared to believe whatever divine Scripture contains," S. Th. 2. 2. q. 2, a. 5; q. 1, a. 6 c. ad 1, or divine Tradition.

"Explicitly, by necessity of precept, there must be known and believed, at least in substance: 1. The Apostles' Creed. 2. The Lord's Prayer and the Angelic Salutation. 3. The precepts of the Decalogue and of the Church. 4. The sacraments which are necessary to each one, such as baptism, eucharist, and penance; for concerning the others it suffices to have implicit faith, since explicit faith is necessary only to those who receive them." L. H. A. tr. 4, n. 3. Proof from common practice and the common authority of theologians. The reason is that these contain the substantial heads and foundations of Religion, which one must profess; and the necessary precepts according to which one must live. S. Th. 2. 2. q. 2, aa. 3-6; E. M. 356, 357.

362. Note: As to the Creed. Two things are proposed in the Creed to be believed: the Divinity and Humanity of Christ. Concerning the Divinity there are proposed to be believed: Unity of Divinity, Trinity of Persons, the works of God according to nature, grace, and glory; creation, sanctification, resurrection, eternal life. Concerning the Humanity of Christ there are proposed to be believed: Christ's Incarnation, Conception, Nativity from the Virgin, Passion, Death, Burial, Descent to hell, Resurrection, Ascension, Coming to judgment. S. Th. 2. 2. q. 1, a. 8. Suarez and Lugo think not improbable the opinion denying the necessity of explicitly believing the perpetual virginity of Blessed Mary. - Although the Passion of Christ is to be believed explicitly under grave sin, nevertheless that circumstance, under Pontius Pilate, does not pertain to faith to be held explicitly. - Crucified, crucifixion, expressing the genus of death, is to be believed explicitly; for thus 1 Cor. 1:23: We preach Christ Crucified. And indeed the Church constantly preaches to the faithful this genus of death. But the Burial of Christ is to be believed explicitly, but more probably only under light sin, because it is a light circumstance. He descended to hell; more probably this is not to be believed explicitly under grave sin, indeed not even under light according to Suarez, because it is not easily understood by the faithful. But Lugo contradicts him. - But although the Resurrection from the dead is to be believed explicitly under grave sin, because it is a substantial matter, as is established from Paul, 1 Cor. 15, nevertheless that circumstance of time, the third day, is not to be believed explicitly. He sits at the right hand of the Father; probably, according to many, this is not to be believed explicitly, because it is difficultly understood by the faithful; but others affirm that it is to be believed explicitly, as to honor, power, and supreme dominion. - Thence he shall come to judge the living and the dead; these words, the living and the dead, according to Lugo, are not to be believed explicitly, because of the variety of explanations. - I believe in the Holy Spirit; the procession from the Father and the Son is not to be believed explicitly, by necessity of precept, by individual faithful, even though it is of faith. For many things are of faith which ought not to be known by all. The Holy Catholic Church; concerning the Church three things must be known and believed, namely that it is: 1. one on earth under one visible head; 2. governed and conserved by the assistance of the Holy Spirit; 3. infallible in matters of faith and morals, and to be heard by all. Yet this last, although certain and of faith, is not explicitly contained in the Creed. As to its holiness, it suffices to know and believe that it is holy because of its head, doctrine, sacraments, and canonized Saints, because concerning the others diverse persons think diversely. But as to its catholicity, it suffices to profess obedience to it in the person of its visible head. For by this article the universality of the Church is commended, and unity, which is signified when not many but one Church is believed.

Communion of Saints: whether it must be believed explicitly, and as to some communication of prayers only, or only implicitly in the unity of the Church; whether under grave or under light sin, theologians do not agree. Whatever may be the case, in practice all seem to know it sufficiently, since they often say pray for me, and frequently invoke the Saints. Trid. s. 4; s. 6, cc. 4, 12-15; Decr. S. O. *Lamentabili*, 3 July 1907; Lugo, d. 13, s. 4; Suarez, d. 13, ss. 2, 4; S. Th. 2. 2. q. 1, aa. 6-9; E. M. 356, 357.

363. As to the Decalogue. It is to be believed explicitly, because the precepts of the Decalogue are revealed so that they may be observed by all; moreover, what is revealed is to be believed by divine faith; and what has been revealed for directing the acts of individuals must be explicitly known by all. Nevertheless several contradict this, because precepts of this sort can be known in another way than through revelation.

364. As to the Precepts of the Church. These are not to be believed by divine faith, because they have not been revealed by God, at least insofar as they are precepts of the Church. This alone is to be believed, that the Church has the right of making precepts from divine authority. But the chief precepts of the Church must be known by all, whose observance pertains to all the faithful: namely the precept of observing feasts and hearing Mass on them, the precept of annual Confession, of Easter Communion, of fasting and abstinence. To the obligation of knowing the precepts is also reduced this, that individual persons must necessarily know the duties of their own state or condition.

365. As to the Eucharist. - All must know and believe the real presence of Christ in it. Likewise, according to the common opinion, it must be believed explicitly that Christ is whole under each species, and more probably also that he is offered in sacrifice, since all must assist at the sacrifice of the Mass. But transubstantiation is more probably not to be believed explicitly. Lugo, d. 13, n. 121.

366. As to the Lord's Prayer. - All must know under grave sin that God is to be prayed to with hope and confidence, and that all goods both of soul and of body, and graces for fleeing the evils of the soul, must be sought from him. In it God is believed as provident, helper, forgiving, rewarding. Likewise there is an obligation, at least under light sin, of reciting it sometime, according to the common opinion. - Lugo, d. 13, n. 133; Suarez, d. 13, s. 4, n. 12; L. 3.

367. Must the aforesaid things be known by memory? Not all are bound under mortal sin to know the aforesaid things by memory, or in that order, or in those words in which they are proposed, but it suffices to know them in a rough way and as to substance. For custom has explained that the obligation of learning them by memory is not beyond venial; as also it is not beyond venial not to know how to make the cross. And as to the Angelic Salutation, it must be known and recited only from fittingness. - Suarez, d. 13, s. 5, n. 8; *de Relig.*, t. 2, l. 3, *de Orat.*, c. 6, n. 8 seqq.; Lugo, d. 13, n. 132; L. 3; Gury 204.

368. Can those be absolved who are ignorant of those things which by necessity of precept and under mortal sin must be known? - R. Affirmatively, because although they have sinned by omitting to learn, nevertheless they can be sorry for this, with the purpose of learning. But the parish priest, like a parent his children, is bound under mortal sin, by himself or through another, to teach his sheep at least those things which they are bound under mortal sin to know. L. 3.

Pontifical Constitutions concerning the Chinese and Malabar rites are to be had as doctrinal, by no means as disciplinary; and therefore, except for censures, they still hold force. S. O. 5 Aug. 1891. The doctrine concerning Eschatological Renewal must be reproved. S. O. 2 Mar. 1910. It cannot safely be denied, or called into doubt, that the text of St. John in 1 Ep. c. 5, v. 5, concerning the three giving testimony in heaven, is authentic. S. O. 15 Jan. 1897. Those cannot be absolved who hold that the fire of hell is not real, but metaphorical. S. Poenit. 30 Apr. 1890.

With all reverence and submission of soul, all propositions condemned by the Holy See up to the year 1794, in which the propositions of the Synod of Pistoia were condemned, must be reproved. With like reverence and submission of soul must also be reproved: the Propositions condemned by Pius IX in the Encyclical *Quanta cura*, 8 Dec. 1864, and the Errors of our age, 80, condemned in the Syllabus transmitted to the whole Christian world; the 40 Propositions condemned from recently published works under the name of Antonio Rosmini Serbati, Decr. S. O. 7 Mar. 1888, *Post obitum*, approved and confirmed by Leo XIII; the doctrines of Americanism, condemned by the same Leo XIII, Brief of 22 Jan. 1899 to Card. Gibbons, Archbishop of Baltimore; the 65 Propositions condemned by the Decr. S. O. *Lamentabili sane exitu*, 3 July 1907, containing the chief errors of reformism or modernism, afterward proscribed by Pius X through the Encyclical Letter *Pascendi dominici gregis*, 8 Sept., and through the Motu Proprio *Sacrorum Antistitum*, 1 Sept. 1904. E. M. 356, 357, 359.

369. Is there also given a precept of the external act of faith? As to the external act of faith, there is given a negative precept, prohibiting the denial of the true faith or the profession of a false one. Likewise there is given an affirmative precept, obliging sometimes to confess the faith even with danger to life. Proof of the first part. To deny the true faith, or to profess a false one, is to deny God and Christ. But Christ says: He who shall deny me before men, I will also deny him before my Father who is in heaven. Matt. 10:33. Proof of the second part. For ordered charity, which we owe to God and neighbor, requires that, when God's honor and the spiritual utility of the neighbor would be withdrawn privatively or contrarily, for professing the faith we should sometimes spurn temporal goods and even life. - Privatively, as if therefore great honor to God and great utility to neighbor would cease. Contrarily, as if otherwise God would be affected by injury, or the neighbor by grave evil, e.g., if the conversion or perversion of others, contempt of religion, scandal, depended on it. Suarez, d. 4, s. 2; L. 10; Laymann, c. 11, n. 2; S. Th. 2. 2. q. 3, aa. 1, 2; Collectan. S. C. de P. F., nn. 1647, 1648, 1653, 1657, 1683, 1827.

By positive law all to be baptized are bound to profession of faith, either by themselves or through sponsors; converted heretics; Bishops before consecration, and before the dispatch of letters of their own provision, Trid. s. 25, C. 2, *de R.*; Sixtus V, C. *Romanus*; Gregory XIV, C. *Onus Apostolicae*; all regular Prelates, Pius IV, C. *Iniunctum nobis*, id. Nov. 1564; nevertheless this Constitution has not been received in use as to those regular Prelates who are not immediately set over government by the Holy See, but either by chapter or by a higher superior, Thesaurus, *de Poenis*, c. 1, v. *Fides*, cf. 550; those about to have ecclesiastical benefices, and those who must assemble in a diocesan synod, Trid. l. c.; likewise those provided with a benefice with care of souls, within two months from possession obtained, before the Bishop himself, or if he is impeded, his vicar general, otherwise they do not make the fruits their own; canons and dignities of a cathedral church, who likewise within two months from begun possession are bound to do this also in chapter; otherwise neither do they make the fruits their own, although they can gain distributions for their choir assistance, S. C. C. 1726;

Trid. s. 24, C. 12, *de R.*; Primates, Archbishops, Bishops in the first provincial synod which they attend, Trid. s. 25, C. 2, *de R.*; those to be chosen for the government and chairs of Universities and public gymnasia; and also those to be promoted to scholastic degrees of doctor, master, etc., Pius IV, C. *In Sacrosancta*, 13 Nov. 1654, § V. But Doctors and Masters of Universities at the beginning of any year must issue a solemn oath by which they are bound to hand down orthodox doctrine, Trid. s. 25, C. 2, *de R.* It belongs to the Rector or Prefect to see that this is observed. - Profession of faith can be emitted immediately after institution or collation of a benefice, and before possession, S. C. C. 11 May 1782; but cf. here below, paragraph *Non manet*, and it must altogether be made in the form proposed by Pius IV, C. *Iniunctum nobis*. But a few things are to be added, so that account may also be taken of the Decrees of the Vatican Council, S. C. C. 20 Jan. 1877. Made otherwise, it will not profit toward avoiding the canonical penalties laid against those who omit this profession. Conc. Rom. Bened. XIII, tit. 1, c. 1; Bened. XIV, Inst. 60; Ferrar., v. *Fidei professio*; L. 41; Collectan. cit., n. 1670; E. M. 364.

Those who are announced as doctors in Sacred Scripture are bound to furnish an oath according to the prescribed formula approved by the Motu Proprio of Pius X, 29 June 1910. Likewise an oath, according to the prescribed formula, must be furnished by all those who are listed in the Motu Proprio of Pius X, *Sacrorum antistitum*, 1 Sept. 1910, a profession of faith having been premised; - and also, by reason of office, synodal examiners and parish-priest consultors and those who are listed in C. *Sapienti consilio*, Order of Service in the Roman Curia, and others, concerning all of whom cf. below n. 550. This obligation of profession of faith seems grave, unless it has been derogated by legitimate custom. The penalty of restoring the fruits probably needs a declaratory sentence of the delict. Sanchez, l. 2, c. 5; Tamburini, l. 2, c. 1, D. 12, n. 4. The faculty made by the Council of Trent no longer remains, by which those provided with any benefices whatever can emit profession of faith within two months from the day of possession obtained; and consequently in the future profession of faith must be emitted before possession of the benefice. S. C. Cons. 1 Mar. 1911.

In external confession of faith and divine worship, the rite of one's own church, Latin or Oriental, is to be observed. Cf. for the Ruthenian rite constituted in the United States of North America, Apostolic Letter of Pius X, 18 Kal. 1907, and for the same rite constituted in the Canadian region, Decr. S. C. de Pr. I., 18 Aug. 1913. E. M. 365.

Blasphemy is opposed to confession of faith. For by it man in heart or mouth, according to intellect or affection, attributes to God things which do not befit him, or denies things which befit him. The vice of blasphemy thus pertains to unbelief. Speech concerning it will occur in the second precept of the Decalogue. S. Th. 2. 2. q. 13.

370. Resolves: - He who, when asked by private authority, either is silent, or responds obscurely, or says that he does not wish to respond, that he is not being asked by right, that he is not bound nor does he wish to tell others what he himself believes, and evades in a similar way, unless the circumstances of things demand otherwise, does not seem to deny the faith, but to be unwilling to betray it. Whence, if he can thus be freed from a troublesome inquiry, it is licit. By private authority; for as to public power, regularly it is not licit. Cf. proposition 18 condemned by Innocent XI; S. Th. 2. 2. q. 3, a. 2; Suarez, d. 14, s. 3; Lugo, d. 14, nn. 37, 39; Kenrick, tr. 13, n. 30. - He does not deny the faith, but shows it, who flees; and although this is licit, nevertheless not for a Pastor when his sheep need his work; as, on the contrary, if it is more expedient for them that for a time he withdraw

himself and reserve himself for their good, he is bound to flee. Lugo, d. 14, nn. 42, 43, 96. When you are not asked about the faith, it is not only licit, but often better, for the honor of God and the utility of neighbor, to hide the faith than to confess it: as if, coming among heretics, you would do more good; or if from confession more evil would follow, e.g., disturbance, killings, exacerbation of a tyrant, danger of defection if you were tortured. Whence it is generally rash to offer oneself of one's own accord. Struggl, q. 1, n. 41; E. M. 364.

He does not sin against faith who visits the temples of heretics or infidels from mere curiosity, scandal, danger of perversion, or a command prohibiting this being absent, and provided it is not a protestative sign of false religion. At Rome there is a command not to enter the temples of heretics during the time of conferences and offices. - Likewise he does not sin who is present at a wedding banquet or burial of heretics, because these things do not properly pertain to faith, and the aforesaid assemblies are held as merely civil. Likewise he does not sin against faith who, passing through places of heretics, from fear of grave danger eats flesh-meat on a forbidden day, lest he be recognized as a Catholic, because this per se is not a sign of heresy; otherwise, however, if he ate flesh-meat even from fear of death, being impelled to this in hatred of the faith. - Collectan. cit., nn. 1829, 1833, 1843, 1855; Struggl, q. 1, nn. 44, 45; Lugo, d. 14, n. 156 seqq.; E. M. 364, 365.

It is licit to use the signs or clothing of infidels if they are clothing or signs proper to some region and distinctive of nation from nation, although that whole region is infidel, because these things per se are not referred to religion. More probably it is still licit, yet from a grave cause, if the clothing is distinctive of sect from sect, because then their primary use is for covering the body, and only secondarily for distinguishing a sect. Hence it is licit for a missionary, in order to conceal himself, to put on the garments of ministers of a false religion, so that he appears as one of them. Gur., Cas. 196; L. 15; Struggl, l. c., n. 43; Lugo, d. 14, nn. 70-97. But otherwise, if the clothing or signs are protestative of false religion, as are the garments and ornaments which priests use in the exercise of their functions. Hence neither is the burning of incense licit, nor genuflection before an idol, nor taking a heretical supper, etc., even if these things are done only externally. Collectan. cit., nn. 1640, 1649, 1650, 1651, 1653.

Catholics living among heretics, if by command of the magistrate they contract marriage before a heretical minister, sin against faith, even if they have contracted before or afterward will contract before a Catholic priest; for the contracting person testifies by that ceremony that he recognizes him as a minister of the true faith. This is intrinsically evil, because the authority of the minister, and consequently his doctrine, is increased, and there is concurrence in the heretical rites which the minister exercises in that act. Nevertheless they licitly contract before a civil magistrate, or rather testify that they wish to contract, provided they contract before or afterward in the Catholic rite; because this action has been instituted for a political end, so that they may be held as spouses, and offspring may not be judged illegitimate. - Bened. XIV, C. *Ex quo singulari*, 1742; L. 12 seqq., 18; Lugo, d. 14, n. 156 seqq.

It is licit per se to attend a merely civil funeral, by reason of office and from a grave cause, and scandal being removed. Yet by a general rule it is illicit to attend funerals of this sort in which, by design and out of contempt for religion, the attendance of priests is excluded. Masonic or anti-Catholic banners can in no way be admitted to funerals and in churches. Indeed in churches only

blessed banners are to be admitted, unless otherwise disturbances and dangers are feared. S. R. C. 14 July 1887, ad 1, n. 3679; S. Poenit. 3 Apr. 1887; S. O. 4 Apr. 1887; E. M. 365.

371. What communication is prohibited to the faithful with Jews? "To the faithful, besides communication in matters of Religion and marriage, with Jews it is prohibited: 1. to dwell; 2. to use their physicians or medicine; 3. by agreement and association, to be present at a banquet or the same bath; 4. to act as servant or nursemaid in their houses; 5. to leave legacies to them in a testament; 6. to commit to them public offices among Christians. Thus from Canon Law. - Moreover, the end of these prohibitions is partly the dignity of the Christian Religion, partly the danger of subversion. Therefore when some communication from those listed is gravely opposed to this end, it is a mortal sin; but when only lightly, it is a venial sin. Besides, because of necessity and another reasonable cause it can happen that some communication with Jews is not even venially sinful," Struggl, q. 2, n. 5; La-Croix, l. 3, n. 89, especially with custom intervening, which today obtains almost everywhere. Scav., l. 2, n. 809; C. *Nullus*, C. *Omnes*, caus. 28, q. 1; C. *Iudaei de Iud. Sarac.* etc.; L. 18; S. Th. 2. 2. q. 10, aa. 7, 9, 10; E. M. 366.

372. What communication is prohibited with heretics? - Communication is simply prohibited with heretics if they are excommunicated persons to be avoided. - Communication is prohibited with them in divine things, namely by communicating in their rites proper to a heretical sect, but by no means by communicating with them in our rites, if they are tolerated, for example, by hearing Mass in a church with a heretic. The reason is that the former communication in divine things is a certain profession of a false sect, containing scandal and danger of perversion. And since these reasons are scarcely ever absent, therefore it is very rare that the aforesaid communication is licit, although it is not intrinsically evil. It has always been prohibited by the Holy See, which tolerates it only when there are very grave evils which cannot otherwise be avoided. Collect. S. C. de P. F., n. 1797 seqq., 1814, 1845, q. 6.

The latter communication often contains no grave inconvenience, but sometimes it contains scandal and danger of false opinion and error concerning the truth and necessity of the Catholic religion. And thus heretics can be admitted to sacred functions, provided nevertheless that they do not mix themselves into the sacred rites. At Rome they assist at them without any difficulty. But it would not be licit to administer the sacraments to them, nor the sacrament of penance, except in the article of death, and then scandal having been efficaciously removed. It is illicit for Catholics, in the temples of heretics, when false worship is exercised there, to play the organ. S. O. 8 July 1889. But if a Catholic man is lacking to play the organ, a non-Catholic musician can be temporarily admitted to that function in church, scandal or danger of scandal nevertheless being removed. S. O. 23 Feb. 1820.

Communication is prohibited with them also in civil matters, although they are tolerated, whenever scandal and danger of perversion are had from it. Concerning workers' associations, Catholic and mixed, cf. the Encyclical Letter of Pius X, *Singulari quodam*, 24 Sept. 1912, by which mixed associations of Catholics and Protestants are tolerated and permitted in Germany because of the great inconveniences which otherwise would be had, but in such a way that suitable precautions are used for avoiding the dangers which are present in these associations. - Public disputation with heretics is prohibited to all. S. C. C. 8 Mar. 1658. To laypersons especially it is prohibited to dispute publicly or privately with heretics. C. *Quicumque* 2, § 1, *de Haeret.*, in 6. Struggl, q. 2, nn. 32, 33; Lugo, d. 22, n. 1

seqq.; Suarez, d. 20, s. 1; d. 21, s. 3, n. 4; Bened. XIV, *de Syn.*, l. 6, c. 5, n. 2; S. Th. 2. 2. q. 10, a. 7; *Quodl.* 10, a. 15; E. M. 367.

373. What communication is prohibited to the faithful with pagans? - "By law both positive divine and ecclesiastical, under mortal sin communication is prohibited: 1. in those things which pertain to Religion, e.g., in their dogmas, ceremonies, and rites.... The reason... because one communicating in such a way uses signs and exercises actions which per se signify the profession of a false Religion, and accordingly at least externally denies the true faith. - 2. Likewise by divine and ecclesiastical law, it is prohibited to the faithful to enter marriage with pagans, indeed also with Jews. C. *Cave* 28, q. 1.... 3. - On the contrary, in civil actions by no law is it prohibited to the faithful to communicate with pagans, when danger of perversion is absent." Struggl, q. 2, n. 4; 1 Cor. 10:27. Since the worship of infidels is wholly false, communication in divine things with them in it is intrinsically evil. Collect. S. C. de P. F., n. 1775; S. Th. 2. 2. q. 10, aa. 7, 9, 10; E. M. 368.

On the Precept of Hope

374. Note: "Christian Princes can permit to Jews, pagans, or heretics liberty of conscience only because of the good of Religion and because of hope of conversion, but not because of temporal advantage.... But the Church, and any supreme Prince, can rightly compel Jews and pagan subjects to hear our faith." L. 18. Likewise infidels can be compelled "not to impede the faith of Christ." But "in no way are they to be compelled to the faith so that they themselves believe, because to believe belongs to the will." S. Th. 2. 2. q. 10, aa. 8, 10, 11; q. 11, aa. 3, 4; q. 12, a. 2; E. M. 369.

375. What is hope? - Hope is an act of the will by which, with a love of concupiscence, we desire God and divine things for ourselves before all other desirable things, and by which from the helping power of God and fidelity in promises we certainly and most firmly expect future blessedness and the means for attaining it. Hence the primary material object of hope is God and eternal blessedness, but the secondary is the divine help of grace and our good works. The formal object of hope, according to its various acts or formalities, of love and desire, of elevation of soul and effort of the will toward overcoming difficulties, and finally of confidence, is the respective goodness of God, the helping power of God, the fidelity of God in promises. "Hope," says S. Th. 2. 2. q. 17, a. 6 ad 3 and ad 8, "makes one tend toward God as toward a certain final good to be attained, and as toward a certain efficacious help for assisting." - Heb. 6:18, 19; Trid. s. 6, c. 31; Struggl, q. 3, nn. 1, 2, 3; q. 4, n. 2; Theol. Wirceb., n. 233 seqq.; Laymann, l. 2, tr. 2, c. 1, n. 6; S. Th. 3, D. 26, q. 1, 2; *de Virtut.*, q. 7 un., *de Spe*, aa. 1, 3; 1. 2. q. 40; 2. 2. q. 18, aa. 1, 4; L. 20, 21; E. M. 370.

376. What are the sins opposed to hope? - By reason of love, the first act of hope, there is opposed to it the hatred of abomination of God, by which someone abominates God as hostile to himself because of vengeance for sins, or by which someone is turned away from God, eternal blessedness, and wishes to place his happiness in some other thing than in God. Hence it is also a mortal sin opposed to hope, to love earthly things more with a love of concupiscence than heavenly things; e.g., if someone is so disposed that he desires to remain perpetually in this life, and to leave heaven to God, if God leaves earth to him.

By reason of hope, the other act of the virtue of hope, there is opposed to it flight from God because of the labor and difficulty of attaining him, and despair and presumption. The former is voluntary diffidence of obtaining blessedness and the means necessary for attaining it. But the latter is an inordinate confidence of obtaining blessedness without the means ordained by God. Presumption is chiefly committed if you presume to obtain eternal life by the proper powers of nature without the help of grace; if you expect it without penance, without labor, from the mercy of God alone; if you expect it above your proper disposition, according to the order of divine providence, e.g., if you should wish to surpass the Blessed Virgin Mary in holiness and glory. Struggl, q. 3, nn. 11, 14-16; Suarez, d. 1, ss. 2, 3; S. Th. 2. 2. q. 20; q. 21; L. 20, 21.

377. Is there smallness of matter in sins against hope? - R. Negatively as to hatred of God and love of creatures, if the act is perfect, as is clear of itself. R. Negatively as to despair, if it is perfect and properly such; for it is most greatly injurious to the divine Mercy. Eph. 4:19. Otherwise, however, if it

is imperfect and improperly such, as often happens in sadness and impatience. But here it must be noted that even devout souls are sometimes troubled by almost continuous temptations of despair. It is certainly not easily to be believed that they have sinned gravely, although they think they have given consent to them; just as excessive fear about the danger of salvation must not be confused with despair properly so called. - R. Affirmatively as to presumption, although it is grave from its genus. Bonacina, cited by La-Croix 128, teaches that he sins only venially who from presumption concerning the goodness of God would sin venially, or would defer doing penance concerning a mortal sin until the following day. - Suarez, d. 2, s. 3; S. Th. 2. 2. q. 20, aa. 1, 3; L. 20.

378. Is it a sin against hope, from weariness, to wish for death?

R. Negatively per se, because it is not to recede from God as from the last end; nor generally is it a grave sin, but only venial, unless there is express rebellion against the order of divine Providence. Cf. 386.

379. Is it presumption to sin under hope of pardon, or to persevere in sin from the same hope of pardon? - "It must be said that to sin with the purpose of persevering in sin under hope of pardon pertains to presumption, and this does not diminish but increases the sin." S. Th. 2. 2. q. 21, a. 2 ad 3. Say the same of him who sins or increases sins, or perseveres in sin from hope of pardon, as from the motive or reason of sinning; namely because God forgives sins, or as easily forgives ten sins as five, now or at the end of life. But it is not presumption to sin from passion and frailty with hope of pardon to be received sometime, and with the purpose of repenting, and in this way obtaining remission of sins; even if this act of hope, whether it is preceding or concomitant, removes a greater fear of sin, and is per accidens an occasion of sinning more freely. Indeed, this "diminishes the sin, because through this he seems to have a will less firmly fixed on sinning." S. Th. l. c. And indeed "while someone actually wills to sin or actually sins, it is good to hope for pardon of the sin and to propose afterward to repent." Struggl, q., n. 17; La-Croix 126; L. 21.

380. Is it presumption to commit the same sin several times, because committed several times it is as easily accused as once? R. Negatively. The reason is that then someone does not sin from the facility of obtaining pardon, but from the facility of confessing, although this is an altogether depraved disposition. La-Croix 127.

381. Is hope necessary? Is fear also necessary? R. To the first. Hope in adults is required by necessity of means for salvation. For man cannot arrive at obtaining God, his last end, unless by his own acts and merits he tends toward him; but this cannot happen without hope. The just need hope so that they can ask for grace for persevering. Sinners need hope so that they may be disposed to justification. If faith is necessary by necessity of means, hope also is necessary by necessity of means. The Apostle derives the necessity of faith from the things to be hoped for. Heb. 11:1, 6; Col. 1:23. It is also established from Trid. s. 6, C. 1, 13.

Hope is necessary also by necessity of precept. For there is given a true precept of eliciting acts of hope some times in life. This is established from proposition 1 condemned by Alexander VII. When and in what way the precept of hope urges must be determined by the same rules which we established above concerning faith. Cf. 354. Moreover, as for the precept of faith, so for the precept of hope no anxiety is to be had practically. For virtual hope suffices for fulfilling it, by praying, receiving the sacraments, exercising other pious works. But those who are lacking in it, since this is ordinarily

done without advertence, ought to have no disturbance concerning the past. Yet sin because of omission of acts of faith, hope, charity is easily understood in a man, for example, who confesses that he has lived forgetful of God and Religion, or who confesses that he has prayed nothing, and for a notable time has not approached the sacrament of penance. Suarez, d. 2, s. 1, n. 3; Struggl, q. 3, n. 7 seqq.; S. Th. 2. 2. q. 22, a. 1; L. 20; E. M. 376.

On the Precept of Charity

R. To the second. "As someone is induced to the observance of the precepts of the law through hope of rewards, so also he is induced to the observance of the law through fear of punishments, which is servile fear...." S. Th. 2. 2. q. 22, a. 2. Therefore by the very threatening of punishments the necessity of servile fear is clear. Ecclus. 1:27, 28; Luke 12:5. But there is also another fear, filial, which "follows from love," S. Th. l. c. ad 2, and which is fear of offending God, and consequently still more induces us to observing God's law, since fear of this sort "exhibits reverence to God, and is a certain principle of all those things which are observed in reverence of God." S. Th. l. c. Hence the necessity of this filial fear also is clear. Sinners, says the Council of Trent, s. 6, C. 6, are disposed to justice "while... being usefully shaken by fear of divine justice, they turn to consider the mercy of God and are raised into hope, trusting that God will be propitious to them on account of Christ, and they begin to love him as the fountain of all justice," and for this reason they are moved to penance by hatred and detestation of sins.

I. On the Necessity of Charity

382. What is charity? Charity is an act of the will by which, with a love of benevolence and friendship, we love God as the highest good on account of himself, and neighbor on account of God. Of benevolence, because we will good to God; of friendship, because love is with reciprocal love. Neighbor, namely all with whom we can be sharers of eternal blessedness, ourselves, other men, angels. For charity is friendship with God, and every friendship is founded upon some communication of life. Communication of life; for it belongs to charity and friendship to love, and to love is life. Communication of life; for to love is to will good; if therefore the love is mutual, there must be mutual willing of good, and accordingly a common life and a common good. Moreover there is no other communication of life and good with God than eternal blessedness, whose beginning in this life is had through grace. On account of God, i.e., on account of the glory of God. The highest good, on account of himself; and accordingly we love God in all things and above all things, so that we may obtain his promises, not because this is our good, but because it redounds to the good of God, i.e., to the glory of God. Therefore the primary material object of charity is God, the secondary neighbor. But the formal object is the absolute goodness of God. - S. Th. 2. 2. q. 23, 25, 27; L. 22; E. M. 377.

Good is that which is fitting. This account being presupposed, the will loves it because it is fitting to it. Moreover, this very thing is most fitting to the will, that God exist; and this good is more fitting to it than its own proper good. And thus the will can rightly be borne toward God by its own act on account of himself, and will that God exist and be endowed with infinite goods and perfections.

383. Is there given a special precept of charity toward God? R. Affirmatively. Proof: Matt. 22:37, 38: Thou shalt love the Lord thy God with thy whole heart... this is the greatest and first commandment. The same is evinced from proposition 1 condemned by Alexander VIII. The precept of charity, as is clear from the cited sacred text, obliges us to love God above all things, not indeed intensively, by a

greater effort of the will and a more fervent love which surpasses any other affection of the will, and which also ordinarily redounds into the senses, although this is most becoming; but appreciatively, by reason and rational will preferring God to all things, with a perfect and efficacious will, not only an imperfect and inefficacious velleity and complacency, so that we esteem no creature more than God, and wish rather to lose all things than gravely to offend God. But since love and friendship is the union and agreement of two wills, the nature and precept of charity consist in this, that someone wills those things which God wills, and does not will those things which God does not will, in any grave matter gravely, in any light matter lightly; this finally is true and perfect charity. S. Th. 2. 2. q. 26; q. 44; L. 22; E. M. 378.

Hence it is clear that it would be altogether falsely thought almost impossible or exceedingly difficult to elicit an act of charity. For, if it is commanded, God helps us toward it. And if the goodness of men moves us to a love of benevolence and friendship, much more does the infinite goodness of God. If that goodness which is also manifested by benefits moves us most greatly, how much ought the goodness of God the Creator, Redeemer, Rewarder, not to move us? If besides we are in the state of grace, the habit itself of charity persuades us that its act ought not to be difficult, since that habit is infused in a certain connatural mode for eliciting the act. Therefore, if the divine excellence, the infinite perfection of God, the infinite goodness of God having been proposed to him, someone tries with sincere soul to elicit pure charity, he will rightly be able to think that he has elicited that act of charity, and consequently that from charity he has also conceived perfect contrition for sins. Cf. Deut. 6:1-9.

384. Resolves: It is a mortal and most grave sin, and admits no smallness of matter, since it is opposed to the infinite goodness of God, if someone formally hates God with the hatred of malevolence and enmity, e.g., if someone wishes God not to exist, and himself to be held in hatred by God. - Likewise he sins mortally if someone loves God with a love appreciatively less than creatures. Therefore "any act of mortal sin is contrary to charity." S. Th., 2. 2. q. 24, a. 12. Likewise he sins against the charity of God if someone does not love God on account of himself as the last end of all things, but only on account of something else, e.g., eternal life, or to avoid hell. This is mortal, because namely God would not be loved appreciatively above all things if something other than him were loved by actual intention as the principal end. Principal, because God can be loved on account of the recompense of eternal life, but less principally. By actual intention, because otherwise, by loving eternal life and other gifts of God, by the very fact that such an act is in itself right, eternal life or other gifts of God are always at least implicitly and in actu exercito ordered to God as to the supreme end. L. 23, 24; S. Th. 2. 2. q. 34, aa. 1, 2; Struggl, q. 5, n. 2; Sanch., l. 2, c. 35, n. 3.

385. Is schism a special sin against charity? - "The sin of schism properly is a special sin, from this, that it intends to separate itself from the unity which charity makes; which not only unites one person to another by the spiritual bond of love, but also the whole Church in unity of spirit. And therefore properly those are called schismatics who by their own will and intention separate themselves from the unity of the Church.... And therefore those are called schismatics who refuse to be subject to the Supreme Pontiff, and who refuse to communicate with the members of the Church subject to him.... But schism per se is opposed to the ecclesiastical unity of charity.... It must be said that not to obey precepts with a certain rebellion constitutes the account of schism. But I say with rebellion, when someone both pertinaciously contemns the precepts of the Church, and refuses to

undergo its judgment. But not every sinner does this; whence not every sin is schism." S. Th. 2. 2. q. 39, a. 1; q. 42, a. 1 ad 2.

386. When does the precept of charity toward God urge? No precept is given of always acting from the motive of charity. Proof from proposition 8 condemned by Alexander VIII, E. M. 313, and because besides charity there are acts of other virtues, good and meritorious. - But the precept of charity urges more frequently than once in life, or every five years. Proof from propositions 5, 6, 7 condemned by Innocent XI. - When and how the precept of charity urges must be determined by the same rules which we established above concerning faith. Cf. 354. St. Alphonsus judges that one is not excused from mortal sin who defers an act of charity for a month. But this opinion rests on no demonstrative argument, and does not exceed the limits of probability. Besides, the same Holy Doctor thinks it most probable that the precept of charity urges in the article of death. If the speech is about those for whom no other means of justification is available, this is most truly affirmed. But if such necessity is absent, this opinion too does not exceed the limits of probability. But if no other means of justification is available, an act of charity is necessary not only by necessity of precept, but also of means. But the habit of charity is necessary to all by necessity of means; it is inseparable from sanctifying grace, which nevertheless we can obtain also by simple attrition and the sacrament, especially of baptism and penance. Benedict XIV exhorts Bishops to establish that in all parishes, on Sundays and feast days, the acts of faith, hope, and charity be read to the people. C. *Etsi minime*, 7 Feb. 1742, n. 18.

The precept of charity is satisfied by working toward this end, namely of pleasing God, by avoiding sin because it displeases God, by praying that the name of God be sanctified, that his kingdom come, that his will be done, by rejoicing in the divine perfections, by wishing that no one offend God, by eliciting an act of contrition, because contrition includes the motive of charity, but by no means by attrition, because it is not based on the motive of charity, etc. Therefore no one who lives piously ought to be anxious about this precept. Likewise, because of the various opinions of doctors and because of defect of advertence, as in the precept of faith and hope, sin is rarely committed here. John 14:21; L. 8, 23; H. A. 13; Struggl, q. 4, nn. 7-10; E. M. 381.

387. What does charity toward neighbor import; is there given a precept of charity toward neighbor? - R. To the first. Charity toward neighbor commands love of oneself and of neighbor, but in an ordered way; for not every neighbor is neighbor to us in the same mode. Love of oneself embraces the due care to be had of soul and body. Sins committed against it are implicitly contained and accused in other sins committed and accused in confession. But since even an enemy is neighbor, it also commands love of enemies. Love, namely so that we will good to him. The chief good of man is God. Therefore by charity we will that man possess God, by association in full participation of blessedness. And this is to love neighbor as oneself. Besides interior love, since charity by its nature is not sterile, but active, it also commands exterior works. Therefore besides interior benevolence, charity also commands beneficence, which is the execution of benevolence. The matter concerns the precept of theological charity, which is evidently established from the very words of Christ. "But the second commandment is like to this: Thou shalt love thy neighbor as thyself." Matt. 22:39; 1 John 4:21.

Among exterior works alms and fraternal correction hold a special place; these are works of mercy, the former corporal, the latter spiritual. For mercy is the virtue which inclines us to compassionating

another's misery, and from compassion to assisting. The same charity, on the contrary, prohibits hatred of malevolence and enmity toward neighbor, which from its genus is mortal. For by it we will evil to the neighbor insofar as it is evil for him, which is always inordinate and repugnant to charity. Yet smallness of matter is given, since the evil which we will to neighbor can be great or small. Besides this internal act, it consequently prohibits that by our exterior actions we inflict spiritual harm upon his salvation through scandal, or do other harm to him either as to other goods of soul, or as to goods of body. Concerning this last there will be discussion in the precepts of the Decalogue; here we will speak only of the remaining things.

Benevolence, therefore, and beneficence are acts of charity; to the former belongs willing good, to the latter doing good, according to the common account of good. If the good which someone does to another is taken under a special account of good, beneficence will receive a special account and will pertain to some special virtue. If the good, for example, is owed, it will pertain to justice; if it is for relieving misery, it will pertain to mercy, etc. Therefore the conferring of a benefit in general pertains to charity. In order that the conferring of benefit and beneficence properly be had, it is necessary that there be had a liberal conferring of a gift. S. Th. 2. 2. q. 31, a. 1.

Charity, about which the speech is properly here, is theological charity, by which neighbor is loved on account of God. But there is also given another charity, a moral virtue, by which neighbor is loved on account of the very honorableness of this love, which per se is a natural virtue. The natural motive of this love does not impede this love also from being supernatural, if it is done from grace and informed by faith. And it is commanded by God: "All things whatsoever you wish that men should do to you, do you also to them." Matt. 7:12; Job 4:16. Nevertheless the precept of theological charity is not fulfilled by this love. It is indeed praiseworthy and very meritorious that the acts to be exercised toward neighbor be exercised from the motive of the charity of God; nevertheless per se it is not obligatory.

For as the charity of God commands that we observe his commands, but does not also command that we execute them from the motive of the charity of God, so also charity toward neighbor indeed commands that we exercise various acts of beneficence and mercy, but by no means that we effect them only from the motive of the charity of God.

R. To the second. There is given a precept of loving neighbor with a true and internal affection, as is established from John 15:12, 17, and from propositions 10 and 11 condemned by Innocent XI; and also with external love, 1 John 3:15 seqq.; S. Th. 2. 2. q. 31, a. 2. But someone sufficiently satisfies this precept through a certain general love which excludes no one, and accordingly by reciting the Lord's Prayer, in which you have both an internal and external act. A precept of this sort obliges per se when the precept of charity toward God obliges per se. For it is like to this. Matt. 22:39. Hence he who fulfills the precept of charity toward God, by willing every good to God, at least implicitly fulfills the precept of charity toward neighbor, by desiring salvation for him. But it obliges per accidens: 1. If hatred toward neighbor cannot be repelled unless an act of love is elicited; for he who is bound to the end is obliged to the means. 2. When the neighbor is in necessity; otherwise the precept would be vain; if that necessity becomes known, for no one is bound to inquire whether someone is in need. - L. 8; S. Th. 2. 2. q. 25; q. 27, a. 8; q. 30; q. 31; q. 32, aa. 1, 2; q. 34, aa. 3, 4; q. 44; Struggl, q. 6, n. 4; Salm. 17; D'Annib., ed. 4, p. 2, n. 81; E. M. 282. Through a certain general love which excludes no one; for care concerning the salvation of neighbor is not incumbent on anyone, unless perhaps in a

case of necessity. S. Th. 2. 2. q. 26, a. 5 ad 3. Nor indeed by reason of common charity is there an obligation of inquiring into the necessity of neighbor. For it regards only cases occurring to anyone. "That which is owed to some determinate and certain person... we must expend upon him, not waiting until he occurs to us, but having due solicitude that we seek him out.... But those benefits which are owed not to a certain person, but commonly to all neighbors... we need not seek those upon whom we may expend them, but it suffices that we expend them on those who occur to us." S. Th. 2. 2. q. 33, a. 2 ad 4.

388. What are the sins opposed to charity? - From the Angelic Doctor, 2. 2, they are: 1. Hatred of God and of neighbor, which is opposed to the very love of charity; hatred of God is virtually present in any lethal sin, q. 34. But charity toward neighbor is gravely injured by any grave displeasure caused to neighbor without just reason, which constitutes a grave offense against him. 2. Acedia, which is opposed to the joy of charity concerning divine good, q. 35. Cf. n. 343 seq. 3. Envy, which is opposed to joy concerning the good of neighbor, q. 36. Cf. n. 327 seq. 3. Discord, which is in the heart, and is opposed to the peace of charity, q. 37. Cf. n. 322. - 4. Contention, which is in the mouth, and is also opposed to peace, q. 38.

Cf. n. 322. 5. Schism, quarrel, war, sedition, which pertain to deed, and likewise are opposed to peace, qq. 39-42. Cf. n. 342, 380, 751. 6. Scandal, which is opposed to the beneficence of charity, q. 43. Omission of help, whether spiritual or temporal, when it is owed, attention being paid to the necessity of neighbor and the ability of the one helping, is properly against mercy, and consequently against charity. Injury of neighbor in his temporal goods is properly opposed to justice. But in all sins against justice toward neighbor, charity and justice are injured at the same time, although in sins against charity toward neighbor justice is not always injured.

II. On the Order of Charity

389. What order generally is to be observed in charity toward neighbor?

In the order of charity each one is bound after God to love: 1. himself according to spiritual goods, insofar as he wills God, his end, i.e., the supreme and uniquely necessary good, more to himself than to another; then neighbor as to the same spiritual goods; 2. himself as to intrinsic bodily goods, such as life, health, etc.; then neighbor as to the same bodily goods; 3. himself, and then neighbor, as to external goods, such as reputation, honor, riches. The reason is that love of self is the rule of love of neighbor. But the rule is prior and preferable to what is ruled. Therefore love of self always precedes and is preferred to love of neighbor, where the matter concerns goods of the same order and equal necessity.

Of the same order: Supernatural goods are to be preferred to natural goods. Likewise the common good is to be preferred to private good, because the common good of many is more divine than the private good of one. Intrinsic natural goods, life, health, integrity of members, are to be preferred to extrinsic goods, reputation, honor, riches. But reputation and honor with respect to riches are of a higher order, because they are something spiritual and moral.

Necessity, whether temporal or spiritual, is distinguished as threefold: 1. Extreme, when danger of life, that is, of eternal damnation or death, or of another evil almost equal to death, so presses upon the neighbor that he, morally speaking, cannot escape it without another's help. And it is quasi-

extreme if he can free himself, but only with the greatest difficulty; or if there is only probable danger of the aforesaid evil: of life, of integrity of principal members, of liberty, of a most grave disease, of infamy. 2. Grave, when someone suffers great danger to the salvation of the soul, or to the life of the body, or of another grave evil, which he cannot escape without great difficulty. Such is the necessity in which those things necessary for conserving one's state are lacking. 3. Common or middling, in which someone can provide for himself without great difficulty. In this, in the spiritual order, are vulgar sinners who, if they wished to apply some effort, would rise again from a depraved state; but in the temporal order poor beggars are generally in it, for whom life, according to their condition, is not too burdensome and miserable. Tambur., *Expl. Dec.*, l. 5, c. 1, § 1, n. 4 seqq.; § 2, n. 5 seqq.; Suarez, *de Carit.*, d. 9, s. 2, n. 4; S. Th. 2. 2. q. 26, aa. 4-6; q. 31, a. 3; q. 32, a. 3; q. 44, aa. 7, 8; L. 25, 27, 31; H. A. 18.

390. Resolves: He sins against charity toward himself, gravely or lightly according to the gravity of the matter, who neglects due care of soul or body. - It is indeed licit, speaking per se, to deprive oneself of spiritual goods not necessary for salvation because of the spiritual or bodily good of neighbor, as it would be to omit entering religion, lest there be lacking one who may devote labor either to a parish, or seminary, or mission, or in order to support his parents or children. Indeed someone can wish for and procure for his neighbor greater spiritual goods, not necessary, than for himself, contempt of them being excluded. But it is not licit to sin lightly or gravely, nor to undergo proximate danger of sinning, in order that you may impede another's sin, when your fall appears in some way certain; otherwise, if that danger can become remote, so that you may rightly trust that you will not fall. L. 26; l. 4, n. 78; l. 5, n. 63; l. 6, n. 453; H. A. 14; S. Th. 2. 2. q. 26, aa. 3, 4.

In extreme spiritual necessity, neighbor must be helped even with certain danger to life, provided that these four things are established: 1. that there is equally certain hope of helping him; 2. that the neighbor has no one else by whom he may be relieved; 3. that the neighbor is certainly to be damned unless he is helped by you, so that it is established for you that the neighbor cannot free himself from sin through baptism, through the sacrament of penance, or at least through perfect contrition; 4. that a graver evil is not thence imminent, e.g., if, because someone dies for that cause, the salvation of several others is endangered. - 1 John 3:16; L. 27; S. Th. 2. 2. q. 26, a. 5; Reginald., *Prax. For. Poenit.*, l. 4, c. 25, s. 6, n. 357.

In extreme temporal necessity, neighbor must ordinarily be helped with great inconvenience indeed, but not with the greatest, such as even for a rich man would be a great largess of money. The reason is that on the one hand the life of neighbor is a more excellent good than some good of ours; and on the other hand, since love of self precedes in order, no one is obliged to undergo such great inconvenience for others. L. 31; S. Th. 2. 2. q. 66, a. 7.

In grave necessity of either order, no one is bound to help neighbor with his own grave inconvenience, yet title of justice, piety, office, or common harm being excluded. The reason is the same, because namely the good of neighbor can be more excellent than some good of ours; but, since love of self always precedes by force of charity itself, charity does not command procuring the good of neighbor except always with less detriment to ourselves than the harm of neighbor which is urgent. Hence the common saying: Charity does not oblige with grave inconvenience. Excluded, etc.; whence by justice pastors, namely Bishops and parish priests, are bound, with danger to life, to minister to their sheep the necessary sacraments, such as baptism and penance, but not others. Nor can the

pastor then renounce his office, although he can substitute others with the just permission of the Ordinary. A pastor is also bound, with great temporal harm to himself, to procure great spiritual utility for a subject. L. 27; l. 6, n. 621; S. Th. l. c.

In common necessity of either order, neighbor must be helped with some inconvenience indeed, because love of neighbor requires this, but only a light one; for there can only be a light obligation of charity when the neighbor can fairly easily rescue himself from that necessity, or it is not too burdensome to him. But we are not bound to help all persons placed in common necessity. For this is impossible, and if it could be done, it would no longer be a light inconvenience. L. 32; S. Th. l. c.

391. Is it against charity to wish death for oneself because of misfortunes of life? - R. Negatively, if it is done from desire of a better life or eternal happiness, as is clear of itself; or when life is so troublesome that it is judged harsher than death itself. Phil. 1:21-23; Ecclus. 30:17; 1 Mach. 3:50-60.

R. Affirmatively, if this is done from weariness of life and dejection of soul; yet this does not exceed venial sin, if that desire is inefficacious, and does not wish contrary to the order of divine Providence. For it is a certain pusillanimity and timidity, which fears all things, even light things, and per se is light. Very often also defect of advertence and deliberation excuses. Cf. 373; Struggl, q. 5, n. 12; Viva, in prop. 13-15 Innoc. XI, n. 3; L. 30; l. 5, n. 22; S. Th. 2. 2. q. 64, a. 5 ad 3.

392. In those things which are necessary for life, is it licit to prefer another to oneself? - Some probably deny it, because the order of charity demands that someone, other things being equal, love himself more than neighbor. Yet except if the public good required saving the life of the other. Others probably affirm it, for in these things one does not in reality love neighbor more than oneself, but loves the good of heroic virtue more than life; Tob. 2:3-8; 12:12. But except if he who exposes himself is necessary to the republic or to his own family. Hence it is licit to yield to another the plank from a shipwreck; to give oneself up to enemies for preserving the fatherland unharmed; to defend a prince by interposing one's body against the weapon of an assassin. For this is not to inflict death on oneself, but to permit it. But from a most grave cause it is licit not to withdraw oneself from danger of death, indeed to expose oneself to it voluntarily. And thus it is licit also for a Carthusian gravely ill to meet death rather than eat flesh-meat, from love of virtue, and of faith given to God, or of keeping a vow. - L. l. 3, n. 366; H. A. tr. 8, n. 1; S. Th. 3, D. 29, a. 5 ad 3; Struggl 20, tr. 7, q. 3, n. 8.

393. What order especially is to be observed among neighbors? The order to be observed in charity regards both the love itself, and the goods, and the persons. - As to love, one must attend whether it is a love merely appreciative and of simple complacency and joy concerning goods possessed, which is followed by worship, honor, reverence; or a love of efficacious benevolence and mercy by exterior work, by which we will and procure for another goods not yet possessed. - As to persons, there must be attended both the comparison to God, according to which some are more excellent and better than others, and the comparison to us, according to which some are more joined to us than others; but with ourselves we do not have conjunction, but unity and identity. As to goods, some are more excellent than others and more necessary, as was already declared in n. 389. - S. Th. 2. 2. q. 26, aa. 7, 9, 11, 12.

First, by the love of simple complacency, the better are to be loved more. - "Among neighbors, we ought to love more the better and those more closely related." S. Th. 2. 2. q. 44, a. 8 ad 2. For since "the principle of love is God and the one loving himself, it is necessary that according to greater

nearness to either of these principles, the affection of love be greater." S. Th. 2. 2. q. 26, a. 6. - Hence by appreciative love of simple complacency and joy, parents are to be loved more than children or wife, benefactors more than those benefited; for the former have a greater likeness with God, the common parent and benefactor of all, and are more closely joined with God, the chief object of charity. By the other love of beneficence and mercy, those more closely joined are to be loved more. "It must be said that from this very fact that it is said, Thou shalt love thy neighbor, it is consequently given to be understood that those who are more near are to be loved more." S. Th. 2. 2. q. 44, a. 8 ad 3. If the intensity of love is considered, "those who are more near to himself a man loves with more intense affection toward that good to which he loves them, than better persons toward a greater good." S. Th. 2. 2. q. 26, a. 7. For every movement has intensity of speed from the disposition of the movable thing and the power of the mover. S. Th. ibid.

If conjunction with God and conjunction with us are considered at the same time, "some neighbors are near to us according to natural origin, from which they cannot depart, because according to it they are what they are. But the goodness of virtue, according to which some approach God, can come and recede, increase and diminish; and therefore from charity I can will that this person, who is joined to me, be better than another, and thus be able to arrive at a greater degree of blessedness." S. Th. 2. 2. q. 26, a. 7. "But there is also another mode by which we love more from charity those more joined to us, because we love them in more ways. For toward those who are not joined to us we have only the friendship of charity; but toward those who are joined to us we have certain other friendships, according to the mode of their conjunction to us. But since the good upon which any other honorable friendship is founded is ordered as to an end to the good upon which charity is founded, it follows that charity commands the act of any other friendship." S. Th. 2. 2. q. 26, a. 7.

For there are various friendships of men: the supernatural friendship of charity is founded upon communication of supernatural goods; other friendships are founded upon communication of particular goods. All these friendships can be subordinated to the first. Hence the same Angelic Doctor, 2. 2. q. 103, a. 3 ad 2, says: "The reason of loving neighbor is God. And therefore the charity by which God and neighbor are loved is the same. Nevertheless there are other friendships different from charity, according to other accounts by which men are loved." Therefore, other things being equal, by love of benevolence and desire, by which we will and wish for another a good not yet possessed, which beneficence follows by doing good, those who are more joined to us are to be loved more as to those goods which are owed to such conjunction. The reason is that communication of goods is the foundation of friendship and charity. And thus in those things which pertain to nature we ought to love blood relatives more; in matters pertaining to civil communication, our fellow citizens; in military matters, fellow soldiers ought to be preferred to others. But in spiritual helps greater account is to be had of those who are judged our sons, fathers, or brothers according to the spirit. Nevertheless not improbably carnal parents, even in spiritual matters, are to be preferred, partly because their conjunction with us is founded also in these things; partly because carnal conjunction, the foundation and basis of other conjunctions, is by its own nature prior and more stable, while other conjunctions supervene upon it and can be removed, as S. Th. 2. 2. q. 26, a. 8, warns. But the grace of charity does not destroy the inclination of nature, but perfects it and directs it to a supernatural end. S. Th. l. c., a. 7. And what has been said of parents ought by the same reason to be said of children and carnal brothers, in comparison with spiritual sons or brothers.

Finally in goods pertaining to nature and to conserving bodily life, help must be given, other things being equal: 1. to one's wife, because she is one flesh with the husband; 2. to children, for whom by natural right parents are more obliged to provide than conversely; for children ought not lay up treasure for parents, but parents for children, says the Apostle, 2 Cor. 12:14, and teaches S. Th., a. 9; 3. to parents, but more to the father than the mother, because he obtains the more excellent account of principle, S. Th., a. 10; indeed, in a case of extreme necessity, S. Th., a. 9, 11 ad 3; q. 31, a. 3 ad 4, thinks that parents must be helped before all others, even wife and one's own children, since they were the cause and principle of our existing; therefore equity demands that in extreme necessity, by freeing them from destruction, we repay as much; 4. to brothers, sisters; 5. to other blood relatives; 6. to benefactors, friends. Other things being equal; for to a distinguished benefactor or friend, for example, help must be given by the law of charity rather than to a blood relative not very near or not well deserving of us. Similarly it seems that spiritual brothers must be helped more, even in temporal goods, than relatives not very near, since spiritual conjunction excels carnal conjunction.

There is indeed no order on the part of the good which we wish for the neighbor through supernatural charity, if generally such good is considered according to itself. "As to this we love all men equally from charity, because we wish for all the same good in genus, namely eternal blessedness." S. Th. 2. 2. q. 26, a. 6 ad 1. Yet if the aforesaid good is considered according to the diverse participations of blessedness, we ought from charity to will a greater good to those who are nearer to God. "And this pertains to charity, that it wills the justice of God to be preserved, according to which the better participate more perfectly in blessedness." S. Th. 2. 2. q. 26, a. 7.

But if necessary good is attended to, other things being equal, those are to be loved more, and indeed with efficacious love, who are in greater necessity. For since the obligation of this efficacious charity is not except by reason of necessity, it is clear that generally the greater necessity obliges more. But since a greater or lesser obligation also depends on greater or lesser conjunction, and there are diverse degrees both of need and of nearness, no universal rule can be determined for all cases as to whom help should be given more. Therefore this requires the judgment of a prudent person. And thus, generally, a stranger in grave spiritual necessity must be helped rather than a blood relative in grave temporal necessity. S. Th. 2. 2. q. 26; q. 31, a. 3; q. 32, a. 9; q. 44, aa. 7, 8; q. 64, a. 6 ad 2; L. 27.

394. Is it against charity to desire a temporal evil for neighbor, or to rejoice over it, because of a good end? - R. Negatively, if the due order of charity is preserved, i.e., if it is done because of a greater good, or because of a lesser evil. R. Affirmatively, if the order of charity is perverted. Confirmation from propositions 13, 14, 15 condemned by Innocent XI. - To desire; with an inefficacious desire; for it is not licit to inflict evil on neighbor, and therefore neither to desire it efficaciously.

Therefore it is licit to wish temporal evil for neighbor, or to rejoice over it: 1. because of the spiritual good of the neighbor himself; 2. because of the common good, whether spiritual or temporal; 3. because also of the good of many persons, of much greater moment, e.g., of the family, community, etc. - But it is illicit for a wife to desire the death of her husband because she is unjustly treated badly by him, or of her daughter in order to avoid her own trouble, because, on account of deformity or poverty, she cannot marry. - Hence, if it is against charity to wish evil for neighbor, it is also against charity to imprecate evil upon neighbor; and each per se is grave. For if charity commands loving neighbor, it consequently forbids hating him, which is to will evil. - L. 30; l. 5, nn. 21, 22; S. Th. *de*

Carit., q. un., a. 8 ad 10; 3, D. 30, q. 1, a. 1 ad 4; 2. 2. q. 76, a. 1; Viva, in prop. cit., n. 20; Struggl, q. 5, n. 9; E. M. 389.

III. On the Love of Enemies

395. Must even enemies be loved? - It is certain that enemies must be loved in some way, since they are neighbors; and this is also established from the Gospel, Matt. 5:43 seqq. This precept, insofar as it is negative, prohibits that anyone ever pursue his enemy with hatred; but insofar as it is affirmative, it also obliges to positive benevolence and external beneficence according to the measure of the necessity in which he is placed. - Therefore the question is only about the mode of this positive love to be had from precept, which is explained in the following paragraphs.

396. Any man is bound per se to show to his neighbor, even an enemy, the common signs and benefits of love from precept; but special ones only from counsel, unless a reason of obligation accedes from elsewhere. Per se, because sometimes a reasonable cause is present for denying them for a time, e.g., by reason of due correction or punishment, of a good effect upon sons or inferiors, or because there is hope that from it he will be amended, or because of a prudent fear of quarrels from the sight or conversation of the enemy, or because of a prudent fear that the enemy will abuse those signs, even if common, for inflicting a new injury; likewise because of the expression of just sorrow conceived from injury, etc. Neighbor even an enemy: An enemy is not to be loved insofar as he is an enemy; thus rather he is to be hated; but insofar as he is neighbor. For by enemy is understood one who has offended or injured undeservedly, and pursues us with hatred. Common signs and benefits of love are those which by reason of general charity are owed to a Christian by any Christian in common, to a fellow citizen by a fellow citizen, to a relative by a relative, and so forth. - But special ones are those which are not owed by reason of general charity, but are shown to some person by reason of a more special friendship and familiarity. But since this is undertaken by free will, hence those special signs proceed not from the debt of charity, but from the liberality of charity. Unless a reason of obligation accedes from elsewhere, such as would be: 1. fear of scandal from omission; 2. hope of the salvation of the enemy; whence, if by one of these things you can, without your inconvenience, reconcile an enemy to yourself and to God, to omit it would be grave; 3. temporal or spiritual necessity; 4. request for pardon for fault and exhibition of special signs of love. But in this last case, as to special friendship and familiarity, its restoration is not necessarily always to be urged. For that special friendship is not owed even to a friend; therefore a fortiori it is not owed to an enemy, since it is altogether voluntary.

Proof of the first part: 1. from the most common opinion of theologians; 2. because to deny those common signs is a manifestation of hatred, which is opposed to charity. Proof of the second part: 1. likewise from the most common opinion of theologians; 2. because, since no other union remains for us with an enemy except the sole union of common charity, we are bound to show him only those signs which are common signs of charity. Struggl, q. 4, nn. 29-31; S. Th. 2. 2. q. 25, aa. 8, 9; q. 27, a. 7; q. 31, a. 3; 3, D. 30, q. 1, a. 2; *de Carit.*, q. un., aa. 8, 9; L. 28.

397. Resolves: It is not licit to exclude an enemy from common prayers, e.g., the Lord's Prayer, and that which is instituted for the community; nor from common alms, the return of a greeting, an answer, the sale of goods exposed for sale, because these are common signs of love. But no one, speaking per se, is bound to loving an enemy by a positive and particular act, nor to greeting him,

speaking to him, visiting him when sick, consoling him when sad, receiving him with hospitality, or dealing familiarly with him, etc., because these are special signs of love. Therefore, if any of these, attention being paid to circumstances of places and persons, were a common sign of love, it would no longer be licit to abstain from it, as could easily happen when lodging in the same family, community, college, by reason of consanguinity, common life in religion, common education and study. Struggl, q. 4, n. 36; Sporer, tr. 2, in 1 Pr., c. 6; L. 28.

398. Although anyone is bound not only interiorly to remit an offense to an enemy legitimately asking pardon, but also to show external signs of remission, nevertheless he is not bound immediately after the offense itself has been inflicted. Nor indeed is he bound to remit satisfaction either for personal injury or for real harm, if he has been harmed. Indeed he is not even bound to accept it if it is offered; but he can also juridically ask for compensation, provided hatred is put aside.

Proof of the first part. As to the internal act: Matt. 5:44: But I say to you: Love your enemies. And ibid. 6:15: If you will not forgive men, neither will your Father forgive your sins. As to the external act: Because otherwise you would be judged to contemn the enemy, and to wish to persevere in hostility. "But if he (the enemy or offender) does not show fitting satisfaction, the offended person is not bound to speak to him, namely when he either does not wish to satisfy at all, or only halfway." S. Antonin., *Summ.*, p. 2, tit. 8, c. 2, § 6. But here one must carefully note whether the offended person, while he refuses certain offices to the offender, inflicts or wishes some grave evil to him. For if this is absent, and no other grave inconveniences can be feared from these offices denied to the offender, someone ought not immediately to be accused of grave fault, so that on account of it the confessor would rightly deny absolution. Cf. 396, 397; Coninck, *de Virt. theol.*, d. 29, n. 60. But the reason of the restriction made is that the matter seems too violent and above human frailty: to compel an injured person immediately to make reconciliation, the disturbance of soul not yet calmed. Whence an opportune time must be awaited, and meanwhile it suffices that the offended person put aside hatred. Indeed it is sometimes licit to omit common signs of love for a time, as was said at the beginning of n. 396. - Offense. A simple offense is the injury of another's will, by which someone causes annoyance to another against his rational will, and as it were gives a certain right to indignation and aversion. Cf. 400.

Proof of the second part. Because charity is not opposed to justice. For charity does not forbid exacting from an enemy fitting satisfaction either for an injury inflicted, or even for damage caused. Indeed this can also be useful for restraining the wickedness of a man. Sporer, l. c., n. 18. Proof of the third part. Because vengeance by public authority is licit. Therefore it is licit to wish public punishment for an enemy, and to seek it. - But the reason of the limitation is that "if his intention is borne principally toward the evil of him upon whom he takes vengeance, and rests there, it is altogether illicit; because to delight in the evil of another pertains to hatred, which repugns to charity, by which we ought to love all men. Nor is someone excused if he intends the evil of him who unjustly inflicted evil upon him, just as someone is not excused by the fact that he hates one hating him; for man ought not to sin against another because that person first sinned against him; for this is to be overcome by evil, which the Apostle prohibits in Rom. 12:21, saying: Be not overcome by evil, but overcome evil in good. But if the intention of the one avenging is borne principally toward some good, which is reached through the punishment of the one sinning, for instance toward the amendment of the sinner, or at least toward restraining him and the peace of others, and toward the

conservation of justice and the honor of God, vengeance can be licit, the other due circumstances being observed." S. Th. 2. 2. q. 108, a. 1.

These things indeed speculatively. Practically, it is certainly difficult for public vengeance from love of justice to be separated from inordinate love of private vengeance, which is illicit, Rom. 12:19 seqq., if the punishment is very grave, e.g., of death, mutilation, and no advantage comes to the injured person from it. Likewise, if the offender satisfies as much as he can, to urge him to that which he cannot do seems against charity. Struggl, q. 4, nn. 33, 34; L. 28.

To this therefore belongs vindication, which is a certain special virtue, a potential part of justice, through which force or injury, and altogether anything obscure or ignominious, is driven away by defending or avenging oneself. Virtue, and therefore the punishment to be rendered to the evildoer, for the injury inflicted, proportioned, and the order of reason observed, which is that in graver offenses punishment be imposed by public authority. But in lighter offenses it is impossible to have recourse to the judge. Hence by moderate displeasure or by another rational mode which is in our power, to take legitimate vengeance, so that the boldness of the offender may be repressed, peace conserved, or another good procured, is not illicit. - "Two vices are opposed to vindication: one indeed by excess, namely the sin of cruelty or savagery, which exceeds measure in punishing; but the other is a vice which consists in this, as when someone is too remiss in punishing." S. Th. 2. 2. q. 108, a. 2.

399. Although hatred of enmity, whether of the person according to himself and of the goods which he has in himself, namely by willing evil to him as such, or insofar as it is evil to him, from its genus is mortal, nevertheless hatred of abomination, or of quality, by which we are averse not to the man but to his malice, is licit. - This is clear of itself, and theologians commonly teach it. Hence a private person who, averse from another, flees him, if he does this so that he may deprive him of his conversation and consolation, and thus sadden him and that it may be ill with him, this is hatred of enmity and sin. But if, wishing no evil, he only flees because the person is discordant with his nature, or is accustomed to be troublesome to him, this is hatred of abomination and aversion, and sin if it is irrational; such it will not be if the person is in reality very harsh, provided contempt, scandal, and desire of vengeance are absent. - Struggl, q. 4, nn. 26, 28, 37; q. 5, n. 6; L. 30; S. Th. 2. 2. q. 24, a. 3.

400. Must the offender ask pardon from the injured person? - R. Affirmatively per se; for in the same way in which charity was destroyed, it ought to be repaired; unless nevertheless another means, or a more fitting mode of reconciliation, is available, by furnishing various offices or benefits, or unless asking pardon seems likely to profit nothing toward placating the offended person. They also except the case in which the offender is far superior to the offended person, unless perhaps such enormity of injury urged that it would require the petition of pardon even from a subject. Likewise the case is excepted in which the offended person is prudently judged to pardon it. But in reality other means of placating the offended person are not lacking. La-Croix, l. 2, n. 189; Struggl, q. 4, n. 35. Pardon. A simple offense is compensated by reconciliation; an injury by satisfaction. Therefore he who simply offends another, by causing displeasure to him, is simply bound himself to procuring restoration of friendship. But he who has injured not only the will of another, but also his right, is bound to undergo some punishment, humiliation, annoyance, for repairing the injury inflicted; and therefore he is bound to ask pardon.

IV. On Alms

401. What is alms? Alms, generally, is an act of charity and mercy by which the necessity of neighbor is relieved. One kind is spiritual, another corporal, according as that necessity is spiritual or corporal. We treat here only of corporal alms. The principal question is concerning its precept, which is explained in the following paragraphs. S. Th. 2. 2. q. 32. Alms strictly taken, about which the speech is properly here, is the largess of those things which are necessary for the sustenance of life. But taken more broadly, it embraces any help whatever for freeing neighbor from bodily evil. Seven works of corporal mercy are listed: to give food to the hungry, drink to the thirsty, to clothe the naked, to lodge travelers, to visit the sick, to visit those detained in prison, to bury the dead.

402. A true precept of alms is given. - Proof 1. Ecclus. 4:1: Defraud not the poor man of alms; Matt. 25:41, 42: Depart from me, you cursed, into everlasting fire... for I was hungry, and you gave me not to eat; I was thirsty, and you gave me not to drink. 2. Because charity commands loving neighbor, and therefore bringing help to him in necessity. Struggl, q. 4, n. 40; S. Th. 2. 2. q. 32, a. 5; E. M. 397.

403. No one is bound to give alms from goods necessary to himself for life, unless the necessity were of such a person upon whom the safety of the republic depended. Goods necessary for life are called those without which someone, and those whose care he has, cannot be or live. Therefore goods necessary for life are also those which are necessary for feeding and educating children, for supporting a maidservant who watches over infants or attends the sick. - Proof 1. from the common opinion of theologians. "That without which," says S. Thomas, "someone cannot be or live, either himself, or those whose care he has, ought not to be spent in alms," 4, D. 15, q. 2, a. 4, q. 1. - 2. Because the right order of charity demands this. Struggl, q. 4, nn. 41, 42; Suarez, d. 7, s. 4, n. 6; Valentia, t. 3, d. 3, q. 9, p. 4; S. Th. 2. 2. q. 32, a. 6.

404. Alms is to be made only from one's own goods, and those of which one has free administration. - For charity must keep justice uninjured. Nevertheless it can be done from the goods of another when neighbor is in extreme or quasi-extreme necessity, and cannot be helped from elsewhere. Then all things are common. S. Th. 2. 2. q. 32, a. 7; L. 33.

405. Note: "When several know the extreme necessity of neighbor, all are bound to help by equal parts; if the others are unwilling, all will be bound in solidum, and all knowing and omitting will sin mortally. If one wishes to furnish the whole by himself, the others will be freed. But if, after the others have been warned about contributing and have refused, one has furnished the whole, he will be able by right to exact from the others their rated parts, or to compensate." Sporer, in 4 Pr., c. 6, n. 50.

406. Resolves: It is not licit to give alms from goods liable to restitution, e.g., things taken by theft; nevertheless it is licit from things acquired by an illicit work, but not with injustice, e.g., from meretricious gain. It is not licit for children, children of a family, servants, maidservants, to give alms except slight alms, in which namely the will of parents and masters is presumed. For this same reason a wife can make ordinary and common alms according to the custom of her condition; but not extraordinary ones without the consent of her husband, unless from goods altogether her own, of which namely she has both ownership and administration, and receives the fruits. Tutors and curators, who have care of others' goods, can make modest alms from the goods which they administer, such namely as those whose goods they are ought themselves to make; for they act in

their place, yet moderately, since they must render an account of expenses. L. 33; l. 3, n. 540; S. Th. 2. 2. q. 32, aa. 7, 8; Struggl, q. 4, n. 49.

407. In extreme necessity, neighbor must be helped even from goods in some way necessary to one's state. Goods necessary to one's state are those which we need in order to live honorably or decently according to our state. But these are the things which are required, according to one's proper condition, for supporting servants, receiving guests, honorable gifts, banquets customarily to be furnished, moderate pomp, the limits of honorable liberality being observed, common events also being considered, future necessity, and attention also being paid to the improvement of an inferior state and honorable ascent to a higher one. Those things which are necessary to one's state do not consist in something indivisible, but have great breadth, and greater breadth for a greater state. In some way, because if you ought to fall out of your state, you are not bound. - Proof 1. from the common opinion of theologians; 2. because the order of charity requires this. For the life of neighbor ought to prevail over a good of ours far inferior. But the extreme necessity of neighbor is regularly driven away without notable inconvenience of the giver. - La-Croix 201; Struggl, q. 4, nn. 42, 47; S. Th. 4, D. 15, q. 2, a. 1, q. 4; a. 4, q. 1; 2. 2. q. 32, aa. 5, 6; L. 31.

408. In grave necessity, neighbor must be helped from goods superfluous to life and state; indeed also, probably, from goods necessary to state, yet with very slight detriment to one's state. Proof of the first part. For the order of charity demands that we will and procure the good of neighbor when on the one hand neighbor is constituted in grave necessity, and on the other hand either no inconvenience results to us, or only a small one. "That which remains, give alms." Luke 11:41. Proof of the second part, by the same reason, but less validly; for simply a slight inconvenience is not really had in the case, but one fairly grave, since the matter is not about extreme necessity, but about grave necessity, which, attention being paid to the conditions of persons, often cannot be driven away without notable inconvenience of the giver. Hence St. Thomas says that it falls not under precept, but under counsel. 2. 2. q. 32, a. 6. But if that grave necessity of neighbor is graver, and almost extreme, then an obligation is present of making alms almost as in extreme necessity, from which it is little distant. - L. 31; S. Th. 2. 2. q. 32, a. 6; 4, D. 15, q. 2, a. 1, q. 4, a. 4, q. 1, 4 ad 4; Struggl, q. 4, n. 45.

409. Resolves: Both in extreme and in grave necessity, as much must be given as suffices here and now for relieving this necessity, unless there are others who wish to help him. If therefore neighbor needs only the use of a thing, it is enough to lend it, e.g., if you lend clothing to one stripped by enemies, or a horse to one wounded, until he returns home. Nevertheless no one is bound to spend a great sum of money for freeing a poor man from danger of death, or for procuring extraordinary and costly remedies for him. For no one, attention being paid to the condition of his state, is bound even for his own life to spend as much in procuring extraordinary medicine for himself. S. Th. 2. 2. q. 32, a. 5; L. 31; La-Croix 215; Struggl, q. 4, n. 48; Lugo, *de Iust. et Iur.*, d. 16, nn. 167, 168.

410. In common necessity, he who has goods superfluous to life and state is sometimes bound to give alms. - Proof 1. from the common opinion of theologians. Proof 2. both because each one is bound to love neighbor as himself, and because otherwise those poor persons would fall into grave necessity. Proof 3. For the Lord "commands all superfluous things to be shown to the poor, according to that of Luke 11:41: That which remains, give alms." S. Th. 2. 2. q. 87, a. 1 ad 4; Leo XIII, Encyclical Letter of 15 May 1891, on the condition of workers. - This indeed is a positive and general precept; and therefore then certainly it urges when "right reason requires," S. Th. 2. 2. q. 32, a. 5, that is, that

we assist the necessity of neighbor. S. Th. ibid. Therefore the obligation is not of giving everything superfluous to the poor who are in common necessity. Struggl, q. 4, nn. 40, 41, 43; L. 32; S. Th. 2. 2. q. 66, aa. 2, 7; *Quodl.* 8, a. 12; E. M. 405.

411. Note: "Nevertheless there is not present (for laypersons) an obligation of furnishing the whole superfluity; but it suffices if a fiftieth part of annual revenues which remain be given... and if the revenues are richer, less than a fiftieth part." But this precept does not oblige all in solidum, but commonly all the rich. And if individuals sometimes give something, the common necessities of all are sufficiently helped. L. 32; H. A. tr. 4, n. 19; S. Th. 2. 2. q. 32, aa. 6, 10.

412. Does the precept of alms oblige under grave sin? - R. Affirmatively, in extreme or quasi-extreme necessity. Thus all. For then certainly a grave precept of charity urges. But in grave necessity, some probably and commonly affirm it, because since in Scripture men are frequently condemned for neglected works of mercy, these are not to be restricted to extreme and rare necessity. But others deny it, and this opinion seems to many at least extrinsically not improbable. Indeed S. Th. 2. 2. q. 32, aa. 5, 6, in which he treats expressly of the precept of alms, requires on the part of the giver superfluity according to his proper condition and state, and on the part of the recipient extreme necessity. "Since one person cannot help all those having necessity, not every necessity obliges to precept, but that alone without which he who suffers necessity cannot be sustained.... Thus therefore to give alms from the superfluous is in precept, and to give alms to him who is in extreme necessity." These things in a. 5 c. And ibid. ad 3 the Holy Doctor repeats the same: "It must be said that there is some time in which one sins mortally if he omits to give alms: on the part indeed of the recipient, when an evident and urgent necessity appears... but on the part of the giver, when he has superfluous things according to the present state."

But in common necessity, others also probably and commonly affirm it, as is gathered from the sentence which Christ is about to pronounce on the last day through those words: I was hungry, thirsty, etc. For Christ would not allege hardness toward the poor as a reason for condemning the wicked unless this vice were common and frequent among men, which it would not be if there were no obligation from superfluous things to spend alms on the poor who occur. Confirmation from 1 Tim. 6:17, 18: Command the rich of this world... to give easily, to communicate..., where those words, command and easily, seem to indicate a precept even outside grave necessity. And Luke 11:41: That which remains, give alms. But others hold either that there is no obligation, or that the obligation at least is not grave, but only light; nor is this opinion without all probability. For the obligation of alms does not arise from the sole superfluity of goods, on the part of the giver, but also simultaneously from necessity on the part of the recipient, which in poor persons commonly occurring is very small: their condition is sufficiently tolerable for them. Struggl, q. 4, nn. 43, 45-47; Suarez, d. 7, s. 3, nn. 7, 10; L. 31, 32; S. Th. *Quodl.* 8, a. 12; 2. 2. q. 32, a. 5; q. 71, a. 1; E. M. 407.

The general precept of alms from what is superfluous to life and state, according as it shall have seemed opportune to each one, can be confirmed by the natural order of things itself. For "those things which are of human right cannot derogate from natural right or divine right. But according to the natural order, instituted from divine Providence, lower things are ordered to this, that from them human necessity may be helped. And therefore by the division and appropriation of things proceeding from human right, it is not impeded that human necessity must be helped from things of this sort. And therefore the things which some have superabundantly are owed by natural right for

the support of the poor.... But because there are many suffering necessity, and all cannot be helped from the same thing, the dispensation of one's own things is committed to the judgment of each one, so that from them he may help those suffering necessity." S. Th. 2. 2. q. 66, a. 7 c.; *Quodl.* 8, a. 12; L. 32.

From the superfluous. The obligation of giving alms is not had from superfluity if necessity is lacking, nor evidently from necessity if superfluity is lacking; but from the superfluity of the giver and at the same time from the necessity of the recipient. For on the part of the giver "first it is necessary that each one provide for himself and for those whose care is incumbent upon him, and afterward from the residue help the necessities of others.... But on the part of the recipient it is required that he have necessity, otherwise THERE WOULD BE NO REASON why alms should be given to him." S. Th. 2. 2. q. 32, a. 5. Whence it is evidently clear that the obligation of giving the whole superfluity precisely by reason of the superfluity itself is not present. 1 John 3:17.

From the superfluous. Those rich persons who do not retain their goods idle, but spend them in completing pious or profane works, whether for private or public utility, which consequently also supply necessary support and even profit to many workers, already from those things which they have superabundantly help the necessity of others, and much better, as is clear, than if they distributed them once among the poor.

413. Resolves: If someone rich and abundant, without any reasonable cause, were to repel all poor persons from himself, he is truly in a bad state. Nevertheless absolution is not easily to be denied to anyone, however rich, who repels all the poor without alms, both because of the disagreement of authors concerning this obligation, and because of the difficulty of judging concerning the superfluity of goods and the necessity of the poor, and because of the presumption that others wish to help, and also because in the present payment of taxes someone also concurs in relieving the poor, for whom public hospices are appointed, and other works of public beneficence are exercised for them. Laym., n. 5; Struggl, q. 4, nn. 44, 50, 51; Diana, t. 4, tr. 7, rr. 8, 42; L. 32; S. Th. 2. 2. q. 71, a. 1.

What has been said about alms must likewise be said about all other works of mercy. Hence physicians, advocates, etc., are bound, generally and speaking per se, to devote labor to the poor gratis, because they are in true necessity and cannot be helped by others. If some evil is imminent to neighbor which can be averted without grave inconvenience, it must be averted, e.g., by removing the cause of damage, for instance fire from buildings, by denouncing the author of damage to be inflicted, by opportunely forewarning him to whom damage is imminent.

V. On Fraternal Correction

414. What is fraternal correction? - Fraternal correction is an admonition by which someone from charity tries to recall a neighbor from sin, insofar as this is a spiritual evil of the one sinning himself. Therefore the end of this fraternal correction is the amendment of the delinquent. Whence fraternal correction is an act of charity and mercy. It differs from judicial correction, because this is done by public authority, and chiefly for the good of others, especially the common good, and at the same time for that of the delinquent himself, and is an act of justice; but from paternal correction, because this is done by the authority of a superior, chiefly for the private good of the delinquent himself, and at the same time of others and the common good, and can be an act of charity and justice. These

belong only to particular persons over their subjects, namely Prelates, who not only must admonish, but also correct by punishing; the former belongs to all, since it arises only from the motive of charity, which obliges all. Ecclus. 17:12. Hence, if in a Prelate himself something correctable is found, he too would have to be rebuked charitably and reverently by an inferior fit for this. 1 Tim. 5:1, 2. When denunciation has been made to a prelate as to a father, and as to a person who profits toward the good of neighbor and his amendment, he cannot afterward proceed as judge. S. Th. *Quodl.* 11, a. 13. - Struggl, q. 4, nn. 52, 60; S. Th. 2. 2. q. 32, a. 2; q. 33, aa. 1-4; 4, D. 19, q. 2, a. 1; L. 34; E. M. 409.

415. Is there given a true precept of fraternal correction? R. Affirmatively. Proof 1. from natural law, by which the members of one body by force of charity are bound to help one another mutually. 2. From positive law, Matt. 18:15: If thy brother shall sin against thee, go and rebuke him between thee and him alone; Ecclus. 19:14: Correct thy neighbor... lest perhaps he repeat it. Therefore it must be done secretly, lest perhaps, reputation being lost, by which he was held back from sin, someone become worse. - Struggl, q. 4, n. 53; S. Th. 2. 2. q. 33, a. 2.

416. What is the matter of this precept? Every mortal sin of neighbor per se is sufficient matter, so that this precept obliges under mortal sin. Proof 1. from the common opinion of theologians. 2. Because since mortal sin removes the spiritual life of neighbor, it induces sufficient necessity of correction. Hence he who can easily impede a mortal sin of neighbor through correction, and neglects it because of vain fear of some temporal evil, sins mortally. Every mortal sin; because although venial sin is matter for correction, nevertheless it does not oblige gravely, nor except if you can do it very easily. Yet except if the speech is about religious orders. For if through venial sins regular discipline seems either to be entirely dissolved or notably diminished, there can be a grave obligation both in Prelates and also in private persons, since each is bound from charity to avert this most grave evil of religion.

Except also if someone through venial sin is constituted in proximate danger of sinning mortally, etc. Per se, because if someone because of fear, shame, pusillanimity, thinks himself not so strictly obliged or less suited for correcting, he seems to sin only venially. - S. Th. 2. 2. q. 32, a. 2; q. 33, a. 2; L. 34, 35; l. 4, n. 13; Diana, t. 1, tr. 4, r. 8; Struggl, q. 4, nn. 55, 56. Every mortal sin; therefore the obligation of correction is absent if someone sins from invincible ignorance. Yet an obligation of warning can be present per accidens, by reason of charity, because of damage to be averted from the ignorant person himself, or from a third party, or from the community. Cf. 423.

417. When does the aforesaid precept oblige? - This precept obliges when these circumstances concur: 1. If the sin of neighbor is certainly established for you; but only a superior is bound to investigate. Prov. 24:15. 2. If it is not established that he has amended himself, nor established that he will amend himself, but that he will relapse; because alms must be made only to the needy. - 3. If another equally suitable is not present, who is thought likely to correct. 4. If there is hope of fruit, because, when the end is despaired of, the means cease; unless public damage follows from omitted warning, as, for instance, if others think what is not corrected is licit, or if scandal of others follows.

Public; for if the damage is private, of a third party, although there is no strict obligation of warning, nevertheless it can be done if he is not bound from charity to suffer that damage. For if he can vindicate his own thing for himself, another can warn the possessor about its being restored; for the obligation of charity is equal toward the owner and toward the possessor. And practically some hope

is regularly always present that this person may wish to restore another's thing, moved by the obligation of conscience. - 5. If there is a good occasion, a suitable place and time, and you can do it without your grave harm, unless nevertheless someone is bound to correct by reason of office. - But if any one of these is lacking, the precept does not oblige. S. Th. 2. 2. q. 33, aa. 2, 4-6; L. 36, 42; Struggl, q. 4, nn. 54, 57; E. M. 412.

418. Resolves: Private persons among themselves are rarely bound to correction, at least under grave sin, unless they are familiarly joined to one another, because rarely are all the required conditions found; still more rarely toward superiors because of unsuitability. Prudence generally persuades that correction be omitted toward those whose character is wholly unknown, lest, receiving the correction with an unjust mind, they become worse. Scrupulous persons are ordinarily excused from making fraternal correction, because either they are too greatly wearied, or are unfit; for, disturbed by scruples and anxieties, they lack the necessary discretion for correcting, and are not able to attend to excusing causes.

419. Does the aforesaid precept oblige all equally? - Although the precept of correction obliges all, even subjects, nevertheless it obliges Prelates more. The reason for the first assertion is that all are members of the same body and are bound to furnish external offices of charity to one another. The reason for the latter is that subjects are bound only from charity, but Prelates also from office and justice. - S. Th. 2. 2. q. 33, aa. 3, 4, 5; L. 40.

420. Resolves: Prelates, Bishops, pastors, magistrates, are bound, even with great inconvenience to themselves, to impede sins both public and occult of their subjects, because they are obliged from justice to procuring and protecting the common good. - "Correction of the delinquent... pertaining to Prelates, which is ordered to the common good and has coercive force... is not to be dismissed because of the disturbance of him who is corrected: both because, if he does not wish to be amended of his own accord, he must be compelled through punishments to desist from sinning; and also because, if he is incorrigible, through this provision is made for the common good, while the order of justice is preserved, and others are deterred by the example of one." S. Th. 2. 2. q. 33, a. 6. Superiors are bound from office to watch over subjects and inquire into their sins, yet not greatly concerning some certain person, unless some peculiar reason moves them to this. - Struggl, q. 4, nn. 55, 57, 58; Diana, t. 7, tr. 4, rr. 24, 30; L. 40, 42; E. M. 415.

421. What order must be observed in correction? - The order to be observed in correction is that which Christ prescribed, Matt. 18:15-17, namely that you correct secretly, then, if secret admonition has profited nothing, before witnesses; then, if the second admonition has not profited either, that you refer it to the Prelate of the Church or superiors. Nor is this licit before, even if the superior has commanded it, because it would be against charity. - Yet except: 1. Unless it is better for the matter to become known to a superior, a good and prudent man, than to other witnesses. 2. Unless the sin is public; for then it can be corrected publicly. 3. Unless it tends to grave damage of the community, if it does not immediately become known to the superior, e.g., if someone is plotting betrayal, or secretly spreading heresy; for then it must immediately be indicated to the superior, because the common good is to be preferred to private good. 4. Unless it tends to grave damage of a third party; for that order of correction yields to a greater obligation of the same charity. - 5. When the one to be corrected is content that it be immediately signified to the superior, as among certain religious, who

as to this have renounced their right. - L. 41; l. 4, nn. 242-247; S. Th. *Quodl.* 11, aa. 12, 13; 2. 2. q. 33, aa. 7, 8; Suarez, d. 8, s. 6; Struggl, q. 4, n. 59.

422. Note: If it is certainly established that a brother has perfectly amended an occult sin, and there is no danger of relapse or harm from it, either to himself or to another, it is not licit to denounce him to a father or Prelate. The reason is that the motive of charity ceases, and accordingly the reason of denouncing, and therefore it is a sin, indeed mortal from its genus. For the end of fraternal correction is the amendment of the delinquent himself. S. Th. 2. 2. q. 33, aa. 2, 3, 6. If the immediate superior himself alone can amend the delinquent, so that no danger of harm or relapse is imminent to himself or to another or to the community, he seems to sin by manifesting the delict to the mediate superior. Likewise he sins when he corrects by publicly manifesting the occult delict of a subject which he can amend secretly and paternally. In communities living under a rule, in colleges, seminaries, etc., it is generally expedient that correction be done by way of denunciation to the superior, either by oneself or through another; nor can members or fellow residents be absolved if they do not consent to such denunciation, where grave damage to the community is involved.

Likewise, by natural right, publicly corrupting priests must be denounced to ecclesiastical superiors, who inflict or seem likely to inflict great spiritual damage on the faithful. S. Th. 2. 2. q. 33, a. 7. Correction must be applied not always immediately, but when greater fruit is hoped for; hence sometimes a repetition of sin can be permitted, so that someone may come to his senses more fervently. Nor does it suffice that correction has once been made, but it must be done again and again when fruit is hoped for. "To detain a man for an hour from some illicit work to be perpetrated immediately is licit for anyone, just as when someone detains someone lest he throw himself down, or lest he strike another. But simply to shut up or bind someone belongs only to him who has the power to dispose universally concerning the acts and life of another, because by this he is impeded not only from doing evil things, but also from doing good things." S. Th. 2. 2. q. 65, a. 3 ad 3; Mol., d. 755, n. 4; Lugo, *de Iust. et Iur.*, d. 21, n. 34; Struggl, q. 4, n. 59.

423. What about warning to be done? - To the precept concerning fraternal correction for the amendment of delicts must be added the precept concerning warning, by which neighbor is taught about truth.

It is commonly asserted that one sinning from invincible ignorance must per se be warned if the matter concerns a transgression of natural or divine law. L. 36. Yet this obligation, as to private persons, does not proceed from charity, since there is no spiritual damage in the case. It is asserted from reverence owed to the aforesaid law, and because that transgression is evil in itself. And more probably, from St. Alphonsus, l. c., the same must be asserted concerning a transgression of human law, because, the law being posited, that transgression is still evil. La-Croix, l. 2, n. 214. It does not proceed from charity, unless namely the matter concerns preventing harm to the ignorant person himself or to others. But from religion an obligation can proceed, if irreverence toward God must be impeded.

But what has been said concerning warning the ignorant person also holds concerning counseling one who is doubtful. From charity; but from obligation of office, there is a special obligation of warning for the superior and confessor of the ignorant person. Cf. v. 2, n. 814. Besides correction of the sinner, warning the ignorant, counseling the doubtful, there are four other works of spiritual mercy: forgiveness of offenses, concerning which it has already been said; prayer for the living and

the dead, concerning which it must be said in the first Precept of the Decalogue; to console the afflicted; to bear troublesome persons patiently. For these there is not always grave necessity, nor does a grave obligation always urge for private persons, who cannot exercise these works without difficulty.

VI. On Scandal

424. What is scandal? - Scandal is defined: a word or deed less right, offering to someone an occasion of spiritual ruin. Word or deed, under which name omission also is understood. Less right, i.e., what either is evil in itself, as if you speak shameful things before a youth, or has the appearance of evil, as if, from a just cause, you eat flesh-meat on a forbidden day before others ignorant of that cause. Less right; for those things which are and appear right are expedient and edify. Offering occasion; although, metaphysically speaking, occasion is not the same as cause, nevertheless here that occasion is a true moral cause; for since the neighbor is really enticed by it and induced to sin, it exercises a true moral influence. Therefore a fortiori induction or solicitation and provocation to sin participates in the malice of scandal, which consequently contains the malice of direct scandal. Of spiritual ruin, namely mortal or only venial sin. Therefore spiritual ruin is not rumor, or the wonder of others, and a fortiori horror concerning the deed committed; but grave suspicions and rash judgments of others, detractions, calumnies, etc. Yet scandal is still had if occasion is given to another of sinning only materially, e.g., if another does the same, believing it to be licit, for instance if a priest offers an unconsecrated host to be adored. - Suarez, *de Carit.*, d. 10, s. 1; *de Cens.*, d. 6, s. 3; S. Th. 2. 2. q. 43, a. 1; L. 43.

425. How many kinds of scandal are there? - Scandal is one kind direct, another indirect, according as the ruin of neighbor, or sin, either is intended, or, although it is not intended, nevertheless is foreseen, at least in confusion. And if the spiritual ruin of neighbor is intended, or the offense of God, it is called diabolical, against charity toward neighbor and God; but otherwise, if only the sin is intended, e.g., of fornication, but not as the spiritual ruin of another or as offense of God. - Likewise scandal is one kind active, another passive. Active is scandal given, and this is that to which the given definition belongs. Passive is scandal received, and is the spiritual ruin itself of the neighbor, which is improperly called scandal, since it should better be called the effect of scandal.

But scandal can be active, or given, without being passive or received, because an action apt per se for scandal can be posited without the effect following. And conversely it can be received without being given; but then scandal is not properly to be attributed to the action of neighbor, but rather to the ignorance, imagination, or even malice of him who suffers scandal, or admits it without foundation. But this is called scandal of the little ones if it flows from the infirmity or ignorance of neighbor; but it is called pharisaical if it comes from the mere malice of the subject. L. 43; S. Th. 2. 2. q. 43, a. 1 ad 4; a. 3; Lugo, *de Poenit.*, d. 16, n. 127.

426. Resolves: It is not always scandal if you sin before others, but only when, attention being paid to circumstances both of the person acting and of those before whom the act is done, it can probably be feared that by this act those who otherwise would not sin may be drawn to sin. Hence blasphemy uttered before religious and pious men does not have the account of scandal, but of horror and abomination. Likewise it is not scandal to sin before vile and infamous persons who already for

another reason are about to sin, as if someone fornicates before others who are already prepared to do the same and are not moved by his example. - L. 43, 44; S. Th. 2. 2. q. 43, a. 5; Struggl, q. 5, n. 29.

427. What kind of sin is scandal? Scandal is a grave sin from its genus, having a special specific malice, whether it is direct or indirect. Proof of the first part. Christ the Lord exclaims: Woe to the world because of scandals...! Woe to that man by whom scandal comes! Matt. 18:7. Therefore scandal from its genus, unless namely smallness of matter excuses, is a grave sin. Proof of the second part. Scandal is directly opposed to fraternal correction, in which the removal of the sins of our neighbor is intended. Therefore it has a special specific malice against charity toward neighbor. Proof of the third part. "For if charity obliges one to correct neighbor and to impede him, when we can, lest he fall into sin, how much more does it oblige one not to impel him to sin by counsel or example?" L. 45; S. Th. 2. 2. q. 43, aa. 1, 4; E. M. 422.

428. Resolves: He sins only venially by reason of scandal who offers to another occasion of only venial ruin. This is true even if he directly intends that ruin, and indeed through a mortal act. For charity is not then gravely injured. On the contrary, he sins gravely by reason of scandal who offers to another occasion of mortal ruin, although he does this through an indifferent work, or only a venial one, e.g., if a religious utters joking and slightly shameful words before women, or before those who can take from them occasion of mortal sin. L. 44; S. Th. 2. 2. q. 43, aa. 4, 6; Ithur., Cas. 35.

Scandal given, as it is against charity, so from the same charity must be repaired. For if charity obliges us to correct a sinning neighbor, lest he sin, much more is he bound to draw neighbor back from sin who brought him into sin by scandal. It is regularly repaired by ceasing from scandal, by giving good example, by frequenting church and the sacraments, by detesting delicts and crimes. And if someone has spread false doctrines, by revoking and publicly retracting them.

429. What is the special malice of scandal? In direct scandal there is given sin not only against charity, but also against the virtue to whose violation the neighbor is induced. But in indirect scandal, both the opinion affirming and the opinion denying this other special malice are probable. Proof of the first part: 1. from the common opinion of theologians. 2.

Because any virtue prohibits not only that someone injure it, but also that he will and cause it to be injured by others. Proof of the second part: 1. because for each opinion there are grave theologians. 2. Because, as the indirect voluntary suffices for sinning, so also it suffices for sinning against such a virtue with respect to which it is indirectly voluntary; whence it is that in morals the direct and indirect voluntary pertain to the same species. Therefore probably in indirect scandal there is given sin not only against charity, but also against the virtue which is injured by the neighbor. But against this is that virtues do not oblige us to impede in others opposed vices, even if foreseen, but only that we not intend and procure that others injure them. It is proper only to charity alone to forbid giving another an occasion of injuring it. Therefore probably in indirect scandal there is not given sin against the virtue which the neighbor violates. "For just as in natural things that which is per accidens does not constitute species, so neither in moral things, in which that which is intended is per se, but what follows beside intention is as it were per accidens." S. Th. 2. 2. q. 39, a. 1. - Lugo, *de Poen.*, d. 16, nn. 159, 168; Struggl, q. 5, n. 21 seqq.; L. 44, 45, 46, 47; l. 3, n. 537.

430. Resolves: It suffices in Confession to express generally the sin of scandal, nor is it necessary to indicate the species of sin to which others were indirectly induced. Much less is it necessary that

circumstances be expressed which perhaps add species to the sins of others, e.g., whether those who could be induced to lust by a shameful speech or picture are married or bound by vow, etc. The circumstance of soliciting and inducing another to sin, e.g., to fornication, is only an aggravating circumstance, and therefore it suffices to confess the fornication alone. For the same malice of induction or scandal is had, although less, when someone does not solicit but only consents; for by consenting he still participates with the other in his sin, and is a cooperating cause toward his ruin. Therefore this malice is only more aggravated within the same species if someone positively solicits another. And the same must be said about shameful conversation and similar things. Thus Lugo, whose opinion seems sufficiently probable to St. Alphonsus, "since even in cooperation toward fornication there is present a sin against charity, well distinct from the sin of cooperation toward fornication, by cooperating toward the ruin of the other party." L. 46.

431. Must scandal of the little ones be avoided? - Scandal of the little ones or weak must be avoided, as often as it can be done without grave inconvenience, both by omission of an indifferent work and by omission of a good work not commanded. Proof. Because from charity we are bound to impede the evil of neighbor when we easily can, e.g., by abstaining from an action not very useful, or by delaying it, or by explaining our manner of acting, etc., when neighbor falls into that danger from a cause given by us. But the little ones or weak fall into that danger from a cause in some way given by us; for although our action of itself does not influence the sin of neighbor, nevertheless in fact it influences it, although this is because of the ignorance and infirmity of neighbor. Therefore. 1 Cor. 8:7 seqq. Hence it is clear that scandal of the little ones is not purely received, but in some way given, namely given not by reason of the work done, but by reason of the circumstances in which that work is done, although these are entirely extrinsic. L. 48; S. Th. 2. 2. q. 43, a. 7.

432. Must pharisaical scandal also be avoided? - Pharisaical or malicious scandal, at least ordinarily, is not necessarily to be avoided either by omission of a good work, or by omission even of an indifferent work not having the appearance of evil. Proof. Such scandal arises from the sole malice of him who receives scandal, and for this reason is in no way given, but purely received. But charity in no way obliges us to impede the sins of others which are altogether voluntary to them and altogether independent of our manner of acting, at least ordinarily; for charity does not urge with so great an inconvenience. Therefore. Matt. 15:14. Ordinarily; for "if care concerning the good of neighbor can oblige one to doing good, why not also sometimes to omitting it? Especially since man is thereby deprived of no spiritual good... because this very thing, namely to deprive oneself of the merit of that work because of the good of neighbor, will be a greater merit than the good work itself. Whence in works of counsel the matter is clear." Suarez, *de Carit.*, d. 10, s. 3, n. 9. The case could be if, for example, fruit were hoped for from delaying a good work. Collectan. S. C. de P. F., n. 1723. But if the pharisaical scandal were for impeding spiritual goods, then it would altogether have to be contemned. S. Th. 2. 2. q. 43, a. 7.

433. Is it licit to advise a lesser evil to someone already determined to carry out a greater one? Some deny it, because he who advises a lesser evil truly advises evil. Others more probably affirm it, because this kind of counsel tends formally to this, that the greater sin not be committed. Therefore formally it advises only good. And Sanchez with the Salmanticenses adds that this is licit not only for private persons, but also for confessors, parents, and others upon whom from office it is incumbent to impede the sins of subjects. L. 57; l. 5, n. 77.

434. Resolves: It is licit to induce someone to drunkenness so that he may be impeded from a graver evil, for example, from committing homicide. L. l. 5, n. 77. Cf. 337. - It is licit to advise one willing to inflict greater harm upon one person to inflict lesser harm upon the same person. The same person, because by reason of justice the same does not seem licit with respect to another determinate person, at least ordinarily and speaking per se, because then that counsel is a true cause, of itself efficacious, of another's harm, and unjust; for the other is not bound to suffer that harm, whence he would be reasonably unwilling. Ordinarily and speaking per se; for, as Viva affirms, prop. 36 Innoc.

XI, to one wishing to steal something from Peter, because of which Peter would be reduced to extreme poverty, it could be advised that he steal a little from Paul, a very rich man, who otherwise would be irrationally unwilling in this. Indeed there are those who hold that it is licit to advise a lesser evil even with respect to a different determinate person, because this is always only to turn away from a greater evil, and not also to induce to a lesser, and it is confirmed by the example of Lot, who offered his daughters to be violated in place of the guests. Gen. 19:1 seqq. Sanch., *de Matr.*, l. 7, d. 11, n. 16 seqq.; Vasquez, *Opusc. de Scand.*, art. 1, dub. 2, n. 14; L. l. 3, n. 565; Diana, t. 7, tr. 5, *de Scand.*, r. 36.

435. Is it licit to permit an occasion of sinning, so that the guilty person may be corrected, and even to set it up? - R. Affirmatively, when the other is judged probably to be ready from another source to continue the sin. The reason is that to permit is not to induce to sinning, and there is a sufficient reason for permitting; because the permission is then impeditive of a greater evil, for one sin is permitted lest several be done. Likewise even to set up the occasion of sin is not from its nature to induce to sin, but is an act of itself indifferent, from which a twofold effect follows, one good, which is intended, the other evil, beside the intention of the agent and from the malice of the sinner; and besides there is a sufficient reason for positing that act. Thus more probably, and it can be confirmed by the example of Judith, who, when she saw that the permission of lust in Holofernes would be an impediment of very many evils for the whole Israelite people, voluntarily set before him an occasion, namely her adornment; and nevertheless in this they commonly judge that she did not sin. Judith 10. - Struggl, q. 5, n. 34; L. 58.

436. Resolves: It is lawful for a father and master not to remove an occasion of stealing from sons or servants, when they know them nevertheless to be inclined and ready to steal, so that thus, being caught, they may be punished and come to their senses. It is licit for a keeper of fields to hide himself, so that he may catch those causing damage and keep himself safe from the danger of damage to come. L. l. c.; S. Th. S. q. 62, a. 3 ad 4.

437. Does a girl sin mortally by presenting herself to be seen by a man who will suffer scandal? St. Alphonsus, 53, has these things: "Busemb., St. Antoninus, Sylvius, Navarrus, etc., affirm it.... But Cajetan, Sanchez, etc., very probably deny that she sins gravely. For it suffices, as they say, for excusing her, at least from mortal sin, the cause that she not be deprived of her own liberty, since on the one hand this scandal is not given, but received from the malice of the man; and on the other hand the matter would be very inconvenient for the woman and liable to scruples, if she always had to weigh whether she has a just cause of going out or not. But I could not excuse her from mortal sin if she, led by vanity, although she does not intend the scandal of that man, deliberately offers herself to his sight. Hence Sporer, Diana, Hurtado, rightly say that a woman is bound under grave sin to avoid the scandal of a determinate man, if she can conveniently go to another church, proceed by

another way, abstain from a window, and similar things. Yet this is not to be understood for a long time, but only for one or another time, until the other can notice that he is being fled by her; and Sporer asserts that all consent in this. Nor could I excuse a woman from mortal sin if she sought some place which she would not go to unless she knew her lover was there."

438. Resolves: A woman who, from adornment even fitting to her state, probably foresees that someone in particular will fall mortally, is bound for a brief time to put it aside, or to flee the sight of such a one. For a brief time, because for a long time it would be too grave for her. But if the same thing were feared in particular from superfluous, vain adornment not fitting to her state, which to assume for the sake of vanity, other things being excluded, is only venial, she would be bound, speaking per se, to put it aside altogether, even under mortal sin, because she has no right to that adornment, and on the other hand is bound to avoid another's sin when she conveniently can.

Speaking per se, for since superfluous adornments, practically speaking, soon pass into the custom of the country's women who are honorable, it cannot be said absolutely that such a woman does not have a right to follow the custom of her country, nor is grave inconvenience lacking. If a woman thinks not so much in particular, but only in general, that some will be scandalized in her, provided she does not intend their lasciviousness nor take pleasure in it, although she may be pleased that she is praised as beautiful, she does not seem to be bound to abstain from that adornment, even superfluous, under mortal sin, e.g., by painting the face, etc.

The reason is both because the scandal is rather received than given, and that adornment and beauty only remotely provokes to sin, and because it would be too grave for that sex, especially if she seeks a husband, perpetually to abstain thus; since that occasion is universal and perpetual, and more beautiful women would never licitly go outside, since natural beauty moves more than artificial beauty. As to the custom of women walking with the breast uncovered, if the uncovering were not immoderate, and in some place there were a custom that women walk in this way, it would indeed be reproved, but not altogether condemned as mortal sin. The reason is the very common opinion of doctors, and because the breast is not a part vehemently provoking to lasciviousness, and custom diminishes the force of concupiscence. Thus St. Alphonsus, 55. - L. 53, 54, 55; l. 3, n. 425; S. Th. 2. 2. q. 169, aa. 1, 2; S. Antonin., p. 2, t. 4, c. 5; Diana, t. 7, tr. 5, r. 9.

439. Are you bound to give up temporal goods in order to avoid scandal? R. Negatively, ordinarily speaking; for either a great loss of money must be suffered, and charity toward neighbor does not urge with so great an inconvenience; or there is only a light loss of money, and this, since it could occur rather often, already easily becomes grave. Besides, it would harm the common good, because an occasion would be given to wicked persons of extorting and seizing others' things, and it would be harmful to the wicked themselves, since thus they would be confirmed in their depraved will. Ordinarily speaking; for if, in some particular case, grave inconvenience ceases, and the scandal were not of Pharisees but of little ones, then either temporal goods must be given up, or the scandal must be calmed through some admonition. L. 52; S. Th. 2. 2. q. 43, a. 8.

440. Resolves: You are not bound to pay more than is fair to a worker or coachman, although you foresee that otherwise he will blaspheme. - A parish priest is not bound to give up stole fees, although he foresees that several will detract. - These persons sin not because of infirmity, but because of their own improbitity, and therefore regularly no care is to be taken for them.

441. Are precepts sometimes to be omitted because of scandal?

R. Negatively, if from that omission one's own salvation would be endangered, or grave harm would be imminent to others, especially to the community. Hence spiritual goods necessary for salvation neither ought nor can anyone give up because of anyone's scandal. R. Negatively also, if that omission is intrinsically evil. Therefore negative natural precepts likewise neither ought nor can be omitted. - As to affirmative natural precepts, per se and generally, they are not to be passed over. For scandal is not properly given, and there is sufficient reason for permitting it. Nevertheless they can sometimes be omitted; indeed they even must be omitted if, all things prudently weighed, it is better to avoid the ruin of neighbor, and grave harm does not come to us from it. Yet more truly it is said in that case that those precepts cease and do not oblige, e.g., of correcting sinners, or punishing delinquents, when harm is feared more than fruit is hoped for.

As to positive human precepts there is controversy. The first probable opinion denies, because again the scandal is not properly given, but received; and therefore the precept does not cease. The second probable opinion affirms, grave inconvenience being excluded, because the precept of avoiding the scandal of neighbor, as natural, is to be preferred to positive precepts. Hence a woman knowing that she will be shamefully desired by someone if she goes to the prescribed Mass is bound to omit it once or again, if there is hope that afterward the scandal will cease; yet not several times because of the grave inconvenience which would follow from it. Nevertheless several others, no less probably, hold that she can rightly omit Mass once or again, but is not bound to this. She can, because of the probability of the latter opinion. She is not bound, because again the scandal is not properly given, and there is sufficient reason for permitting it. But it must be noted here that the present controversy also has place only in scandal which someone in particular can suffer; but by no means when there is a general fear that perhaps someone may be scandalized, because this would be too difficult. Likewise the matter concerns only the scandal of the little ones; for if the scandal were pharisaical, occasion would be given for maliciously always impeding good things. - Struggl, q. 5, nn. 30, 31; S. Th. 2. 2. q. 43, a. 7; L. 50, 51, 52.

442. Is it a sin of scandal to ask something from another which he will not furnish without sin, when he is already prepared to sin? St. Alphonsus, 47, has these things: "If the thing which is asked is intrinsically evil of itself, so that in no way can it be furnished without sin, as is asking fornication from a prepared prostitute, several doctors are not lacking who say that it is not a sin of scandal, because since such a woman is always in actual or virtual will of sinning, he who offers her the occasion of executing that sin is judged to cooperate not gravely, but lightly. Thus Soto, Henriquez, Azor, Valentia, etc. I venerate the authority of such great doctors, but I would not dare to depart from the contrary opinion, which I judge must be followed, and which Sanchez holds with Cajetan, etc. The reason seems very powerful to me, because, although the prostitute is in actual will of sinning, nevertheless certainly she inflicts on herself a much greater ruin by completing in act that particular sin of fornication.

Therefore he who cooperates with her toward consummating the sin sins gravely in two ways, both against charity and against chastity." "If the thing which is asked is indifferent, and can rightly be furnished without sin, as would be asking a loan from a usurer and similar things, the first opinion holds that it is not a grave sin to ask without just cause. The reason is that, since that usurer already has a deliberate will of sinning, you will not inflict grave harm upon him if you propose to him an

occasion by which he may execute sin beside your intention. For that anticipation of the external work varies his sin only accidentally. (If you do not ask now, another asking will soon come, and he will certainly give. And this also holds for the preceding case.) Thus Lugo, Cajetan, etc. The second opinion, which we embrace, holds that this is a mortal sin both against charity and against the virtue toward whose injury occasion is offered to neighbor, by asking from him a loan, etc., without grave cause; for when there is a grave cause, the one asking is altogether excused. Thus S. Th. 2. 2. q. 78, a. 4, Elbel, etc. The reason is that since the sinner by the external act inflicts a notably greater ruin on himself, he cannot be excused from grave sin against charity who without grave cause cooperates with him toward executing the work.... But when we have a grave cause for asking, we cannot abstain from asking without grave inconvenience, and therefore then indeed we excuse.

Thus Busemb., Sanchez, Valentia, etc." "But Sporer, Pontas, etc., note that for licitly asking a loan from a usurer, precise necessity is not required, but any notable utility suffices, whether for the conservation or for the decency of state or family." - Lugo, *de Iust. et Iur.*, d. 25, n. 235; Diana, t. 7, tr. 5, rr. 34, 55; L. 48, 49, 78; l. 3, n. 103, q. 5; n. 149; S. Th. 2. 2. q. 78, a. 4.

443. Note: From the resolution of this question, the resolution of other questions is clear: whether it is licit to accept, offer, give, sell, or do something which another does not give, accept, receive, buy, or use without sin. In all these, scandal is by way of cooperation. Cf. 440.

444. Resolves: Therefore it is not licit to ask, for example, from a notary something opposed to his office. But it is licit to ask the sacraments from an unworthy minister, or an oath from one who is going to commit perjury, provided a just cause is present, namely for the first case, if there is necessity or notable spiritual utility; for the second, if a judge asks for an oath by reason of office, or it matters greatly to you, as by perjury for manifesting the frauds of another, so that you may obtain your right. A girl sins by accepting gifts from a lover if they proceed from shameful love, for they foster that shameful love; but otherwise, as is clear, if they proceed only from honorable benevolence and friendship, or if they are offered before others and cannot be refused without the scandal of others and her own infamy. In no way is it licit for an innkeeper, in order to allure more guests, ordinarily to admit gravely shameful dances in his house, or to propose to them for reading public papers which are evidently and ordinarily adverse to religion or good morals. In cities in which it is permitted for the sake of avoiding a greater evil, it is licit to rent a house to a usurer and to a prostitute, especially if other tenants are lacking, or it is easy for them to rent another house, unless nevertheless the prostitute would gravely harm honorable neighbors, or because of the location would give greater occasion to sins. It is not licit to call a non-Catholic minister so that he may furnish his helps of false religion to the sick or dying person. S. O. 15 Mar. 1848.

L. 47, 60, 61, 70, 76, 77, 79; l. 3, nn. 434, 734; S. Th. 2. 2. q. 10, a. 11; q. 98, a. 4; Ithur., Cas. 26.

It is licit to sell indifferent things, or things which can easily have a good use, if the seller knows nothing about the evil intention of the buyer, because evil is not to be presumed. Hence it is licit to sell dice, swords, cosmetics, wine, etc., although very many abuse these things, because these are not ordered per se to sin, indeed often they serve good use. - But it is not licit to sell these same indifferent things when it is certainly known that the buyer will use them badly, unless they could not be denied without grave inconvenience, or also unless they would equally be bought from others; for in this last case, if the seller sinned, this would be only because he does not impede the sin of neighbor. But although he did not sell, he would not thereby impede the sin; for there would be

another who would sell. Hence it is not licit to sell honorable ornaments to a girl, if it were established to the seller concerning future abuse, unless he would suffer notable damage, or unless she would equally buy them from others. Thus La-Croix, l. 2, n. 263, and others. But St. Alphonsus, 71, does not admit this last case. Cf. here 442. It is not licit to sell wine without grave and proportionate cause to those who resell it mixed with water. Likewise it is not licit for an innkeeper to sell wine to those who are foreseen to be about to become drunk, or to offer flesh-meat to those who are going to eat it on a forbidden day, unless a grave reason excuses, for instance if otherwise he would be notably harmed from diminution of buyers. Hence it is also commonly licit for an innkeeper to give flesh-meat when it is asked, unless the request is made in contempt of religion, because it would be a most grave inconvenience to inquire about the reasons of each one asking. L. 68, 69, 78. Indeed it is generally licit for an innkeeper, at whose place public coaches stop, to set a table with licit or illicit foods, because since it is established that several are going to ask for flesh-meat, it does not seem necessary to ask from individuals what they wish. A fortiori it is licit to sell flesh-meat on days of abstinence and in the time of Lent, because the seller cannot judge concerning the reasons of those buying, nor does it pertain to him to inquire about them. L. l. 3, n. 1030.

But it is not licit to sell things which by their institution or use are destined for evil, unless in a particular case it is established that the danger of abuse is absent, or unless a grave and proportionate reason excuses. Hence it is not licit to sell poison, unless it is morally established that the buyer will use it well, e.g., for the making of colors, medicine, etc. Nor is it licit indiscriminately to sell depraved books, namely to any buyer. Nevertheless sometimes they can be sold to prudent and learned men who can read books of this sort usefully, e.g., for refuting them, etc. Except, however, books altogether obscene, which must be extirpated from the root. Tambur., *in Decal.*, l. 1, § 4, n. 37; L. 66, 72, 76.

It is licit for workers to build and adorn theaters, if the ornaments are honorable in themselves, although another grave reason is lacking, because it is licit for Princes to permit spectacles. It is lawful, with the legitimate magistrate permitting, to restore and build synagogues of Jews and temples of heretics, yet scandal and any contempt of religion being excluded, especially if it would equally be done without them. It is also licit to make statues of idols if these are not to be used for false worship, but for the adornment of streets, buildings, etc. On the contrary, it is not licit to build temples of idols, or to cooperate in their building; likewise it is not licit, so that danger of death or exile may be avoided, to build altars or idols, or to cooperate in their building, when this is had as a deed protestative of false religion. It is licit for Christian captives, from grave fear, to row in the galleys of infidels against Catholics. For they do nothing intrinsically evil, nor proximately pernicious to Christians. Besides, there is a most grave and proportionate cause for doing this. It is not licit to compose or represent gravely shameful comedies, whatever the profit may be. This also holds concerning shameful representations in Cinematographs. "Likewise those sin gravely who paint or publicly expose obscene images, namely with the shameful parts uncovered or covered with a thin veil; otherwise if, other parts being uncovered, the shameful parts are covered." L. 56. Yet except if something of this sort must be painted, e.g., for teaching or learning anatomical or obstetrical science. L. 73; l. 3, nn. 427-429; Collectan. S. C. de P. F., nn. 1733, 1748, 1845; E. M. 365, 366, 367, 368.

445. Is it never licit to cooperate in another's sin? - Cooperation in general is concurrence with another principally acting. But insofar as it can be opposed to charity, it is a certain participation in the depraved action of another. Cooperation is: 1. immediate or mediate, according as the one cooperating acts with the one sinning in the very act of sin, or posits other actions having some connection with the sin of another. 2. Proximate or remote, according as the action of the one cooperating is more nearly or more remotely connected, from its nature or from circumstances, with the depraved action of another. 3. Positive or negative, according as the one cooperating either posits some action influencing the sin of another, e.g., by helping him, or omits a due act, e.g., if he does not oppose when he ought to oppose. 4. Formal or material. Formal cooperation concurs in the evil will of another, and cannot exist without sin, as intending cooperation itself toward the depraved action of another, either by the explicit intention of the one operating, or by an implicit intention in the work itself, which by its nature is ordered to the depraved action. Material cooperation concurs only in the evil action of another, without any intention of cooperating in sin, neither in actu signato nor in actu exercito.

As scandal, so cooperation can be had in two ways: 1. by inducing another to sin, and this is properly scandal; 2. by acting in some way together with him who sins, and this is properly cooperation; and it has the same malice in species as scandal, namely both against charity and against the virtue which another injures by sinning, when the cooperation is formal. It is certain that formal cooperation is never licit, since this morally influences the sin of another, and consequently is its moral cause. Material cooperation is licit, provided: 1. the action is per se good, or at least indifferent; 2. one is not bound from office to impede the sin; 3. there is present a just and proportionate cause according to the gravity of the sin of another and the proximity of concurrence toward the execution of the sin. The reason is that when you furnish an honorable or indifferent action, without depraved intention, if another wishes to abuse it for executing sin, you are not bound except from charity to impede it; and since charity does not oblige with grave inconvenience, therefore by positing your cooperation with a just cause, you do not sin; for his sin does not proceed from your cooperation, but from the malice of him who abuses your action.

A proportionate cause; for since the obligation of avoiding that action arises from the obligation of the virtue to which the neighbor's sin is opposed, and the obligation of every virtue is not equal, but some things approach more, some less, to sin; besides, there is not always equal certainty that, if you do not cooperate, the other will not sin; nor indeed is the right to the action always the same, but sometimes greater, sometimes less; therefore an equal cause will not always be proportionate for furnishing this cooperation, but sometimes a greater, sometimes a lesser one will be necessary. Hence a more urgent cause is desired when the sin is against justice than against charity alone, and such a cause as can rightly be preferred to another's harm. The reason is that in the former an innocent person unwillingly suffers damage; but in the latter the one sinning alone undergoes spiritual detriment, and this by his own will, which same detriment he suffers when he sins against justice. - But when from the circumstances scandal can be had, and material cooperation in sin can signify consent in sin, a protestation must be premised. - Sanch., l. 1, c. 7, n. 12; L. 59, 63; cf. here 212; E. M. 440.

446. Resolves: It is lawful for a servant to open the door to a prostitute, because material cooperation of this sort is sufficiently remote, especially while, even if he did not open, there would still be

someone who would open. It is certainly not illicit if a servant saddles the master's horse when he is going away to sin, because in this he does not seem to cooperate more in the master's sin than by opening the door to a prostitute. It is licit for a servant to accompany his master to the house of a concubine when, even without the servant as companion, the master would go, and he is not thereby rendered more bold, because then it is mere accompanying; and service itself sufficiently excuses. Thus Busemb. and others. But St. Alphonsus, 63, 64, and others excuse this case and the preceding only from fear of grave harm. But if the master should use the servant as companion so that he may sin more safely and freely, then it would certainly be illicit, because he would already proximately influence the sin. Likewise it would be altogether illicit for a servant to put his shoulders under, or carry a ladder for, the master ascending to fornicate, to open a door by force, and similar things; for the cooperation is altogether proximate, and makes sin easier, to the most grave harm of a third party. Nevertheless, since these actions are not intrinsically evil, they would still not be illicit if fear of death or mutilation acceded. St. Alphonsus adds, 66, that no other fear excuses the one cooperating except fear of death; for otherwise, because of mere fear of loss of goods or infamy, it is not licit to concur in the dishonoring of a girl to be deflowered. Sporer, *de 8 Pr.*, c. 1, n. 99, also excuses a servant carrying gifts to a prostitute, "because," he says, "on the one hand he from his office and condition is bound to serve and obey masters; but on the other hand cooperation in sin is merely material and only remote." But others require another very grave reason, because since these gifts are apt for fostering lust, the cooperation is proximate. And because of this same reason it is not licit for a servant to carry love letters to the concubine of his master, unless a graver and proportionate reason is present. Nevertheless others, as concerning carrying gifts, so concerning letters to be carried, do not require this special reason beyond service itself. For here it does not seem to be necessary to attend whether the letters or gifts have force for fostering shameful love, but the very action of carrying letters or gifts must be considered, which of itself is indifferent. Otherwise, since sight has greater force for fostering shameful love, it will not be licit even to open the door. Moreover the servant is not bound to inquire what is contained in letters. - L. 63-68, 75; l. 3, n. 571; Salm., tr. 21, c. 3, n. 72; Sanch., *in Dec.*, l. 1, c. 7, nn. 22, 23.

Political elections are permitted in Italy, in particular cases, when by reason of necessity, because of the good of souls and of the Church, Bishops request it from the Holy See. Pius X, Encyclical Letter, 11 June 1905. They were also declared licit in France, in the present circumstances of things, 2 Apr. 1906, yet with the consent of one's own Ordinary and of the Ordinary of the place. Likewise in Spain, from the declaration of 20 Feb. 1906, party zeal being set aside, Catholics ought to labor so that those may enter the assemblies of cities and of the kingdom who will better provide for the good of religion and the fatherland. Cf. E. M. 440, 441.

447. Is it licit to serve prostitutes or concubinarians? Is it licit for Catholics to attend civil funerals? R. To the first. Negatively, per se and ordinarily speaking, both because of the scandal of others and also because of the greatest danger of falling. Therefore those cases which are to be excepted in practice will have to be judged from the degree of necessity and the circumstances of persons, removing scandal and proximate danger of sinning. R. To the second. Affirmatively, per se, because the homage is merely civil. Per accidens, by reason of scandal, it can easily be illicit.

448. Is it ever licit to cooperate in publishing depraved books? - In this matter, indeed, the author sins by the sin of scandal; the publisher and the owner of the printing house by the sin of

cooperation. But as to others who devote labor to the printing of these books, generally it does not seem licit immediately to cooperate in the printing of such books, e.g., to arrange types, place paper on the types, direct the printing, etc., because this approaches very closely to spreading the depraved doctrine of books. Nevertheless, in a case of most grave detriment, for a brief time, something of this sort could be materially furnished, since the matter finally is not intrinsically illicit. But it is licit, from a grave cause, to cooperate mediately or remotely, e.g., to prepare ink or paper, or to arrange printed books. Laymann, *de Carit.*, c. 13, n. 4. But sellers are numbered among proximate cooperators, and therefore, generally speaking, they sin gravely.

449. If someone has received a depraved book lent by another to be read, can he restore it to the owner? - R. Negatively, unless prudent fear of some grave inconvenience persuades otherwise. This flows of its own accord from the obligation of impeding the sins of others by reason of charity, when this can be done without grave inconvenience. But it is to be judged a grave inconvenience if you fear grave quarrels, blasphemies, hatreds, and other things of this sort from the owner.

On the First Precept of the Decalogue

I. On Devotion and Prayer

450. What is the first precept of the Decalogue? - The first precept of the Decalogue is: I am the Lord thy God... Thou shalt not have strange gods. Exod. 20:2, 3. - This precept, as affirmative, prescribes first of all acts of the virtue of religion; as negative, it prohibits vices opposed to religion. But religion is the moral virtue which exhibits due worship to God as the first principle of all things. Hence after the theological virtues it obtains the first place, and accordingly the sins opposed to it are most grave and mortal from their genus. Worship imports honor and reverence. Worship generally, besides honor, or the external signification of excellence, imports submission to the person who is worshiped. Therefore honor comprehends worship, yet honor conversely does not involve worship, "because reverence and worship add above honoring a testification of internal submission." Lugo, *de Iust. et Iur.*, d. 14, s. 1, n. 3. Therefore worship owed to God includes service. "But by the same act man serves God and worships him; for worship regards the excellence of God, to whom reverence is owed; but service regards the subjection of man, who from his condition is obliged to exhibit reverence to God. And to these two things pertain all acts which are attributed to religion, because through all of them man professes the divine excellence and his own subjection to God, either by exhibiting something to him, or also by assuming something divine." S. Th. 2. 2. q. 81, a. 3 ad 2.

Some acts of religion are internal, others external. St. Thomas posits two internal acts: devotion and prayer. He makes the remaining external acts: adoration, sacrifice, offering of first-fruits and gifts, offering of tithes, vow, oath, adjuration, praise; to these below he joins the sanctification of feasts and the use of the sacraments, insofar as through this we profess God to be the author of grace, by which he affects our mind and soul so that he may subject them more and more to himself. Besides, absolutely all sacred observances and ceremonies ordained by the Church to the worship of God can be added, such as the erection of churches and altars, the use of things blessed by the Church, etc., which from the motive of religion are determined and prescribed by the Church.

But the acts opposed to religion are some such by excess, as superstition with its species, others by defect, as irreligiosity with its species. To superstition pertain idolatry, divination, vain observance; to irreligiosity, temptation of God, perjury, infidelity in promises, blasphemy, sacrilege, simony. In the present treatise we will speak only of those acts of religion and opposed sins which regard this first precept of the Decalogue; concerning the remaining things there will be speech in the two following precepts and in other proper places. For the first three precepts concern acts of religion; and in this first precept of the law the worship of God, the one true God, is commanded, and the worship of false gods is excluded; and besides idolatry, all other superstitions are excluded; consequently also dishonoring God is excluded. Cf. 465. S. Th. 2. 2. q. 81 seqq.; q. 122, aa. 1, 2; 1. 2. q. 100, aa. 4-8; L. init.; Struggl 8, 9; tr. 5, q. 1, nn. 4, 5, 6; Lessius, *de Virt. relig.*, c. 1, dd. 1, 2.

451. What is devotion, and is it necessary? - Devotion is a certain will of promptly handing oneself over to those things which pertain to the service of God. Therefore devotion imports a certain special act of the will, namely of handing oneself over to God's service, and a certain special quality of this

act, namely the aforesaid promptness. But there is a distinction between the handing over of self which is had through charity, and the handing over of self which is had through devotion. For through charity man hands himself over immediately to God, adhering to him through a certain union of spirit. But through religion man hands himself over immediately to works of divine worship. The object of charity and love is good; but the object of honor or reverence is something excellent. S. Th. 2. 2. q. 81, a. 4 ad 3; q. 82; q. 83, a. 15 c.

But devotion is altogether necessary, for it is impossible to execute those things which pertain to divine worship or service, which properly pertains to religion, without a prompt will of doing them. Whence, since it pertains to the same virtue to will to do something and to have a prompt will for doing it, devotion pertains to religion, and its first act is necessary for all following acts. Therefore devotion is a certain special act of religion by which someone promptly offers and hands himself over to divine worship; and at the same time it is a universal act insofar as it moves toward all acts of the service of God. But devotion can also be taken for habitual addiction to divine worship, in which sense a man is said to be truly devout. Likewise devotion can be taken not for the act, but for the quality of the act, namely for the very promptness and fervor by which devotion is manifested. And in this sense prayer is called devout. The aforesaid promptness consists in a determined and absolute affection which conquers every difficulty, so that the will is not delayed in the execution of divine worship when the occasion offers itself; but fervor is the intensity and vehemence of pious affection in divine worship. Devotion also signifies the whole pious manner of acting, and thus a life is called devout. And peculiar pious exercises are called devout exercises, in which sense there is often speech about this or that devotion, about these or those devout exercises, which are the matter of devotion, namely about which devotion is concerned. The extrinsic and principal cause of devotion is God; the intrinsic cause disposing us to it is meditation on divine goodness and divine benefits and at the same time consideration of our infirmity and need. Spiritual joy, gladness, sweetness, facility follow devotion per se. Whence devotion is also taken for this spiritual sweetness. S. Th. 2. 2. q. 82, aa. 3, 4; Lessius, *de virt. relig.*, c. 2, d. 1.

The print's appendix has more on this paragraph: [On Devotion] (/manuals/bucceroni/on-devotion). (ed.)

452. What is prayer, and how many kinds are there? Prayer is taken here insofar as it signifies a certain deprecation or petition, according as Augustine says that prayer is a certain petition, and Damascene says that prayer is the petition of fitting things from God. Therefore prayer can be defined: a certain, as it were, conversation of our mind with God, in which we make known to him the desire of obtaining some thing. - Prayer is mental or vocal, according as it is carried out by mind alone, or the concepts of the mind are also expressed by the mouth. It is private or public, according as it is done by a private person and in a private name, or by the community, or by a minister of the Church in the name of the Church, in the mode prescribed by her. To this public prayer chiefly pertain the Mass and the canonical hours, concerning which we will speak specifically where there will be speech about the sacraments and about particular precepts. "Common prayer is that which is offered to God through the ministers of the Church in the person of the whole faithful people; and therefore it is necessary that such prayer become known to the whole people for whom it is uttered, which could not happen unless it were vocal. And therefore it has reasonably been instituted that ministers of the Church also pronounce prayers of this sort in a loud voice, so that they can come to the knowledge of all. But singular prayer is that which is offered by a singular person, of anyone

praying either for himself or for others; and concerning the necessity of prayer of this sort, it is not necessary that it be vocal." S. Th. 2. 2. q. 83, a. 12.

Concerning public prayers, two things generally are to be attended to from Benedict XIV: 1. that these prayers and their formulas are not to be indicated and designated by private persons, but by Ecclesiastical authority, C. *Quemadmodum*, 23 Mar. 1743. 2. that in sacred rites no others are to be used except those which have been received by the Church, C. *Inter omnigenas*, 2 Feb. 1774, § 8. - Struggl 21; S. Th. 2. 2. q. 83; Suarez, *de Relig.*, tr. 4, l. 1, c. 3 seqq.; Bouquillon, *de Virt. relig.*, l. 2, p. 1; E. M. Therefore public prayers have their chief value from the dignity and sanctity of the Church, which principally prays, but not from the sanctity and dignity of the persons through whom the Church prays. Lugo, *de Euch.*, d. 19, nn. 124, 125. And in this prayer a threefold fruit can be distinguished: general, which by the intention of the Church is applied to all the faithful; particular, which is applied to the one praying himself; and special or middle, which is applied to him for whom the one praying specially intends to pray. Private and public prayer can be taken in another way, according as it is not exhibited before others, or only before a few; or, on the contrary, as it is exhibited openly and manifestly before fairly many others. And in both senses worship generally can also be taken as private and public.

453. Is there a precept of prayer? - R. Affirmative. It is proved: 1. because very frequently in Sacred Scripture, both by Christ and by the Apostles, prayer is commanded as necessary for salvation. 2. Because, on God's part, God ordinarily is accustomed to bestow his graces upon us, if you except a few, for example, the beginning of faith, only under this condition, that we ask for them by prayer; therefore it is read: You have not, because you ask not.

Jas. 4:2. And Augustine on Ps. 39: "God wishes to give, but he does not give except to one asking." Ordinarily, since again and again God from his infinite mercy also confers his graces upon those who do not ask. And in this sense more probably and commonly they teach that prayer is necessary for adults also by necessity of means for salvation. For that can truly be said to be of necessity of means without which, considering the ordinary divine order of providence, salvation ordinarily cannot be obtained. Trid. sess. 6, c. 11. But on man's part, his need is supreme, so that each one by full right ought to cry out with the Prophet: Deliver me, because I am needy and poor. Ps. 108:21, 22. Therefore the Angelic Doctor says: "Every man is bound to prayer for procuring spiritual goods, which are not given except divinely; whence they cannot be procured in another way, unless they are asked from him." In 4, D. 15, q. 4, a. 1†; 3 p., q. 39, a. 5; L. init.; S. Th. 2. 2, q. 83, a. 2; Struggl 22-24; E. M.

454. When does the aforesaid precept bind? - The precept of prayer binds frequently. It is proved. For it is the precept of Christ and of the Apostles that we always, at every time, without intermission pray; these words do not prove that one must pray at each physical moment, which would be impossible, but that one must pray frequently, at a suitable time. Luke 18:1; 1 Thess. 5:17. Moreover this precept obliges per se: 1. when a man obtains the use of reason; for then he is bound to turn himself to God, and to acknowledge him as the fountain of all goods and to subject himself to the supreme Lord of all things, for which prayer serves wondrously. S. Th. 1. 2, q. 89, a. 9. 2. at the time of death; for then final perseverance is especially necessary, and prayer is necessary for obtaining it. "Since it is established," Augustine says, "that God has prepared some things to be given even to those not praying, as the beginning of faith; others not except to those praying, as perseverance unto

the end; surely he who thinks that he has this from himself does not pray that he may have it." Lib. de Don. Persev., c. 16, n. 39. 3. "At certain intervals of hours and times," as the same Augustine says, Ep. 130. Moreover some teach that one must pray under grave obligation at least once a year; others every six months; others nearly every month; others absolutely every month, in nearly the same manner as the precept of faith, hope, and charity is to be observed. But it obliges per accidens: 1. whenever some precept presses which cannot be fulfilled without prayer; for he who is bound to the end is also bound to the means. 2. When a grave temptation presses which cannot be repelled in another way. 3. Generally, whenever some special divine assistance seems necessary to us, as in some grave calamity, whether private or public.

For laymen and for simple clerics no precept is given for performing certain prayers. But for clerics constituted in sacred orders, for beneficiaries, and for religious destined for choir, there is present the precept of the Church of reciting the canonical hours. He who omits morning or evening prayers, per se, does not sin, if he omits them only sometimes. The reason is that there is no law which commands determined prayers on single days and at fixed hours. Yet the doctors warn that some fault of negligence and sloth is rarely absent. Moreover, in practice those cannot be excused altogether from some fault who omit them rather often, both because perhaps they scarcely pray at another time or in another way, and thus at some point they will fail in the precept of prayer, and because on account of the dangers which occur daily, prayer being neglected, they will fall into many sins. Roman Catechism, p. 4, c. 1; S. Th. 2. 2, q. 83, a. 2; L. init.; Lessius, *de Virt. rel.*, c. 2, d. 2, 3; E. M.

455. What are the conditions of prayer? - In order that prayer be made legitimately, it ought to be made with attention, humility, confidence, and perseverance. The first part is proved. Prayer is an act of the worship of God, and exterior worship cannot exist without interior worship. Therefore attention at least concomitant with the first intention is required on the part of the very nature of prayer. But he who is voluntarily distracted in mind, in the act by which he prays, incurs that rebuke of God: This people honors me with their lips, but their heart is far from me. Matt. 15:8. How indeed does he demand to be heard who does not hear himself? But per se he sins venially who without a just reason is voluntarily distracted; and this holds even if prayer is made without obligation, because he inflicts some irreverence upon God. The second part is proved. Humility is necessary on the part of the very petitioner, because he recognizes his need. It is written: He has regarded the prayer of the humble, and has not despised their petition... The prayer of him who humbles himself will pierce the clouds. Ps. 101:18; Ecclus. 35:21. The third part is proved. Faith is necessary on the part of God, whom we pray; namely, that we believe that we can obtain from him what we ask, by reason of the divine omnipotence and mercy, from which prayer obtains what it asks. All things whatsoever you ask when praying, believe that you shall receive them. Mark 11:24; Jas. 1:6. The fourth part is proved. Perseverance is required on the part of the effect of obtaining; for as need is shown more by it, so one is moved more to mercy. Yet prayer has the efficacy of obtaining from the grace of God, whom we pray, who also induces us to pray. But it ought to be persevering, as to the desire of praying, continuously; and as to prayer itself, by not interrupting it at appointed times. "Some things are not denied, but are delayed so that they may be given at a fitting time. Yet this can be impeded if they do not persevere in asking." S. Th. 2. 2, q. 83, a. 15. Be instant in prayer, watching in it. Col. 4:2; Luke 11:8.

Does one pray who pronounces the words correctly and outwardly devoutly, if he voluntarily wanders in mind? Certainly; otherwise neither would he pray who wanders unwillingly, concerning which no one doubts; then, because prayer is petition, and only words and intention are necessary for petition. Therefore attention in the first intention suffices. As to outward devotion, external attention is had if one attends to pronouncing the words correctly, and is not occupied with a thing which cannot coexist with prayer, as if someone were listening to the conversation of others; not likewise if he clothes himself. Attention to God or to the sense of the words is internal attention. In vocal prayer the words are to be pronounced duly and correctly, not by syncopating or mutilating them, nor by corrupting their meaning, and they are to be pronounced so that, unless something obstructs, noise, deafness, one can hear himself. One can use a companion, and then it is necessary to hear him, namely, so that he communicates to him and makes his own what he hears from the companion, and thus the whole will be his, because hearing is in place of pronouncing. In order that prayer be profitable, the state of grace is not absolutely necessary. Therefore prayer also profits a sinner asking for things necessary to salvation. Struggl 27 seqq.; Elbel 419; S. Th. 2. 2, q. 83, aa. 13-16; Quodl. 3, aa. 8, 9; L. 1. 4, n. 176; Suarez, *de Relig.*, tr. 4, l. 3, c. 4; E. M.

456. Whom besides God can we pray? - The Blessed Virgin Mary, as our mediatrix; the Angels, as guardians of men; all the Saints and friends of God, as our intercessors before God. Baptized infants, who died before the use of reason, can also be invoked privately, since they are saints and reign with Christ; and according to many the same is more probably to be said of the Souls detained in Purgatory. And indeed they are friends of God. Nor is it repugnant that those who need our prayers can usefully pray for us, just as the living usefully pray for one another, although they too need prayer to be made for them. More probably; for others deny it, chiefly because our necessities and prayers are hidden from them. But invocation of the Saints is of counsel, not of precept, since Trent, sess. 25, says only that it is good and useful to invoke them. Yet they commonly say that he is not to be excused from venial sin who would never invoke the Blessed Virgin, mediatrix of graces for us before God. Trent, sess. 25, *de Invocatione*, etc.; S. Th. 2. 2, q. 83, aa. 4, 11; Gur., Comp. 262, Cas. 247; Struggl 31; Del Vecchio, v. 1, n. 663; E. M.

457. For whom can we pray? - We must pray neither for the Saints nor for the damned. For the former possess beatitude in heaven which will never be lacking; but the latter have already been immutably handed over to eternal punishments in hell. But it is honorable to pray for the just who are detained in the fire of purgatory. It is a holy and wholesome thought to pray for the dead, that they may be loosed from sins. 2 Mach. 12:46. Likewise it is permitted and we ought to pray for ourselves and, if the discussion is about private prayer, for all who dwell on earth, whether faithful, whether just or sinners, whether excommunicated or not, whether friends or enemies; namely, we must pray for all those whom we are commanded to love according to that saying of Christ: You shall love your neighbor as yourself. Matt. 22:39. Hence the Apostle says: I urge first of all that supplications, prayers, petitions, thanksgivings be made for all men... for this is good and acceptable before God our Savior, who wills all men to be saved. 1 Tim. 2:1 seqq. If the matter is of private prayer, etc.; for as to public prayer, see the exception in the treatise on Censures, n. 1111.

But this duty of praying for all is satisfied if someone, although he makes no special mention of others, nevertheless excludes no one in those prayers which are not poured forth for himself alone,

such as the Lord's Prayer and the Angelic Salutation. For one must pray for all others to the extent that charity requires this, namely, in common. S. Th. 2. 2, q. 37, aa. 7, 8; Struggl 32; E. M.

458. What ought and can we ask when praying; what are the fruits of prayer, and are they certain? - R. To the first. First we ought to ask for spiritual goods, and these absolutely, because it is certain that we cannot abuse them: Seek first the kingdom of God and his justice. Matt. 6:33. But we can also ask for temporal goods, and for evils of temporal punishment, such as humiliation, poverty, etc., but conditionally; for they can sometimes help us toward salvation. Struggl 25; S. Th. 2. 2, q. 83, aa. 5, 6, 9.

R. To the second and third. Prayer, insofar as it is a free, good, supernatural work, is meritorious, and profits the one praying, and him alone, by condignity, namely if he is in the state of grace. Insofar as it is a laborious work, at least not lacking inconvenience, it is satisfactory, and can profit the one praying and others living by way of payment, and therefore more probably infallibly, by force of the communion of Saints; and the dead by way of suffrage, if and insofar as it has pleased divine Mercy. Prayer which is made for the dead, more truly from S. Thomas, Suppl., q. 71, a. 12, "as to the remission of punishment, avails him for whom it is made," although the measure of assistance furnished through our suffrages is unknown to us; but it depends on divine acceptance. For prayer profits them insofar as God, merciful and kind, accepts the satisfaction offered by us through it for the dead. But precisely insofar as prayer is prayer, it is impetratory, and profits oneself and other living persons and the dead. For prayer in obtaining does not rest upon the merit of the one praying, but upon divine mercy, which extends even to the evil, either on account of the salvation of him who prays, or also on account of the salvation of others and the glory of God. S. Th. 2. 2, q. 178, a. 2 ad 1. One undoubtedly receives what he duly asks. "And therefore four conditions are set down, with which concurring someone always obtains what he asks: namely, that he ask for himself, things necessary to salvation, piously and perseveringly," S. Th. 2. 2, q. 83, a. 15. "Pray for one another, that you may be saved; for the continual prayer of a just man avails much." Jas. 5:16 seqq. The prayers of many are more easily heard. S. Th. 2. 2, q. 83, a. 7 ad 3.

That he ask for himself; "because man cannot merit eternal life for another by condignity, therefore consequently neither can someone sometimes merit by condignity for another the things which pertain to eternal life. And on account of this he who prays for another is not always heard." S. Th. 2. 2, q. 83, a. 15 ad 2. "For it happens sometimes that prayer made for another does not obtain, even if it is made piously and perseveringly, and concerning things pertaining to salvation, on account of an impediment which is on the part of him for whom prayer is made." S. Th. l. c., a. 7 ad 2.

Things necessary to salvation; for the merit of prayer is principally ordered to beatitude. Therefore, if that which is asked is not necessary to salvation, nor manifestly contrary to salvation, then although the one praying can by praying merit eternal life, nevertheless he does not merit to obtain that which he asks. For what is more useful to the sick man, the physician knows better than the sick man. But if that which is asked is useful to salvation, he merits it not only by praying, but also by doing other good works; and therefore he undoubtedly receives what he asks, but at a fitting time, when he ought to receive it. S. Th. l. c., a. 15 ad 2.

Piously, that is, from the habit of virtue and grace, from charity, from religion, with humility, with faith. "Prayer, besides the effect of spiritual consolation which it presently has, has a twofold power with respect to a future effect, namely the power of meriting and the power of obtaining. But prayer,

as also any other act of virtue, has efficacy for meriting insofar as it proceeds from the root of charity, whose proper object is the eternal good, the fruition of which we merit. Yet prayer proceeds from charity through religion as mediator, of which prayer is an act, with certain other virtues also accompanying, which are required for the goodness of prayer, namely humility and faith. For it pertains to religion to offer prayer itself to God; but it pertains to charity to desire the thing whose completion prayer asks. Faith, however, is necessary on the part of God, whom we pray, namely that we believe that we can obtain from him what we ask. Humility, however, is necessary on the part of the petitioner himself, because he recognizes his need. Devotion also is necessary, but this pertains to religion, of which it is the first act necessary for all consequent acts. But it has the efficacy of obtaining from the grace of God, whom we pray, who also induces us to pray. Whence Augustine says: He would not exhort us to ask, unless he wished to give. And Chrysostom says: He never denies benefits to the one praying, who by his goodness stirs them so that they do not fail to pray." S. Th. 2. 2, q. 83, a. 15.

Perseveringly: for since the force of prayer in impetration is from divine grace and mercy, it would be irrational always to be heard immediately, namely so that that grace and mercy may appear well. Nor indeed is it expedient for our salvation that we always be heard immediately, and therefore one must pray perseveringly, lest we impede grace if we do not persevere in prayer.

But God hears not only the prayer of the just man, but also that of the sinner "proceeding from a good desire of nature, not as though from justice, because the sinner does not merit this, but from pure mercy, the four conditions premised nevertheless being observed, namely that he ask for himself, things necessary to salvation, piously and perseveringly." S. Th. l. c., a. 16. The prayer of a sinner, although it does not proceed from sanctifying grace, nevertheless is made from actual grace, and is pious insofar as it asks something pertaining to piety. S. Th. l. c., a. 15 ad 1, a. 16 ad 2. Indeed prayer made with due conditions, that is, if it asks fitting things from God, with faith, with humility, with perseverance, is infallible by reason of Christ's promise, which pertains not only to the just, but also to sinners, and whether one prays for himself or for others, as is clear from the text of Jas. 5:16 seqq. "It is certain that prayer has a peculiar promise of God, by reason of which this obtaining is in its own way certain and infallible... Further, it is certain that this promise is not altogether absolute, but under certain conditions; these being posited, obtaining will be infallible, but not without them... It is certain that the state of grace is not simply necessary for obtaining... There is no reason why we should deny that the prayer of a sinner, which is apt to be heard, has an infallible promise... Everyone who asks receives... Everyone who asks, whether just or sinner... Whatever you shall ask in my name, this I will do... On account of this, the opinion which asserts that the promise is universal, whether one prays for himself or for others, seems sufficiently pious and probable... This infallible obtaining is not from justice, but principally from mercy, and also from simple fidelity." Suarez, *de Relig.*, tom. 2, lib. 1, c. 23, nn. 2, 3; c. 25, nn. 2, 3; c. 27, nn. 1, 2, 4. Roman Catechism, *de Poenit.*, p. 2, nn. 74, 76, p. 4, c. 2; S. Th., Quodl. 8, aa. 8, 9; C. G. l. 3, c. 158; Lugo, *de Poenit.*, d. 26, s. 1; Suarez, *de Poenit.*, d. 48, s. 3; Bellarmine, *de Indulg.*, c. 13; E. M. 452.

II. On Adoration, on Sacrifices, on Oblations, on First Fruits, on Tithes

459. How are the external acts of religion divided? - These acts are distributed into three classes. To the first pertain those acts through which someone exhibits his body for venerating God; such is adoration. To the second pertain those acts by which something from external things is offered to God. Concerning these a twofold consideration occurs. The first indeed is concerning those things which are given to God by the faithful, where one must consider sacrifices, oblations, first fruits, and tithes, and the sanctification of feasts, which is treated in the third precept of the Decalogue. The other is concerning vows, by which certain things are promised to God, and this must be remitted to the second precept of the Decalogue. Finally, to the third class pertain those acts by which something divine is assumed by men, which is either some sacrament, or the divine name itself. But there will be place to speak concerning the assumption of a sacrament in the treatise on the Sacraments. The assumption of the divine name, however, is made in three ways: in one way by way of an oath for confirming one's own words; in another way by way of adjuration for inducing others; in a third way by way of invocation for praying or praising. Concerning prayer it has already been said; concerning the others it will have to be said in the second precept of the Decalogue. Therefore here there will be discussion only of adoration, sacrifices, oblations, first fruits, and tithes. S. Th. 2. 2, qq. 84, 85, 86, 89; Bouquillon, *de Virt. relig.*, l. 1.

460. What is adoration and of how many kinds is it? - Adoration is honor exhibited to another by an external gesture of the body, by which we testify our submission and the excellence of another; or insofar as it is a sign of internal estimation, reverence, and submission toward another, and consequently also of his excellence. Therefore adoration requires two internal acts: one of the intellect, the other of the will. The former is a speculative judgment concerning the excellence of another, and a practical judgment that it is honorable for us to be submitted to him on account of his excellence and our inferiority with respect to him. But the latter is the command of the will to lower oneself on account of that superior excellence in another. Whence at last the execution itself exists in the exterior gesture of the body.

Adoration is one thing political, another religious, according as it exhibits worship to another on account of a merely civil dignity or excellence, or on account of a supernatural excellence which is found in God and in his Saints. The latter comprehends under itself three species or quasi-species. The first is latria, which, with the genus taken for the species, is also simply accustomed to be called adoration; it is supreme and singular, which we owe to God alone, on account of the divine excellence proper to him, and which therefore is communicable to no other, according to Matt. 4:10. The second is dulia, which belongs to the Angels and other Saints, on account of the supernatural and created excellence which is in them. The third is hyperdulia, which is exhibited to the Blessed Virgin, on account of her supernatural and created excellence, but one altogether singular and greater and more eminent than all other created excellences. Species or quasi-species, because there is not sufficient agreement whether they are one species from one relation to God or threefold from a threefold diverse proper excellence.

Moreover any species of adoration is divided into absolute and respective. It is absolute when something is adored or worshiped on account of an excellence intrinsic to itself; and thus God, the Most Holy Trinity, Christ also as man, and the Most Holy Sacrament of the Eucharist are adored with

absolute worship of latria; but the Saints with absolute worship of dulia, and the Most Holy Virgin with absolute worship of hyperdulia. It is respective when something is adored or worshiped on account of an excellence and sanctity extrinsic to itself, but intrinsic to him to whom it is referred in moral estimation; and thus the Most Holy Name of Jesus Christ, the instruments of the Passion, and the Cross are adored with respective worship of latria; relics and images of the Saints, etc., with respective worship of dulia; images of the Most Holy Virgin, etc., with respective worship of hyperdulia. The title "The Penitent Heart of Jesus" is altogether condemned. Holy Office, 15 July 1892. The image of the Most Sacred Heart of Jesus, representing the Heart alone, is permitted only for private devotion, but is by no means to be exposed on an altar for public veneration. Holy Office, 26 Aug. 1891. Because there is one excellence of the Three Divine Persons, one honor and reverence is owed to them, and consequently one adoration. Trent, sess. 25, Decree on Invocation, etc.; S. Th. 2. 2, q. 81, a. 3; q. 82, a. 2 ad 3; q. 84; q. 103, aa. 3, 4; Suarez, *de Relig.*, tr. 2, l. 1, c. 2; Struggl 11 seqq.

A determinate place is not required for adoration as though by necessity of the thing itself, but only according to fittingness, not on account of God who is adored, as though he were enclosed by place, but on account of the adorers themselves: first indeed on account of the consecration of the place, from which those praying conceive special devotion, so that they may be heard more; secondly on account of the sacred mysteries and other signs of sanctity which are contained there; thirdly on account of the gathering of many adorers, from which prayer becomes more fit to be heard. The obligation of adoration is abundantly satisfied by otherwise fulfilling obligations toward God, in which adoration of God is contained implicitly and often also explicitly, as, for example, when prayers are poured forth to God, when one assists at the sacrifice of Mass, etc. E. M.

The print's appendix has more on this paragraph: [Unusual Titles of Worship](/manuals/bucceroni/unusual-titles-of-worship). (ed.)

461. Can men who have departed from life with a reputation for sanctity be adored? - They can be honored with private worship. But they cannot be honored with solemn and public worship, unless they have been numbered by the Supreme Pontiff in the Catalogue of Saints or Blessed. Public worship, however, is that which is exhibited in the name of the Church, or as instituted by her; private worship is that which proceeds only from private devotion, even if it is done before others. Therefore it is not licit to erect churches or altars in honor of Saints not canonized, or at least not beatified, cf. 463; nor is it licit to invoke them publicly in litanies, nor to expose their relics or images for public veneration, or to carry them around in processions. Yet it is permitted to keep these images or relics privately, to kiss them reverently, etc., because such worship is altogether private, which is not prohibited. Struggl 18; E. M.

Those are called Saints who solemnly, a definitive sentence having been issued, are enrolled by the Roman Pontiff in the catalogue of Saints, and their worship is permitted to all the faithful. Those are called Blessed who, from a special concession of the Roman Pontiff, can be honored with some public worship only in some place or in some Religious Institute. Those are Venerable concerning whom the cause of introduction of their beatification has been signed by the Roman Pontiff. Servants of God are those who have died with a reputation for sanctity or martyrdom. But "Our Most Holy Lord Pius Pope X... forbade Servants of God, whose causes are henceforth introduced, to be called Venerable; likewise he decreed that solemnities are not permitted to be carried out on the occasion of the decree issued concerning the introduction of the cause... nor panegyric orations. But he permitted that Servants of God be adorned with the title Venerable only after the decree issued concerning heroic

virtue or concerning martyrdom, yet in such a way that from this permission no argument of granted veneration can be inferred or claimed... Solemnities for giving thanks to God even after the decree issued concerning heroic virtue or martyrdom he likewise prohibited; yet by this prohibition he did not intend to prevent the addition in Masses, as is fitting, of a collect for thanksgiving." S. R. C., 26 Aug. 1913. This Decree also contains several other prescriptions to be observed in the beginning of causes of Servants of God, namely so that the cause may be duly instituted. There are special Instructions concerning the processes of causes of Martyrs in regions of unbelievers. Cf. *Consulente Ecclesiastico*, 1905, p. 313 seqq. Likewise there is a Decree to be observed concerning judicial order in causes of Servants of God proceeding by way of an excepted case. S. R. C., 11 Nov. 1912. "Our Most Holy Lord Pius Pope X, for treating causes of lesser moment of Servants of God, namely concerning reputation for sanctity in general, concerning non-cult, concerning the validity and relevance of processes, and other similar things, constituted a particular Congregation." Decree S. R. C., 9 Dec. 1908.

462. You will resolve: It is by no means illicit to place an effigy or statue of some deceased person not canonized, whether in an oratory even public, or in a church, provided this is not done for honoring him with public worship, but from another manifest motive, for example, if he is the founder or benefactor of the church, or his statue is placed at his tomb in the church. Thus also images of emperors, kings, and other distinguished men could be hung; and the Basilica dedicated to Saint Peter at Rome is adorned with images or statues of Pontiffs not enrolled in the Catalogue of Saints. S. R. C., 14 Aug. 1894, Decr.

A priest can indeed accept a stipend and celebrate Mass in honor of a man deceased with a reputation for sanctity, or in thanksgiving for a benefit obtained, etc., provided that he takes the Mass from the feast or from the feria occurring on that day, but not from the common of non-Pontiffs, nor recites a special prayer concerning him or with his name. The reason is that to perform the sacred rite for the aforesaid intention is not to honor someone with public worship, since the intention of the celebrant is something altogether private. Elbel 443; E. M.

463. Note: For the public worship of relics, it must be certainly established that the relics to be venerated pertain to a Saint or Blessed one solemnly recognized as such by the Church. In addition, the seal of some Bishop or Prelate ought to be affixed; but the seal of the Bishop of the place suffices for relics to be honored with public worship, nor is an authentic written document necessary. In order that new relics, although authentic, be exposed for the public veneration of the faithful in a church or in a public oratory, it is required that they be recognized and approved by the Bishop of the place, even if they were sealed at Rome by the Apostolic Prefect. Trent, sess. 25, *de Invocat.*, etc.; Sixtus V, Const. *Dominus omnipotens*, 13 Nov. 1588. For ancient relics, their immemorial exposition and public veneration suffice; this rightly supplies any other document and bears before itself a valid presumption of authenticity. For private worship only private moral certitude is required, such as, for example, is had from a man worthy of faith.

A relic of the Cross of Our Lord Jesus Christ for public veneration is to be separated from other Relics of Saints in a special case. S. C. Indulg., 22 Feb. 1847; S. R. C., 25 May 1906; A. A. S., v. 1, p. 507. One sins gravely by stealing notable relics, or even the smallest part of a very precious relic, for example of the Most Holy Cross, because, although they are not estimable by price, nevertheless this taking away can gravely sadden the possessor. But in the Roman district it is prohibited under penalty

of excommunication to steal relics, even the smallest, pertaining to churches, from the Constitution of Clement VIII and Paul V. Therefore not in every case is the theft mortal sin, and it is a grave real sacrilege.

As to images, halos, or rays, cannot be placed on images of the deceased, although they are commonly held as Saints, unless they have been beatified by the Church; likewise neither tablets and images, nor lamps or any other lights, namely in veneration and worship, may be hung at their sepulchers. But with the license of the Ordinary or Bishop, it is permitted to keep similar relics of a Saint in a place separated from the church and secret, to receive offerings and tablets, and to recount in little books the benefits received, yet not without the recognition and approval of the Bishop, and with a declaration first made by the author that he does not intend to win for his statements any faith other than that of human history, as Urban VIII established in the Decree *Sanctissimus*, 13 March 1625, and another special Constitution *Caelestis Hierusalem*, 5 July 1634; S. R. C., 31 July 1821; General Decree, 14 Aug. 1894; Leo XIII, Const. *Officiorum ac munerum*, General Decree, sec. 13; Pius X, Encyclical Letter *Pascendi*, 8 Sept. 1907, paragraph *De sacris Reliquiis*.

Images of the Blessed are to be painted with rays only; of the Canonized, with a diadem around the head. Ferraris, v. *Veneratio SS.*, n. 46. Likewise images of Our Lord and the Blessed Virgin, of Angels and Saints, ought to be painted or sculpted in that form and habit which from ancient time has been in use in the Church. Urban VIII, Const. *Sacrosancta Tridentina*, 15 March 1642; Benedict XIV, Const. *Sollicitudini*, 1 Oct. 1745.

As to the Blessed, it is not permitted to name churches or altars after them, and their images and relics can be retained and exposed only in those churches in which it is permitted to celebrate their office. Urban VIII, cited Decree *Sanctissimus*; Clement XI, Const. 82, n. 11. Images of Saints are laudably blessed, and privately any priest can bless them. S. R. C., 12 July 1704. S. R. C., 27 Sept. 1659; 17 Apr. 1660; 12 June 1660, Boianen.; Pius X, Motu proprio *Sacrorum antistitum*, 1 Sept. 1910; L. 1. 3, nn. 45, 532; Epist. Resp. at the end of c. 1; Benedict XIV, *de Canon. SS.*, l. 2, c. 11; Struggl 18; Scav., ed. 12, Milan, 1874, l. 2, n. 168 seqq. There is an Instruction of the S. R. C., 22 May 1912, on the privileges which, in the triduum or octave to be celebrated within the year from beatification or canonization, are usually granted by Rescript of that Sacred Congregation from the Supreme Pontiff. E. M.

463.a What is the nature and obligation of sacrifices? - The offering of sacrifices, considered in common, is from the natural law itself. For it proceeds from natural reason that, just as some things are offered to temporal lords in recognition of dominion, so also we should offer to God, as the supreme lord of all, certain sensible things as a sign of due subjection and honor. But the determination of sacrifices is from human or divine institution. The sacrifice which is offered exteriorly signifies the interior spiritual sacrifice by which the soul offers itself to God, because exterior acts of religion are ordered to interior acts. But the soul offers itself to God in sacrifice, as to the principle of its creation and as to the end of its beatitude. Therefore the honor of sacrifices is to be exhibited to God alone. This also we see observed in every republic, that its supreme ruler is honored by some singular sign which, if it were offered to anyone else, would be the crime of lese majesty. Trent, sess. 22, c. 3.

Moreover there is a threefold good of man. The first indeed is the good of the soul, which is offered to God by a certain interior sacrifice through devotion and prayer and other interior acts of this sort,

which are ordered to divine reverence. The second is the good of the body, which is offered to God in a certain way through martyrdom and abstinence or continence, or when someone subjects his own body to some affliction on account of divine reverence, and it is offered by exterior sacrifice. The third is the good of exterior things, from which an exterior sacrifice also is offered to God, if it again is ordered to divine reverence: directly indeed, when we immediately offer our things to God; mediately, when we communicate them to neighbors on account of God.

But sacrifices are properly so called when something is done concerning things offered to God, as that animals were killed and burned, that bread is broken and eaten and blessed. And the name itself sounds this: for sacrifice is so called from this, that man makes something sacred.

Hence sacrifice is commonly defined: the offering of a sensible thing, made to God by a legitimate minister, through real change, for acknowledging his supreme dominion and our subjection. Wherefore only priests offer sacrifices which are specially ordered to divine worship not only for themselves, but also for others. But other sacrifices anyone can offer to God for himself. All are bound to offer interior sacrifice to God, for all are bound to offer a mind devoted to God. Likewise all are bound to offer exterior sacrifice to God when exterior acts of other virtues are assumed into divine reverence, which fall under precept. But as to the exterior sacrifice by which something is exteriorly offered to God in protestation of divine subjection, under the New Law the faithful are bound to that one sacrifice which Jesus Christ instituted at the Last Supper, concerning which there will be discussion in the treatise on the precepts of the Decalogue and of the Church, and on the Eucharist. S. Th. 2. 2, q. 85; Lessius, *de Virt. Rel.*, c. 2, d. 4.

463.b What is the nature and obligation of oblations? - By the name of oblation here is understood the presentation of some thing for the worship of God, not so that some sacred thing is as it were consumed, as in sacrifice, but so that it remains whole to be deputed to divine worship, or to be expended for the uses of ministers. In the New Law, oblations of this sort are free, unless they are to be made from the necessity of the Church or from introduced custom. Since the priest is mediator between God and the people, oblations are to be presented to him by the people, not only that he may assume them for his own use, but that he may faithfully dispense them in those things which pertain to divine worship and for the uses of the poor, who, as far as possible, are to be sustained from the goods of the Church, because the Lord too had purses for the use of the poor.

Likewise in the New Law there is no special obligation to offer first fruits from the fruits of the earth received, unless according to the custom of the country and the need of the ministers of the Church. For first fruits are given by way of oblation, of whose nature it is that it be voluntary. But first fruits are offered because we ought to exhibit to God that which is chief, and in recognition of the benefit of God, who grants the earth and the fruits of the earth. S. Th. 2. 2, q. 86.

463.c Is there, and of what sort, an obligation of paying tithes? - The precept of tithes is partly of natural law, partly of positive law. "For natural reason dictates that the people should furnish the necessities of life to those who ministered in divine worship for the salvation of the whole people, just as stipends for livelihood are owed by the people also to those who watch over the common utility, namely Princes and soldiers and others of this sort.... The determination that a tenth part be paid was instituted by the authority of the Church in the time of the New Law.... Thus therefore it is clear that men are bound to the payment of tithes, partly indeed from natural law, but partly also from the institution of the Church, which nevertheless, the circumstances of times and persons being

considered, could determine another part to be paid.... Ministers of the Church ought to have a greater care for promoting spiritual goods among the people than for collecting temporal goods; and therefore... they laudably do not demand tithes of the Church where they could not be demanded without scandal, because of desuetude or because of some other cause. Nor, however, are those in a state of damnation who do not pay in those places in which the Church does not ask, unless perhaps, on account of obstinacy of mind, they have the will not to pay even if they were asked. "But the root of the payment of tithes is a debt, by which carnal things are owed to those sowing spiritual things, according to that saying of the Apostle, 1 Cor. 9:11: If we have sown spiritual things among you, is it a great thing if we reap your carnal things?... For upon this debt the Church founded the determination of the payment of tithes. But all things whatsoever a man possesses are contained under carnal things, and therefore tithes are to be paid from all things possessed.... And therefore in the New Law men are bound to personal tithes, according to the custom of the country and the need of ministers. But the right of receiving tithes is spiritual, for it follows that debt by which expenses are owed to ministers of the altar from the ministry, and by which temporal things are owed to those sowing spiritual things; this pertains only to clerics having the right of souls. Tithes are owed by the faithful to clerics insofar as they are ministers of the altar sowing spiritual things among the people. Whence such clerics, insofar as they have ecclesiastical possessions, are not bound to pay tithes; but from another cause, namely because they possess by their own right, or by succession from parents, or in any other way of this sort, they are obliged to pay tithes. Clerics are bound to give a tithe to the Supreme Pontiff if he should require it. For natural reason dictates that provision be made from all goods for him who has care for the common state of the multitude, whence he can execute those things which pertain to the common salvation." S. Th. 2. 2, q. 87.

The print's appendix has more on this paragraph: [On Saints or Blesseds Without a Certain Decree or Indult of the Holy See] (/manuals/bucceroni/on-saints-or-blesseds-without-a-certain-decree-or-indult-of-the-holy-see). (ed.)

III. On Superstition and Idolatry

464. What are the acts opposed to religion? - "Something is opposed to true religion in two ways: in one way by excess, when, namely, that which belongs to religion is exhibited unduly to another; this pertains to superstition. In another way, as it were by defect of reverence, when, namely, God is contemned; this pertains to the vice of irreligiosity.... But superstition impedes religion as to this, that God not be taken up for worshiping.... But through irreligiosity religion is impeded as to this, that God, after he has been taken up, not be honored." S. Th. 2. 2, q. 122, a. 3.

465. What is superstition? - "Superstition," says S. Thomas, "is a vice opposed to religion according to excess, not because it exhibits more in divine worship than true religion, but because it exhibits divine worship either to whom it ought not, or in the manner in which it ought not." 2. 2, q. 92, a. 1. "But the principal impediment of religion is that man adhere to a false god.... And therefore in the first precept of the law the worship of false gods is excluded.... But all other superstitions proceed from some pact entered into with demons, tacit or express; and therefore all are understood to be prohibited in this which is said: You shall not have strange gods." 2. 2, q. 122, a. 2 ad 1, 2, 3; Collectan. S. C. de P. F., n. 1702.

466. Of how many kinds is superstition? - On the part of the thing which is given worship, the species of superstition are three: idolatry, divination, vain observance. For either a creature is

worshiped as God, and this is idolatry; or from it, as from God, knowledge of hidden things is asked, and this is divination; or finally some help is implored, and this is vain observance. All these are mortal by their nature, since they inflict grave irreverence upon God, by attributing to a creature what is owed to God.

By reason of the mode in which worship is exercised, one superstition is that of false worship, if it signifies something false, for example if someone now offers worship to God through ceremonies of the Old Law; if a layman worships God as a public minister of the Church; if someone on the part of the Church exhibits worship to God contrary to the manner constituted by divine authority through the Church and customary in the Church. Another is the superstition of shameful worship, if it contains certain things injurious to God, for example if someone should introduce dishonorable and insulting words in his prayers. Another is the superstition of superfluous worship, if it contributes nothing to the true worship of God, for example the ceremony of hearing Mass before sunrise, with a fixed number, position, order of candles, etc.

This last species, scandal being excluded, ordinarily is judged only venial, because the matter is slight, and it ought rather to be called mere simplicity than positive irreverence. But the other two are regularly mortal, because they are gravely repugnant to divine honor and worship, which rests upon truth and sanctity. Regularly; for it does not seem grave if something slightly false is mixed into true worship from lightness, from lack of consideration. Lugo, *de fide*, d. 14, s. 3; d. 20, n. 23 seqq.; Struggl 2 seqq.; L. 3, 4; S. Th. 2. 2, qq. 92, 93; Collectan. S. C. de P. F., nn. 1702, 1707.

467. What is idolatry, of how many kinds is it, and what kind of sin is it? - Idolatry is defined: an action by which worship owed to God alone is exhibited to a creature. It is threefold: perfect, imperfect, and simulated. The first renders divine honor to a creature, falsely judging it really to be God. The second indeed renders divine honor to a creature, but either from hatred of the true God, or from desire of obtaining something from a demon or another creature, not being ignorant that the same lacks divinity. Finally the third exhibits that honor to a creature, from fear of death alone, without internal affection, as happened to certain Christians in times of persecutions. Each of these kinds of idolatry is a grave sin. It is proved: "Just as in an earthly republic it seems most grave that someone should bestow royal honor upon another than the true king... so among sins which are committed against God, which nevertheless are the greatest, it seems most grave that someone should bestow divine honor upon a creature; because, as far as in him lies, he makes another God in the world." S. Th. 2. 2, q. 94, aa. 3, 1; L. 12, 13.

IV. On Divination

468. What is divination? - Divination is defined as the tacit or express invocation of a demon for knowing hidden things. Tacit or express, because it can be done in a twofold way: either by expressly invoking that help of a demon, and it is called express, or by employing certain means, useless and ineffective of themselves, for imploring the aid of a demon, and it is called tacit. Here it must be noted that it is not required that the demon at some time have made a pact that he would concur with the use of some vain means. For by the very fact that someone knowingly uses means lacking all proportion to the end, he invokes in act the aid of the demon, who is accustomed to mingle himself in these things. S. Th. 2. 2, q. 95, aa. 1, 2; L. 5, 6, 8.

469. Of how many kinds is divination? - Divination is distinguished into several species, but only materially, by reason of the diverse means. The principal species of divination through express invocation of a demon are: 1. Pythonism, when namely a demon, occupying the body of some man or woman and emitting voices from there, discloses hidden things. 2. Vaticination, when a demon uses the work of pseudo-prophets to signify hidden things. 3. Necromancy, when a demon answers through the dead or through those called back to life. 4. Oracle, when a consulted demon, hiding in images, answers. 5. Prestige, when the demon himself strikes the eyes by apparitions. 6. Oneiromancy, when a demon discloses hidden things through dreams. 7. When he foretells hidden things through certain figures or signs which appear in inanimate things, "and indeed if these appear in some terrestrial body, say in wood or iron or polished stone, it is called geomancy; if in water, hydromancy; if in air, aeromancy; if in fire, pyromancy; if in the entrails of animals immolated on the altars of demons, haruspicy." S. Th. 2. 2, q. 95, a. 3.

Divination which is made without express invocation of a demon is twofold: one uses the dispositions of certain things; the other uses certain things which are seriously done by men for inquiring into something hidden. To the first pertain: 1. Chiromancy, as it were divination from inspection of the hand. 2. Physiognomy from the lineaments of the face. 3. Haruspicy from the entrails of animals. 4. Augury from the chattering of birds. 5. Auspice from their flight, position, feeding. 6. Astrology from the stars. 7. Geomancy, hydromancy, pyromancy, aeromancy from signs in earth, in water, in fire, in air. 8. Omen from words said without intention. But to the other pertains sortilege, as it were divination from lots, for example by considering what occurs to one opening a book, what one receives from slips secretly deposited, who throws more points of dice, what figure arises from melted lead thrown into water. "Thus therefore it is clear that there is a threefold genus of divination, of which the first is through manifest invocation of demons... the second is through the mere consideration of the disposition or motion of another thing... the third is when we do something so that something hidden may be manifested to us... but under each of these many things are contained." S. Th. 2. 2, q. 95, a. 3; L. 6; Struggl 20, 21.

470. Note: Natural effects must be carefully distinguished from free effects. For the former can often be conjectured, as, for example, from the song and flight of birds or from the aspect of the stars, weather, rain, or serenity of the sky, etc., is conjectured. For experience establishes that a natural connection exists among these things. But one must speak otherwise concerning the latter. A disposition or state of mind sometimes can in some way be conjectured from color of face, or other external signs, although in practice one should generally abstain from such conjectures, on account of the danger of rash judgment. But free acts, whether past or future, can never be known with certainty.

To divination is to be attributed whatever hidden thing is known in another way than through revelation or through natural means; for no other means is given for investigating hidden things. S. Th. 2. 2, q. 95, aa. 1, 7; q. 96, a. 2; L. 9, 10.

471. What kind of sin is divination? - Divination from its genus is mortal, both because it attributes divine honor to a creature, by wishing to know from it things known to God alone, and because society with a demon is a great contempt of God, a betrayal and apostasy from God, since the demon is his perpetual enemy. Hence the Apostle warns: I do not want you to become associates of demons. 1 Cor. 10:20; Deut. 18:10-12. Yet tacit divination can sometimes be excused from mortal sin on

account of simplicity and ignorance, or on account of defect of certain faith. S. Th. 2. 2, q. 95, aa. 2, 4; L. 7; Suarez, *de Relig.*, tr. 3, l. 2, c. 8, n. 15; Laym. l. 4, tr. 10, c. 3, n. 4; Struggl 19.

472. You will resolve: He is not free from grave fault who, using means disproportionate for some knowledge, protests that he intends no commerce with the demon; for he acts against his own protestation, and implicitly invokes the demon, since neither God nor an Angel mingles himself with such things.

Those sin gravely who ask soothsayers concerning their fortune or their future life, unless they act from simplicity, jest, or for the sake of curiosity, without giving faith to the sayings. Yet if the soothsayer acts seriously, they can with difficulty be excused from gravely culpable cooperation. Reuter 43; L. 8, 10; S. Th., Quodl. 3, a. 22.

473. Is it ever permitted to conjecture future things from dreams? - There are four kinds of dreams: 1. Natural, which have their origin from natural causes, for example, occupations or temperament of body. 2. Casual, which arise from the varied concurrence of phantasmal representations. 3. Those which are from God as author. Judg. 7:13; Dan. 2:19; Matt. 1:20; 2:12, 13, 19. 4. Those which have the demon as author. Deut. 18:10. Moreover, from natural dreams it is not superstitious to conjecture the present health of the body, or its future state, or even the manner and discipline of living, because among these there is a true and natural connection. Yet it would be superstitious to conjecture from them future freely contingent things, since these proceed only from the free and changeable will of man. From casual dreams it is superstitious to derive future things, because by the very fact that they are casual they cannot be accommodated for signifying any matter. Ecclus. 34:7. But he would not seem to sin mortally who, on account of a preceding dream, omits or performs an indifferent action; because this seems to proceed rather from a certain simplicity of mind, or excessive timidity, for example if someone should omit a walk because he dreamed that on it he would be treacherously killed on this or that day. Dreams which are certainly or more probably from God we can, indeed we are bound, says S. Alphonsus, n. 9, to believe, since God at times promised that he would speak in this way. Acts 2:17; Num. 12:6.

To believe diabolical dreams is mortal, unless ignorance or simplicity excuses, since it is to found truth upon a lie, and to enter into society with a demon. In this sense Scripture says: You shall not practice augury, nor observe dreams. Lev. 19:26. But whether a dream is from God or from a demon is difficult and dangerous to define. Struggl 24; L. 9; S. Th. 2. 2, q. 95, a. 6.

474. Note: The general rule for discerning whether dreams come from a demon is: if they impel to evil, or if one experiences himself disturbed and less prompt for good. But otherwise, if the dream impels to good, or one feels himself readier for it; nevertheless one must always proceed with humility and fear, since the devil often transforms himself into an angel of light. Struggl 25; L. 9.

475. Is astrology ever permitted? - Astrology is of two kinds, natural and judiciary. By the first, natural effects are predicted, some certain, others probable; by the second, freely contingent effects are foretold from consideration of the position and motion of the stars. Now natural astrology is licit, as is clear. But judiciary astrology is altogether illicit and superstitious, because heavenly bodies can do absolutely nothing upon man's free will. L. 10; S. Th. 2. 2, q. 95, a. 5. Those who, by judiciary astrology either by themselves or through others, have inquired concerning the state of the Christian republic are to be understood, from the Warnings for the Jubilee, as those who have inquired by the

said Astrology concerning the life or death of the Roman Pontiff; their censures the Constitution *Apostolicae Sedis* preserved intact. Leo XIII, Const. *Singulares*, Kal. Nov. 1899; S. Penit., 20 Feb. 1900; E. M.

476. Is the use of lots ever licit? - Some lots are divisory, others consultory, others divinatory. Divisory lots, which are employed for settling disputes, etc., with both parties consenting, are licit, since they contain nothing superstitious, but are as it were a certain species of contract; and they are also approved in Scripture by these words: The lot suppresses contradictions. Prov. 18:18; 16:33. Except, by positive law, all elections to ecclesiastical prelacies and benefices, which ought to be made by the inspiration of the Holy Spirit; this also holds concerning disputes about the same benefices. C. *Ecclesia* 3, *de Sortil.* Yet the doctors more probably judge that only this is forbidden, so that if the lot is used, the elections are illicit but valid. The reason is that nowhere are they declared invalid, if one election of a Prelate having jurisdiction is excepted. C. *Quia propter*, *de Elect*. Cf. Schmalz., l. 5, p. 2, t. 21, n. 38 seqq. Secular offices also are to be distributed not by lot, but according to the aptitude of persons; although among several equally apt and worthy persons, one can act by lot. Thus also, if several have deserved death, and it is not expedient that all be punished, it can be determined by lot who among them is to be killed. C. A. 835, 841; C. B. 659, 752; John 10:24.

Consultory lots, by which inquiry is made what should be done in this or that matter, are generally illicit, because they contain temptation of God and danger of diabolical fraud. Generally, for sometimes they are licit: when they are done by divine instinct or command, as happened in the election of Matthias, Acts 1:26; when necessity and honorableness of the cause require it, for example an urgent necessity of salvation, and no more apt mode of overcoming the doubt appears, provided they are done with prayer having first been made, with due reverence, and judgment is expected from God alone, and divine things are not turned to earthly affairs, etc. Divinatory lots, by which through the throwing of dice the knowledge of a hidden or future thing is inquired into, and this is sortilege, are in no way permitted, since neither from their own nature, nor from that of other things, nor from the institution of God or of the Church, does that casting of lots have any force for the aforesaid effects. Yet if God himself should impel one to cast a lot, which should scarcely ever be thought, then it will be licit, just as it was licit for Joshua when he used it to investigate the hidden crime committed by Achan. Josh. 7:14. "Moreover, if someone were to ask from God through lots the manifestation of hidden truth, such sortilege would not be superstitious, but a temptation of God, or another sin of irreligiosity, as Laymann teaches with Sanchez, n. 9." Struggl 26; L. 10, 11; S. Th., Quodl. 12, a. 35; 2. 2, q. 95, a. 8.

477. Is the use of the divining rod licit? - This rod, whose first mention, they say, was made in the fifteenth century, is from hazel and is forked. They use it for finding treasures, veins of waters, shifted boundaries of fields, thieves, murderers, etc. There are not lacking those who defend its use as natural; but deservedly this is commonly denied. For intention alone can contribute nothing to physical motion. Moreover the rod is moved according to the mind of the bearer, so that if he seeks metals, not water, the rod is not moved if it finds water, and conversely. Add that it remains unmoved in the hands of him who protests that he wills nothing superstitious, as examples prove. Yet it must not be denied that it can also happen naturally that some rod is moved toward one part rather than another; and thus it can serve for detecting waters or metals, namely by force of natural attraction, as is clear concerning the magnet. But then this happens constantly, and independently from the

intention of the one using it, and never in matters moral, or insofar as they are moral, to be investigated, for example thieves. Hos. 4:12; L. 8; Albit., *de Inconst. in Fide*, c. 32, n. 26.

V. On Vain Observance

478. What is vain observance? - Vain observance consists in this, that someone employs means neither proportioned by their nature nor instituted by God or by the Church for obtaining a certain effect. It differs from divination in that the latter is ordered to knowledge of hidden things, but vain observance to any effects whatsoever to be obtained. It agrees with divination because it also rests upon a pact, express or tacit, with a demon. It matters little indeed that a demon is not expressly invoked; for he is invoked equivalently. For since God does not mingle himself with vain things, the effect can be expected only from a demon. Since someone uses inept means, he uses them not as causes but as signs, and thus they pertain to pacts of significations entered into with demons. S. Th. 2. 2, q. 96, aa. 1, 2, 3; L. 24.

479. Of how many kinds is vain observance? - There are four species of vain observance, which are distinguished only materially by reason of effects. 1. If certain useless things are observed for acquiring an infusion of knowledge, without other study, and it is called the notory art. It differs from divination because the latter directly regards speculative knowledge; the former directly regards an infusion of knowledge for one's own convenience, but indirectly the knowledge itself. Thus they sin who take a prepared potion, or employ a certain prayer, so that they may immediately become learned. 2. If useless things are observed for obtaining health, and it is called the observance of healths. Thus they sin who use unknown names and certain empty ceremonies for driving away animals; or who carry amulets, wrappings, or something similar for repelling diseases. L. 18; S. Th. 2. 2, q. 178, a. 2. 3. If from consideration of some trifling event it is determined what will be future, and someone thence regulates his actions, and it is called the observance of events. It differs from divination, both because observations of this sort are without any reason and art, whence they are more vain and superstitious, and because they look to directing one's own acts; but divination rather intends speculative knowledge of hidden things. Thus he would sin who refused to sit with thirteen at table as though this were a sign of death, although this for the most part can be excused, since no true faith is given to this matter, but there is a certain simple and empty fear. 4. If the observance concerns bodies to be variously changed and other wondrous or harmful effects to be produced, and it is called magic or malefice. Malefice contains a threefold moral malice against religion, charity, and justice. One malefice is amatory, or a philter; another is poisonous. The former is for exciting carnal love or hatred toward some person, the demon moving the phantasy of the man or the humors of the body, yet doing nothing upon the will; whence it does not induce necessarily to committing sin. But the latter is for inflicting harm upon someone, whether in his goods or in his health.

Job 1:12; S. Th. 2. 2, q. 178, a. 2. But here it must be noted that possession consists in this, that a demon in some way is united to a human body, and works extraordinary things in it and through it. But if the demon does not seem to reside in the body of a man, but only works externally, vexing it in various ways, then there is obsession. It must be noted besides that "power over demons has not been committed to man, so that he could licitly use them for whatever he wished." S. Th. 2. 2, q. 96, a. 2 ad 3. Struggl 28, 41, 42, 43; Suarez, cc. 15, 16; L. 15, 23; S. Th., Quodl. 4, q. 9, a. 16; 2. 2, q. 96.

The print's appendix has more on this paragraph: [Addenda] (/manuals/bucceroni/addenda). (ed.)

480. What kind of sin is vain observance? - As divination, so also vain observance is a grave sin, both because it attributes divine honor to a creature by expecting from it what ought to be looked for from God alone, and because it rests upon a pact, and consequently imports society with a demon. Yet many times that which contains only an implicit invocation of a demon can be excused from mortal sin by reason of ignorance and lack of consideration, or of very doubtful faith. L. 15; S. Th. 2. 2, q. 96.

481. You will resolve: Those are guilty of superstition who wear ligatures marked with certain characters, who invoke certain unknown names, or employ a certain number of crosses or prayers for healing wounds, for making themselves invulnerable, etc. Likewise those who wear certain prayers to St. Bridget or other prayers, expecting an altogether infallible effect from them. Yet they are not to be blamed, indeed they are very much to be praised, who wear pious medals, sacred effigies, or relics of the Saints, hoping that they will specially obtain divine help for themselves. Those also are guilty of superstition who hold some days as fortunate and others as unfortunate, so that they direct their actions from this; or who for expelling diseases require herbs gathered on such a feast, etc.

But it is not superstitious to observe the moon or the times more apt for gathering herbs, cutting trees, etc.; nor to wear sacred things or words of Sacred Scripture for the honor of God or of the Saints, and for imploring their help. Likewise it is not superstitious to recite a certain number of prayers, nor to do all those things which can increase devotion, provided that an infallible force is not attributed to them. Nor is it in any way superstitious, indeed it is very religious and pious, to recite novena prayers, or to repeat prayers so many times in the worship of Our Lord, or of the Blessed Virgin, or of some Saint, by reason of indulgences which are attached to such a number of prayers, or by reason of mystical signification for increasing devotion; for example, a ternary in honor of the Most Holy Trinity, a quinary in honor of the five wounds of Our Lord Jesus Christ, a septenary because it recalls to mind the six days of creation and the seventh on which the Lord rested, a novenary in honor of the nine months in which Christ was in the womb of his Mother, etc., provided that infallible force is not attached to such a number, to a certain day, or to a fixed time. Struggl 33, 34; Cajetan, in q. 96, aa. 3, 4; L. 17-22; S. Th. 2. 2, q. 96.

482. In doubt concerning the natural cause of some effect, is it permitted to make an experiment? - Vain observance is discerned from the insufficiency of the cause, from some vain circumstance, and from the infallibility which is attributed to a fallible thing. L. 16. In doubt whether effects come from a natural cause or from a demon, they can be attributed to the powers of nature; for the possession of right prevails, since many things lie hidden from us which are altogether natural, and we can altogether investigate them. And therefore it is licit to procure those effects by experiment, since it is not established that the thing is evil. Yet a protestation against any intervention of a demon is deliberately made beforehand. Holy Office, 26 July 1899. But in doubt whether effects are produced by a demon or by God, if it is certain that they cannot come from a natural cause, they are to be attributed to a demon, unless the sanctity of the operator or other clear indications persuade the contrary; because it is rash to think that miracles are always being done. Whence then it is not licit to try whether the effect will follow or not. L. 20; S. Th. 2. 2, q. 96, aa. 1, 2; Struggl 32; La-Croix, l. 3, p. 1, n. 28; E. M. 485.

483. Does magic introduce a new species beyond vain observance? - R. Negative. For magic does not differ from vain observance except merely materially, because its effects are more wondrous, for example, the changing of bodies, etc. But in moral species it differs neither from vain observance nor

from divination, because it matters little whether knowledge of hidden things or wondrous effects are sought from a demon. Therefore these three in the moral line contain the same malice in species. But whether these three are distinguished from idolatry, some deny, because they contain implicitly the worship of a demon, and implicit and explicit do not change the species. Others affirm, because these three contain only commerce with a demon, whose help man implores. Ex. 22:18; Struggl 39.

484. What can be done to remove a malefice? - It is permitted to use natural remedies sought from medicine for correcting corrupt humors; exorcisms, sacraments, pilgrimages, invocations of Saints; and the destruction of the signs through which the demon harms, yet without another malefice. It is also permitted to place a contrary sign, provided it is honorable of itself. The reason is that this is nothing other than to remove the sign and dissolve the pact with the demon. If a sorcerer can remove the malefice in a licit way, it is permitted to summon him to this, to ask him, indeed even to induce him by money, and this even if it is established that he will do this through a new malefice, just as for a cause it is permitted to ask a usurer for a loan at usury. And the reason is that, since I have the right to ask what can rightly be furnished by him and is indifferent, it will be imputed to his malice if he does it badly.

If the sorcerer cannot remove the malefice except through a new malefice, it is not permitted to induce him to this, because this would be to induce him to sin and to cooperate in an intrinsically evil act. If it is doubted whether he can remove it without a new malefice, it is not permitted to ask it of him, because the presumption stands against it, that he knows no mode except an illicit one. But it can more easily be presumed that he who placed the signs can destroy them without a new malefice, than he who did not place them. Whence, if this latter offers his work, he must first be examined concerning the mode of dissolving it. Suarez, c. 17, n. 10; L. 24 seqq.; Struggl 44 seqq.

485. What must be thought concerning more recent superstitions which are circulated? - Of superstitions of this sort there are various effects known to all: mechanical, physiological, psychological, spiritual effects. Likewise various causes are employed or are said to be employed for producing effects of this sort; whence various names are taken either from the effects or from the causes, namely magnetisms, animal magnetism, spiritism, rotating tables, somnambulism, hypnotism. But two things are to be noted in a matter of this sort: namely the proportion or disproportion of the effect with the natural cause; and the honorableness or shamefulness of the acts which are employed, or of the conditions which are required beforehand, for example, that the magnetized person subject himself wholly to the will of the magnetizing person and hand himself over to his judgment. From the former disproportion or proportion, superstition is had or not; from the latter honorableness or shamefulness, even without superstition, the thing will be able to be illicit, as immoral.

As to the preternatural character of the aforesaid effects, that must be carefully observed: whether, although some effect can absolutely be produced by a natural cause, it is in fact produced by this cause, or rather by another preternatural cause, all its circumstances being considered. Moreover magnetism, animal magnetism, spiritism, rotating tables, somnambulism, and hypnotism, according to those effects which commonly happen in their use, are not permitted; since either in reality they do not differ from divination, vain observance, magic, and malefice, since the effects, considering their intrinsic nature, the mode by which they are produced, and other circumstances, exceed the powers of natural causes; or they are excited by shameful and immoral acts; or certainly they often

bear before themselves both that disproportion and this shamefulness. Therefore it is also illicit to be present at experiments of these effects, although merely passively, since it is a sin of cooperation in an intrinsically evil thing, especially in the evocation and consultation of spirits. Holy Office, 30 March 1898; S. Th. 2. 2, qq. 95, 96; C. G. l. 3, c. 114; Quodl. 12, a. 13; Ferraris, Supplem., v. *Magnetismus*.

But if the discussion is merely about magnetism or electricity and about hypnotism applied to certain diseases to be cured, and about effects altogether of an inferior and natural order, although wondrous, which are obtained in hospitals and in the care of other sick persons, and due cautions are employed in their use, nothing indeed appears which contains superstition, nor are they per se opposed in any way to honorable morals. For the same effects are obtained by several other natural causes, especially in natural somnambulism, in sleep and dream. Therefore as to merely natural effects, magnetism is not illicit. But it is illicit as to preternatural effects, considering the mode in which natural causes operate, such as rotating tables, at which consequently it is not permitted to be present. Animal magnetism is likewise illicit as to the extraordinary effects of magnetic sleep, somnambulism, and clairvoyance. Somnambulism is a certain state midway between wakefulness and sleep, in which certain wondrous effects are produced in the faculty both sensitive and intellectual of the soul, which is placed under the command of the magnetizer. Nor indeed, as regards hypnotism, can there be any difficulty from suggestion by which it is excited; for nothing is more common and natural than suggestion, either from other persons or from things themselves, affairs and occupations, by which a certain idea is excited in us, by which we are struck and then led, and which in sleep also, with its various changes, is represented to us. Yet unless due cautions are employed, and its use is altogether moderate, as much as the necessity of the disease requires, there is not absent danger of grave harm, both physical and moral. And it is altogether illicit as to other wondrous and altogether preternatural effects. For at the same time insensibility and a wondrous excitation of the senses are had. E. M.

VI. On Irreligiosity and on Temptation of God

486. What is irreligiosity? - Irreligiosity is a vice which is opposed to the virtue of religion by defect, and which tends to inflict irreverence upon God either directly in himself, or indirectly in sacred things or persons. In the first mode it is divided into temptation of God, perjury, infidelity in promises, and blasphemy. In the other mode, into sacrilege and simony. Concerning perjury, infidelity, and blasphemy, in the second precept of the Decalogue; concerning the rest here it will have to be said. Yet S. Thomas treats blasphemy insofar as it is opposed to confession of faith, qq. 13, 14. But cf. q. 13, a. 2 ad 2. Suarez, tr. 3, l. 1, c. 1, n. 8.

487. What is temptation of God? - Temptation of God is a saying or deed by which someone tests whether God is powerful, wise, merciful, or has some other perfection. S. Th. 2. 2, q. 97, a. 1; L. 29; Suarez, *de Relig.*, tr. 3, l. 1, c. 2, n. 14.

488. Of how many kinds is temptation of God? - It is twofold: one explicit and formal, the other implicit and interpretative. The first is when someone directly intends the testing of divine perfections, and this generally arises from infidelity, although it can also come from lightness, curiosity, imprudent confidence, etc.; for example, if someone doubting concerning some article of

faith should ask from God a miracle, or if someone should throw himself down from a high tower, curiously to test whether God is powerful to preserve him from death.

But the second is when someone does not properly intend that testing, but rashly, without any necessity or utility, says or does something which, the circumstances being considered, by its own nature seems to be referred to it. This happens: 1. when someone tests the divine will concerning some future thing. 2. when someone without just cause neglects ordinary remedies and rashly expects an extraordinary effect from God alone, for example, if someone in a dangerous illness rejects all medicine, wishing to be miraculously healed by God. 3. when someone without any necessity casts himself into such danger that he can scarcely be freed without a miracle of God, for example, if someone through the whole of Lent, without a special instinct of God, should wish to abstain from all food and drink, expecting from God an extraordinary preservation of his life. Here note that if someone acts only rashly, without any respect to God, not trusting certainly in divine providence, but by a certain foolish confidence believing that perhaps by chance he will overcome such or such a danger, he does not sin against religion, but only against the fifth precept of the Decalogue. Suarez, *de Relig.*, tr. 3, l. 1, cc. 2, 3; L. 29; S. Th. 2. 2, q. 97, a. 1.

489. What kind of sin is temptation of God? - Temptation of God is a mortal sin from its genus. It is proved, because it inflicts grave irreverence upon God; hence it is written: You shall not tempt the Lord your God. Matt. 4:7. And this holds whether the temptation is explicit or implicit. Concerning explicit temptation it is clear, because that explicit intention of testing the divine perfections is an explicit contempt of God himself. But concerning implicit temptation it is demonstrated from this, that even an implicit petition, namely that God work contrary to the order of his providence, from mere curiosity or arrogance, without necessity, very evidently redounds to grave injury to him; for it is to act with God as with a favorer of curiosities.

Temptation of God can be only venial not only on account of ignorance, inadvertence, defect of consent, but also on account of smallness of matter. Thus, for example, he would sin only venially who, laboring under illness, should neglect natural remedies and expect health for himself from God by imprudent confidence, or rather presumption; for that man does not seem to commit a grave disorder, since he does not truly ask a miracle from doubt, or from grave lightness and curiosity of testing divine power. Indeed he is excused even from all fault if he hopes that he will be naturally freed from such a disease, with God helping. Likewise he sins per se only venially who from negligence comes unprepared to preach the word of God, hoping for special help from God. Yet if temptation of God comes not only from an imprudent and presumptuous testing of a divine perfection, or only from an imprudent and presumptuous imploration of divine help, but from doubt concerning the divine perfections, then there will be no smallness of matter. For smallness of matter is not given in deliberate doubt against faith. Therefore then sin will have place against religion and also against faith, mortal from its whole genus. L. 29, 30, 32; S. Th. 2. 2, q. 97, aa. 2, 3, 4.

490. You will resolve: From what has been said, one can gather what must be thought concerning the tests formerly used, commonly called judgments of God: namely, when witnesses were lacking, various experiments had been instituted to which the accused was subjected; for example, he carried hot iron, walked over burning coals, etc., and if nothing evil happened to him, he was held as innocent. For this is altogether illicit; for it is both a species of divination, since there is no proportion of the means to the end, and temptation of God, since it is to wish indiscriminately to ask

from him a miracle by which he may disclose the truth. The Church never approved this. For when a crime cannot be known by natural ways, nor does a special instinct of God otherwise advise, it must be left to the judgment of God, who searches the secrets of hearts. C. *Consuluisti* 2, qu. 5; tit. *de Purgat. vulgari*; S. Th. 2. 2, q. 95, a. 8; L. 30; Struggl 6; Muratori, *Antiq. Ital.*, diss. 38, 39.

491. Is it permitted to ask a miracle from God? - They commonly teach that this is permitted whenever there is a grave utility for our salvation or that of others, or for fulfilling the divine will. For then it would not be to tempt God, but to ask earnestly for God's help in a suitable time. But he would sin who absolutely asked for or offered a miracle for the conversion of heretics or sinners, since the testimonies of our faith suffice. Except the case of a particular inspiration of God. S. Th. 2. 2, q. 97, a. 2 ad 3; L. 31.

492. Is it permitted to offer oneself to martyrdom? - One must distinguish with St. Thomas. Either a legitimate cause is present or not. If the first, for example, to avoid blasphemies, to procure the glory of God and of faith, to remove in one's neighbor the danger of unbelief, it is certainly permitted, since it is a work of the greatest charity. If the second, it is not permitted, since no one is lord of his own life so that he can squander it at his own pleasure. Whence he sins gravely, when good faith or divine inspiration does not excuse, as we know happened in several Saints. S. Th. 2. 2, q. 174, a. 3; L. 32, l. 6, n. 101. "To sustain martyrdom on account of Christ falls under precept, because namely man ought to have his mind so prepared that he would sooner permit himself to be killed than deny Christ or sin mortally. And thus also to leave one's own goods falls under precept, because the mind of a Christian ought to be prepared rather to sustain the plundering of his goods than to deny Christ or sin mortally." S. Th., Quodl. 4, a. 20.

VII. On Sacrilege

493. What is sacrilege? - Sacrilege is the violation of a sacred thing, insofar as sacred; that is, of a thing dedicated to divine worship, taken not materially but formally, namely insofar as it is ordered to this worship. That is to say, for some action to be sacrilege, the thing must be violated in that by which it is sacred. Whence if someone speaks badly about someone who has a vow of chastity, his detraction does not assume the nature of formal sacrilege, because that person is sacred to God only as to bodily purity, but not as to integrity of reputation. Moreover, only that thing is properly judged sacred which is not sacred in just any way, or dedicated to divine worship in just any way, but by public rite and divine or ecclesiastical institution, or by the power of the Church, has been deputed to the worship of God. Therefore it is not sufficient that a thing has been simply blessed, namely by a merely invocative blessing, by which we pray for the good of a thing or person; but a constitutive blessing is necessary, by which a thing from profane becomes sacred, as can be seen in holy water or blessed candles. Indeed, even more, a constitutive blessing is necessary by which a thing is consecrated uniquely and perpetually to divine worship; and this is properly consecration, as sacred vessels, churches, priests, clerics. And thus it is not illicit "to throw to dogs the bones of a lamb or eggs which are blessed... just as it is also licit to use holy water and candles for profane use." L. l. c., n. 94. By the blessing of these things only the special assistance of God is invoked concerning the use of those same things. La-Croix, l. c., n. 227; Struggl 9; S. Th. 2. 2, q. 76, a. 1; q. 99, aa. 1, 2; Cajetan on 2. 2, q. 88, a. 11; L. l. 6, n. 94.

Blessing is numbered among the sacramentals. It is an invocation of good: one merely invocative; another constitutive, by which a thing from profane becomes sacred; another constitutive and consecrative, by which a thing is destined uniquely and in perpetuity to divine worship. Blessings which are made without sacred oils are called verbal; those made with these employed are real, and are accustomed to be called consecrations. Real blessings, or consecrations, are of the episcopal order; of verbal blessings, some are of the episcopal order, others of the presbyteral. Some presbyteral blessings are parochial, such as the blessing of bridegroom and bride, the blessing of a ship, of houses on Holy Saturday. Which verbal presbyteral and episcopal blessings there are must be deduced from the Ritual, Pontifical, and Missal; but parochial blessings are those which bear before themselves some jurisdiction.

494. Of how many kinds is sacrilege? - Sacrilege is threefold: personal, by which a person is violated; local, by which a place; real, by which other sacred things are violated. Sacrilege differs in species according as it affects a person, place, or sacred thing. This is established from the common authority of theologians, and because the sanctity of persons, places, and things is not the same. For a person, as the subject of sanctity, is formally and simply holy; holy, namely here, insofar as such a person is dedicated to divine worship in a special way and destined for some ministry of it. A place is holy insofar as it is containing persons, or insofar as it is dedicated to containing the people of God gathered for divine worship. A thing is holy by relation, by which it is ordered to sanctity, that is, insofar as it is destined for divine worship, and therefore in a certain more general way. Suarez, *de Relig.*, tr. 3, l. 3, cc. 1, 5; Lugo, *de Poenit.*, d. 10, n. 471; L. 48; S. Th. 2. 2, q. 99, a. 3.

495. What kind of sin is sacrilege? - Sacrilege is a special sin of irreligiosity, mortal from its genus, if the work is specially repugnant to the sanctity of the thing, because a sacred thing is violated, and this violation always involves by its nature a grave injury to God; and it is so much graver as the sacred thing itself obtains greater sanctity. Yet it can become light by reason of smallness of matter. If the work is specially, etc.; for if it is only generally repugnant to sanctity, for example in the way that all mortal sins are generally repugnant to the sanctity of the temple, it does not exceed venial sin, or it is a lightly aggravating circumstance. L. 33; S. Th. 2. 2, q. 99, aa. 2, 4; C. I. poen. 142; E. M.

496. In how many ways is personal sacrilege committed? - Personal sacrilege is committed in three ways: 1. by laying violent hands upon a cleric or religious. 2. by lustfully violating persons dedicated to God, even by touches alone. 3. by subjecting ecclesiastical persons to the lay forum, against the privilege of exemption and immunity. S. Th. 2. 2, q. 99, a. 3; L. 35; Struggl 11.

497. In how many ways is local sacrilege committed? - Local sacrilege can likewise happen in a threefold way. 1. By profane actions which either by their nature or by prescription of law are opposed to the sanctity and immunity of the place, although the church is not polluted by them, such as public market, public banquets, theatrical plays, public outcries, secular parliaments, the noise of judgments, unless a grave cause excuses, etc. 2. By all sins by which a church is polluted by canon law, namely by the injurious and notorious shedding of human blood; illicit and notorious shedding of human seed; culpable and notorious homicide; burial of an excommunicate not tolerated, or of an unbaptized infidel in a church, even if such burial had been inculpable. 3. By all sins which are done against the immunity of asylum of a sacred place.

Local immunity is that by which one is forbidden to exercise profane things in places sacred to God, and especially to set fire to a church, break its doors, or exercise another violence in it. But immunity

of asylum is that by which one is forbidden to violate the rights of asylum. C. 2, *de Imm.* in 6; C. 6, *de Immun. eccl.* Moreover asylum is a privilege by force of which security is furnished to evildoers fleeing to a sacred place, so that they cannot be violently dragged from there, except, however, in cases excepted by law. Suarez, *de Relig.*, tr. 2, l. 3, c. 8; Gregory XIV, Const. *Cum aliis*; Benedict XIII, Const. *Ex quo divina*, 8 Id. June 1725; Clement XII, Const. *In suprema*; Benedict XIV, Const. *Detestabilem*, Const. *Officii nostri*; Trent, sess. 22, Decree *de observ.*, etc.

But here it must be noted that where the discussion is of sacrilege on account of this violated immunity of a sacred place, the notion of sacred place extends much more broadly than when the discussion is of acts directly opposed to the sanctity of a sacred place, and it extends also to a place only religious, destined by the authority of the Church for a pious and religious use. For as to those acts by which a church can also be polluted, a sacred place means only the ambit of a place even simply blessed and deputed by the Bishop for divine offices or for burying the dead, from roof to pavement, even if interdicted and polluted. Therefore private oratories are excluded. But if the discussion is of the aforesaid immunity of a sacred place, this also comprehends the exterior parts of the church, the porch, for example, sacristy, tower, roof, subterranean crypts, stairs to the temple, and the whole exterior base. Cemeteries even separated from the Church are held in the same estimation, the Bishop's palace, indeed also the house of the pastor, if it is joined to the church, the convents of religious with barns, gardens, and all those things which are enclosed within their ambit, and finally hospices erected by the authority of the Bishop and having a chapel for celebrating. C. un., *de Consecr.* in 6; C. *Ecclesiis* 20, *de Consecr.*, D. 2; C. *Ecclesia* fin., *de Consecr.*; C. 9, *de Eccles. aedif.*; L. 36-38, l. 3, n. 460; l. 6, nn. 366, 920; Struggl 13; Schmalz., l. 3, t. 40, nn. 72-77.

Any projections and cinematographic representations in churches are prohibited. S. C. Cons., 10 Dec. 1912; E. M.

498. In how many ways is real sacrilege committed? - Real sacrilege, generally speaking, can also be committed in three ways: 1. by treating sacred things unworthily. 2. by usurping them unjustly. 3. by selling and buying sacred things profanely, or simony. Hence real sacrilege is committed: 1. by unworthy administration or reception of the sacraments, which produce sanctity. And thus it would also be sacrilege to employ for the sacrifice sacred vessels, corporals, etc., enormously unclean; to leave consecrated particles to become corrupted in the pyx, etc. 2. by abuse of Scripture, by twisting its words, which signify something sacred, to vain things.

Trent, sess. 5, at the end, calls this usurpation rashness, and commands it to be punished. 3. by unworthy treatment of sacred images or ceremonies, which represent sacred things. 4. by profanation of vessels, instruments, and sacred ornaments, etc., which pertain to sacred worship; understand profanation concerning those which are accustomed to be consecrated or at least blessed. For Tamburini, *Expl. Sacrif.*, l. 1, c. 2, teaches that it is not sin to use for weddings or common use carpets, candlesticks, a basin, indeed even a towel, etc., which mediately serve sacred ministry, unless it is done from some contempt at least implicit, as if you always and indifferently used the aforesaid things. 5. by theft and usurpation of ecclesiastical goods, which are deputed for worship and for the support of sacred ministers. 6. by theft and unworthy treatment of relics, which are particles of the Saints. 7. by defrauding the rights of the Church, for example by imposing taxes, etc. Struggl 15; L. 40, 48, 460; E. M.

499. Whether the three aforesaid species are subaltern or are lowest species? - This is from St. Alphonsus, n. 34: "The first opinion holds that they are subaltern, containing under themselves other lowest species. Thus Suarez, Palaus, Lessius, etc. And therefore they say that the striking of a cleric differs in species from concubinage with him. Yet the second opinion holds that they are lowest species. Thus Viva, Salmanticenses, Cajetan, etc.; so that if someone violates a nun by beating her or by lying with her, he formally commits one sacrilege. And thus S. Thomas thinks, 2. 2, q. 99, a. 3 ad 2, where he says: It is possible that two sins differ in species according to material acts, but agree in species according to one formal notion of sacrilege; for example, if someone has violated a nun by beating or by lying with her. And this is more probable."

Yet there are diverse grades in this threefold species of sacrilege, according to the difference of persons, places, and things. For sacrilege is so much graver as the thing against which one sins obtains greater sanctity. S. Th., ibid. But practically there is almost no difficulty, because often a sufficient judgment concerning the sin of sacrilege cannot be formed unless it is explained altogether in the individual case; for example, mere profanation of a sacred vessel, or its theft; theft of a sacred thing from a sacred place, and theft of a non-sacred thing from a sacred place; profanation of a church and its pollution; usurpation of ecclesiastical goods; irreverence toward images and relics of Saints; irreverence toward the sacraments, by reception, administration, or in another way; irreverence toward the Eucharist, which is more than sacrilege, because to other sacred things there is not owed the supreme adoration of latria which is owed to the Eucharist. Whence there is a certain greater irreligiosity against God himself or against the very person of Jesus Christ, and at the same time sacrilege against the reverence owed to the species, which are sacred things. Suarez, *de Relig.*, t. 1, l. 3, cc. 5, 6; S. Th. 2. 2, q. 99, a. 3.

500. Is the violation of a person bound by a simple vow of chastity sacrilege? - The first probable opinion affirms, because a sin of a sacred person which is directly done against that sanctity by which he is consecrated and dedicated to God is true sacrilege. But a person is dedicated to God not only through sacred ordination or profession of the religious state, but also through participation in this state, such as a simple vow of chastity is, especially perpetual. Therefore. Indeed, any violation of a vow is truly and properly sacrilege, because anyone vowing dedicates himself to God as to that thing, if the vow is personal, and thus the person is sanctified as to the things promised by such vows; and similarly, if the vow is real, the thing promised to God is sanctified. Thus the Salmanticenses, tr. 21, c. 12, n. 22.

The second opinion, of Suarez and others, also probable, denies, because through a simple and private vow neither a thing nor a person is made sacred, but a public deputation of the Church is required, in order to preserve chastity. And the same holds as to other vows. In order, etc.; for even clerics constituted in minor orders are sacred persons, and priests of the Greek rite are also sacred persons; but because they have not been consecrated by the Church in order to preserve chastity, but only in order to divine worship, they do not incur the guilt of sacrilege properly such. Moreover, whoever is bound by a vow of chastity, as often as he violates it, certainly commits a twofold sin, namely against chastity and against religion, by not preserving fidelity to God. And the same is true in other vows. L. 47; l. 6, nn. 808, 809; S. Th. 2. 2, q. 88, a. 3; q. 97, proem.; q. 99, a. 3 ad 3; q. 154, a. 1 ad 3, a. 10 ad 2 and 3; 4 D. 38, q. 1, a. 3, q. 2, 3; Suarez, *de Sacril.*, l. 3, c. 3; *de Vot.*, l. 5, c. 3, n. 45; Laym., l. 4, tr. 10, c. 7, n. 4; Less., l. 2, c. 40; Struggl 9, 10.

501. Is a merely internal sin against chastity by a sacred person sacrilege? - There are not lacking those who deny, as Gury affirms, v. 2, n. 165, since chastity, according to which man is consecrated to God, regards rather exterior acts, which the Church is accustomed to touch by her laws, than interior acts per se. But the doctors commonly affirm, because through chastity the very person is consecrated to God. Yet this reason does not seem to prove the matter demonstratively. For although the very person is consecrated to God through that vow, nevertheless not every internal sin is therefore sacrilege, which would be the case if in reality the person himself were absolutely consecrated to God. Therefore it must altogether be held that the person himself is indeed consecrated to God through that vow, but as to chastity to be preserved. But that this extends also to internal acts is to be demonstrated; and it seems that it can be demonstrated from this, that since a simple vow of perfect chastity is so understood that it comprehends both internal and external acts, a fortiori it is necessary that a solemn vow, through which the person becomes sacred, comprehend both; and this vow is certainly more perfect. L. 554, 457; cf. here v. 2, n. 301.

502. Are all sins of lust committed in a church or cemetery sacrileges? - Merely internal sins are not to be held as sacrileges, because they do not seem specially to affect the sacred place, unless there is a desire of sinning externally in the sacred place itself. But if they are held as sacrileges, cf. 495, nevertheless this circumstance, as lightly culpable, is not necessarily to be disclosed in confession. Therefore the desire of sinning in a sacred place will be sacrilege, although had outside it; but not the desire conceived in a sacred place of sinning outside the same. Sacrilege, namely in the forum of conscience, not in fact. Of sinning in a sacred place, namely by an exterior sin which is local sacrilege.

As to external sins, it is certain that sacrilege is committed by consummated, notorious acts, namely by voluntary pollution, fornication, etc. Notorious; for if those sins are hidden, more commonly indeed and more truly it is affirmed that sacrilege is committed, but there are not lacking those who deny; cf. L. l. 3, n. 334, par. *Absolute*. But whether it is also committed by other grave external sins, for example gravely shameful touches, is controverted. St. Liguori, n. 459, Collet, etc., more probably affirm. But Sanchez, Tamburini, Bonacina, etc., not improbably deny. But others affirm concerning more immodest touches and deny concerning other acts. Lugo, *de Poenit.*, d. 16, n. 461 seqq. Several among St. Alphonsus, l. 3, n. 458, hand down as probable that, scandal being set aside, marital intercourse had in a church is never sacrilege. But others more commonly and more probably affirm this only in a case of necessity, for avoiding the danger of incontinence. L. 36, 43; l. 3, nn. 334, 458 seqq.; Elbel 575, 576; cf. here 805, 807.

503. Is every theft in a church sacrilege? - It is established that every theft of a sacred thing is sacrilege, and also of a non-sacred thing committed nevertheless to the custody of a sacred place. C. *Quisquis* 21, sec. 2, c. 17, q. 4: "Likewise sacrilege is committed by taking a sacred thing from a sacred place, or a non-sacred thing from a sacred place, or a sacred thing from a non-sacred place." But a sacred thing is understood as a thing given to God in some way; and a sacred place as a church.

As to things which are found in a church by chance or accidentally, such as purses, watches, etc., it is controverted. Some probably deny, because that circumstance of sacred place, since it is altogether accidental, causes no injury to the sacred place. Others probably affirm, because it is still verified that such a person steals a non-sacred thing from a sacred place. Besides, because although the thing is in the church accidentally, nevertheless that evil external action is still repugnant per se to the sacred place, insofar as sacred. Sanchez denies that stealing in the sacristy is local sacrilege. But it is certain

that theft in cloisters is not sacrilege, nor in the oratory of a private house, which is not solemnly blessed by the rite prescribed for a public oratory in the Roman Ritual, but by the blessing which is had in the same Ritual for a new house or place. S. R. C., 5 June 1899, n. 4025. In the oratories of hospitals, seminaries, or hermitages, even if not blessed by the Bishop, Sanchez rightly thinks that thefts are sacrileges, because they are held as public. L. 39; Lugo, *de Poenit.*, d. 16, n. 469 seqq.; Struggl 14.

504. Does injury to any goods whatsoever pertaining to clerics constitute sacrilege? - R. Negative, but only injury to goods which clerics possess not in their own name, but in the name of the church, and concerning which they cannot dispose, because only these are sacred. L. 42; S. Th. 2. 2, q. 99, a. 3.

505. Can sacred vessels and vestments, and can churches, be converted to profane use? - R. To the first. Affirmative, if the thing is totally changed in such a way that it is reduced to common material; for example, if a chalice by fire or iron is made a mass of silver. But otherwise, if it is not totally changed. Hence it is not permitted to repair profane clothing from an old chasuble, nor to apply the ornaments of priests to profane uses. But otherwise concerning those things which are not blessed, such as carpets and candlesticks. "To use sacred vestments, even worn-out ones, for profane uses is mortal. Yet sacred vestments employed in profane uses do not lose their blessing." L. l. 6, n. 376. R. To the second. Likewise a consecrated church is not to be transferred to profane uses unless it has been profaned, has ceased to be a church, and the Apostolic approval is present. L. 31; l. 6, n. 371; S. Th. 2. 2, q. 100, a. 4 ad 2; 3 p., q. 83, a. 3 ad 3.

506. To whom is it licit to touch sacred vessels? - To all and only clerics without special license; but it is venial, and if a cause is present, not even venial. This is also granted to regular lay sacristans, from the privilege of Sixtus IV, and also to nuns who are sacristans, from communication of privileges; likewise by custom and from necessity to lay oblates of more recent Congregations of priests who are sacristans, and to all who serve churches in clerical habit. The first washing of palls, corporals, and purificators is to be done by a sacred person, and it is the proper office of the subdeacon. The second and third washing can also be done by laypersons. The water of the washing is to be thrown into the sacrarium. C. *Nemo* 40, *de Consecr.*, D. 1; Roman Pontifical, *de Ordinat. subdiac.*; S. R. C., 12 Sept. 1857, ad 26, n. 3059; L. l. 6, n. 387.

But it is permitted to all to touch other sacred things, of which sort are, for example, Agnus Dei medals, at least from present custom; relics of Saints, and consequently to carry them hanging from the neck; sacred ornaments, except those which immediately touch the Holy Eucharist. C. 41, *de Consecr.*, Dist. 1; L. 48; l. 6, nn. 94, 382; l. 7, n. 340; E. M. Clerics initiated with first tonsure only can touch sacred vessels and sacred linens, and prepare the chalice in the sacristy, without special indult. S. R. C., 23 Nov. 1905, ad 1.

A deacon by reason of his ministry can, even when priests are present and outside the case of necessity, carry the Most Holy Sacrament from one altar to another. S. R. C., 23 Nov. 1906, ad 3. But to others, even subdeacons, it is not permitted to touch sacred vessels containing the Most Holy Sacrament, ibid.

507. Is it sacrilege to sin mortally on a feast day? - R. A mortal sin committed on a feast day, since it excludes sanctity, is against the end of the observance of the feast day, namely that man be occupied

with divine things. Yet it is not sacrilege. The reason is that the circumstance of a feast day is altogether extrinsic to sin, speaking per se, unless namely one sins precisely on account of the profanation of the feast day, or something is done from which notable irreverence is inflicted upon divine worship, as if someone on Good Friday should exhibit comedies, public games, etc. L. 46, 273; S. Th. 2. 2, q. 122, a. 4; 4 D. 32, a. 5, q. 2; Lugo, *de Poenit.*, d. 16, n. 515 seqq.; Suarez, *de Relig.*, l. 3, c. 18, n. 22 seqq.

VIII. On Simony

508. What is simony and what is its malice? - Simony is the studious will of buying or selling for a temporal price something spiritual or annexed to the spiritual. Studious, not only because, like any other sin, it requires deliberation, but also because for its essential malice it is not required that the pact be actually completed by mutual consent; rather, the interior will, even of one person, to make a bargain or to oblige another is sufficient. Acts 8:18 seqq.

Spiritual, here, is understood as everything which of itself or by the institution of God or of the Church pertains to the salvation of the soul, and therefore to the order of spiritual goods, namely supernatural goods; wherefore natural things, although spiritual, do not belong here. Hence civil or natural honorableness is outside simony, but not sanctification of the soul, and God's offense and glory. Moreover some things are spiritual in themselves and formally, for example, the gifts of the Holy Spirit and sanctifying grace; others causally, namely insofar as they are the cause of spiritual gifts, for example, sacraments and sacramentals; others finally effectively, which proceed from a spiritual cause, such as dispensation in vows, absolution from censures, etc.

Something can be annexed to the spiritual in three ways: antecedently, to which the spiritual accedes, as that which is ordered to the spiritual, such as sacred vessels, which are ordered to the use of the sacraments; consequently, to which the spiritual is presupposed and which depends upon the spiritual, such as the right to revenues of benefices, which is had on account of a spiritual office; concomitantly, either intrinsically, if in reality it is not separable, as labor in the administration of sacraments, or extrinsically, if it is separable, as singing in the celebration of Mass. Whether the labor is intrinsic or extrinsic, it is always something temporal in itself.

Now, per se, it is licit to sell a temporal thing which is antecedently annexed to the spiritual, such as the silver of a chalice; for that thing always retains its intrinsic value, independent from the spiritual thing, C. *Hoc eius* 2, sec. 1, c. 10, q. 2, yet with no account of the consecration being taken in the price. But if a chalice or sacred vestment is sold for profane uses, they must first be broken or unstitched, so that they lose consecration, Authent. *Praeterea*, C. *de SS. Ecclesiis*, the material thing remaining with its own value. Since this cannot be done in temples - for thus only a heap of stones would be sold - hence several deny that temples can be sold. Benedict XIV, *Quaest. Can.*, q. 142. But if a church has been profaned, has ceased to be a church, and Apostolic approval is present, it too can be sold for profane uses. Pallottini, v. *Ecclesia in genere*, sec. II, nn. 48, 51, 55. It is said per se, for it can happen that a sale of this sort is prohibited by ecclesiastical law. And thus by ecclesiastical law the sale of a church is prohibited, C. *Querelam* 15, *de Simonia*; of the goods of a benefice; of chrism; of blessed oil; of a cemetery.

Likewise, for something annexed concomitantly extrinsically, it is permitted to receive a stipend, for example, for a journey in celebration of Mass, at a certain hour, in a certain place, etc. Those things which are annexed to the spiritual concomitantly intrinsically can likewise be sold per se. For indeed intrinsic labor, insofar as it is labor, differs in nothing from extrinsic. Besides, in a sung Mass, in the celebration of Mass at the first hour after noon, are not the singing and the hour most truly intrinsic to the Mass? And yet a richer stipend is received on account of the singing, on account of the first hour. And if something can be required by reason of deprivation of liberty for carrying out other works and receiving emolument from them, as the adversaries themselves confess, then that can be required by reason of that labor from which that deprivation comes. For only by reason of such labor in favor of another can that deprivation give title to requiring the owed stipend from him. Therefore to receive something on account of labor, whether intrinsic or extrinsic, as wages of work, not as the price of a spiritual thing, is not simony per se. And thus in the celebration of Masses a stipend is received; in the preaching of the word of God an honorarium is also received. "Likewise some temporal things are given to those praising God in the celebration of the ecclesiastical office, whether for the living or for the dead, not as a price, but as a stipend of sustenance." S. Th. 2. 2, q. 100, a. 3 ad 2; Trent, sess. 21, c. 3 *de R*. "Stipends are owed to work and labor." S. Th., Quodl. 7, a. 18. "Sustenance is owed from one's own labor." S. Th., Quodl. 7, a. 18. But since this stipend is ordered to the necessary support of the ministers themselves, and therefore is in fact required, it is called a stipend of sustenance or of necessity. Hence it is clear that a stipend is given per se not on account of the work, but on account of the work performed, on account of labor merely according to the very notion of labor furnished in favor of another, in order to the one working, by whose necessary sustenance it is measured; not on account of labor in order to the work as spiritual, and to the spiritual utility of the neighbor from it, which would be simony. And therefore it is a stipend, not a price, because it is not the price of the work, but the stipend of the work performed or of labor. Indeed the worker, by reason of his work, is worthy of his wage. This wage indeed is not measured properly and per se by the thing or labor, but by the condition of the one laboring. Price, on the contrary, is properly and per se measured by the thing. And therefore the stipend accepted is called the stipend of sustenance, insofar as from that labor the priest has a title of sustenance. 1 Cor. 9:13, 14.

It is also clear that nothing consequently can be accepted by way of a stipend ordered to sustenance, by reason of sacred ministry performed for the utility of another, considering in it also not the specific and spiritual utility of that labor, but only the generic notion of a work furnished in favor of another, if, for example, the priest is a pastor or beneficiary who is bound by office to that sacred ministry. For then from the revenues of the benefice he already receives sufficient stipends for his sustenance; and from justice he is bound to exercise that sacred ministry. Per se; for if there intervenes, as indeed often intervenes, a prohibition of the Church, then simony is committed. Indeed on the occasion of ministering Confirmation, nothing is accustomed to be given. The Eucharist also is to be ministered with no gift accepted on that occasion. On the occasion of ministering Penance, nothing is to be accepted. Roman Ritual, *de Sacr. poenit*. Likewise nothing is accepted for administration of extreme unction. And Orders are to be conferred altogether gratis from the Council of Trent, sess. 21, c. 1. In addition, Innocent III forbade clerics to accept anything at all for the sake of burying the dead. C. 13, *de Sepult.*; C. 9, 41, *de Simon.* Yet in the present time, on the

occasion of burying the dead, money is generally paid to pastors and church attendants. But pastors are bound to bury the bodies of the poor gratis. S. Congr., 5 May 1617.

Finally, those things which follow upon a spiritual thing cannot be sold while this connection remains; for that which is annexed consequently to some thing supposes the thing itself, and behaves as its accessory. Therefore if the principal cannot be sold, neither can what necessarily follows from it. C. *Si quis obiecerit*, c. 1, q. 3. Hence it is simony to sell the right of living from the goods of a monastery, since this is annexed consequently to profession, which is spiritual. While this connection remains; for by the authority of the Supreme Pontiff separation can be made. "Temporal things themselves indeed may be sold; but their order to spiritual things ought not fall under sale." S. Th. 2. 2, q. 100, a. 4 ad 1. And thus a dowry is required from nuns for their sustenance.

For a temporal price, that is, for a thing estimable by price, or which bears before itself temporal advantage, although perhaps it cannot be estimated by price or money; whether it is a gift from the hand, that is, money itself, or any other temporal good equivalent to it; or a gift from the tongue, that is, favor, or an office to be furnished by voice or writing, such as praise, blame, patronage; or a gift from service, namely a temporal office by some deed, such as service. There will be simony on account of a gift from the hand if you give someone a benefice with a pact that he remit a debt to you or to another. There will be simony on account of a gift from the tongue if a Bishop confers a benefice on someone so that by him he may be adorned with praises, affected with favors, or so that he may not incur his hatred. Finally there will be simony on account of a gift from service if a Prelate confers a benefice on a servant or on the son of a servant, so that he may serve him gratis, or so that his duty of serving may thus be compensated. Whence it is not simony to give a spiritual thing for a spiritual thing; for example, I say Mass for you, so that you say so many rosaries for me; to give relics for other relics, a chalice for a ciborium, or with the authority of a legitimate superior to exchange one benefice with another. For things of the same order are well estimated mutually.

Of buying or selling. These words signify any onerous contract, or the will of obliging another by pact to give something spiritual for something temporal, or conversely. Of obliging, so that either an obligation is first had from it, or from it there is had a new onerous obligation of a temporal thing, or from fidelity, whatever that temporal thing may be, although not properly a thing, but some contract to be entered into, for example, a loan. C. 114, caus. 1; S. Th. 2. 2, q. 78, a. 2 ad 4, a. 5; L. 56, 57; Suarez, c. 37.

Therefore the malice of simony is in this, that the spiritual is equated with the temporal. This can have place in two ways, formally and virtually. Formally, when someone directly intends, in place of the temporal and on account of its estimation or on account of price, to receive the spiritual. Virtually, when someone wishes by means of a temporal thing, not as a price but as the proximate and immediate motive of giving, to obtain the spiritual, and no other true and honorable motive intervenes. For in this will is virtually included the intention of exchanging one thing with the other. For then someone confers a temporal thing for a spiritual thing, or conversely, as for an intrinsic and final motive; and thus at least in the mind there is given a virtual pact. Hence simony is had if the one furnishing the spiritual imposes upon the recipient an obligation or condition of furnishing something for the utility of the giver or of another. Simony, on the contrary, is not present if someone freely hands over some temporal thing to another for a benefit already received, or for alluring him so that some spiritual thing may be furnished for him; for example, if a rich man gives alms to a poor

man so that he may pray for him. In this sense it is also permitted to promise someone a gift for his spiritual utility, for example if he hears Mass or receives the sacraments, because this is a simple donation, indeed under a condition or under a mode, for the utility of the recipient; but there is no onerous contract. Nor consequently is any obligation imposed upon the other of furnishing a spiritual thing. And thus also a dowry is licitly offered to a girl, if she enters a monastery. C. *Sunt nonnulli* 114, caus. 1, q. 1; L. 49, 55, 56, 59, 61, 63, 104, 70, 72, 93; S. Th. 2. 2, q. 100, aa. 1, 2, 4, 5; 4 D. 25, q. 3, a. 2; Quodl. 4, a. 23; Quodl. 5, a. 23; Quodl. 6, a. 10; Ithur., Cas. 36; Suarez, *de Simon.*, c. 45; Schmalz., l. 5, t. 3, n. 62 seqq., 82 seqq.; Lessius, l. 2, c. 35; Laymann, l. 4, tr. 10, c. 8, nn. 13, 14, 15, 42; La-Croix, l. 3, p. 1, n. 165; E. M.

509. Of how many kinds is simony? - By reason of pact, one simony is mental, another conventional, another real. Mental is when something temporal is given with the mind of obliging to render something spiritual, or conversely, but without any external pact; or when something temporal is given as a compensation owed from justice for a spiritual thing received, or conversely, yet without any previous pact. Conventional simony is that which proceeds to the external pact itself, yet without its real execution. Conventional simony is called purely conventional if the pact has been fulfilled by neither party; it is called mixed from conventional and real, namely, if the pact has been fulfilled by only one party. Finally, real simony is that by which the pact is fulfilled by both parties, at least inchoatively, by real giving or acceptance of the thing. S. Th., Quodl. 5, a. 23; 2. 2, q. 100, a. 5 ad 3; Schmalz., l. 5, t. 3, n. 29 seqq.; Struggl 24, 25; L. 49, 67.

By reason of matter, simony is distinguished into confidential simony, which concerns ecclesiastical benefices, and common simony, which concerns any matter whatever. Confidential simony consists in this, that he who procures a benefice for another in any way, that is, either by electing, presenting, postulating, conferring, giving in commendam, instituting, or ceding and resigning in favor of another, reserves something by his own authority from a pact, express or tacit, either concerning the fruits of the benefice or concerning the benefice, afterwards obtaining the consent of the superior in that cession or resignation; otherwise it would be common, not confidential, simony.

Moreover a fourfold reservation is distinguished. 1. Reservation of access, when someone confers or procures a benefice for another in any way, yet with this pact, that the latter at a suitable time resign it to another, for example to a blood relative, or to himself. Access is said to be reserved to this person, because he had not previously obtained either institution or possession of the benefice. 2. Reservation of ingress, when someone resigns to another a benefice already conferred upon himself but not yet possessed, on this condition, that in a given case and time the resigning person himself have the right of obtaining its possession, or of actually entering into the benefice. 3. Reservation of regress, when one who resigns a benefice already possessed by himself to another does so with this pact, that in some determined case and time it is to return to the resigning person himself. 4. Reservation of pension or fruits, when the one conferring or resigning a benefice, whether only conferred or also possessed, causes it to come to someone with a pact that this person should furnish to him, or to another designated by him, all the fruits of the benefice or part of them, or pay a pension from it. To himself or to another; if to another, all agree that it is confidential simony. If to himself, several deny that it is confidential simony, but say it is common. This confidential simony is only of positive law. But if the confidence is extended to the exchange of a spiritual thing with a merely temporal thing, then it is also simony of divine law, concerning which it must be said at once.

But it is understood what the price or quasi-price is in this confidential simony. For it is either one and the same benefice, which is conferred or renounced so that it may be returned and as it were restored to the one conferring or renouncing, or to another; or the fruits of the same benefice, or a pension or part of them, to be conferred upon the same. Pius IV, Const. *Romanum Pontificem*, 16 Kal. Nov. 1564; St. Pius V, Const. *Intolerabilis*, 1 June 1569; Trent, sess. 24, cc. 9, 19; sess. 25, c. 7 *de R.*; Suarez, *de Simon.*, c. 43; Ithur., Cas. 34, n. 24; Cas. 36, n. 25; Schmalz., l. 5, t. 3, n. 39; L. 49, 90.

The aforesaid reservation ought to be from a pact. Besides, confidential simony ought to be either real or at least mixed conventional; whence it is called confidential because it is with a certain confidence and pact. Therefore mental simony, although concerning benefices, is not properly confidential simony. With a pact; according to Schmalz., l. 5, t. 3, nn. 40-42, and others, without an express pact, only the intention of the one resigning or conferring, expressed by an external sign, of obliging another to give to himself or to another access, ingress, regress, or a pension is sufficient; yet St. Alphonsus, nn. 86, 87, and others more probably deny this. In addition, that reservation ought to be without due authority of the superior; otherwise there will be no confidential simony. Finally, the same reservation ought to concern only ecclesiastical benefices. From Extr. 2. Wherefore, if simoniacal pacts are made concerning pensions, or any other right which is not properly comprehended under the name of benefice, it pertains to common simony, not to confidential. Common and confidential simony are distinguished on account of special laws and penalties which are had in law against this latter; wherefore it is not extended beyond the cases determined in the same law. Whence those exchanging benefices among themselves with a certain confidence or pact that the exchange is to be dissolved at a given time, and that regress is to be granted, for example to the benefices thus exchanged for themselves or others, or that a pension is to be paid to themselves or others, do not commit confidential simony, but common. For the Constitutions of Pius IV and St. Pius V speak only of cession and resignation of benefices. Those exchanging among themselves; otherwise it would be concerning a Bishop or any other collator of a benefice making such a pact with one or the other, or both, of those exchanging. But it is not confidential simony, but common, if the cession and resignation of a benefice is had with confidence or a pact not concerning the benefice itself or its fruits, but concerning another temporal or spiritual thing to be given or returned; or even not concerning the same benefice, but concerning another to be resigned. C. *Quaesitum* 5; C. *Cum olim* 7, *de Rer. permut.*; L. 85, 88.

By reason of the law by which simony is prohibited, one simony is of natural or divine law, another of ecclesiastical law. Simony of divine law is had where the dignity of a spiritual thing, namely one which is such in itself or from the institution of Christ, is vilified by comparison with a temporal thing; that is, when one is given and accepted for the other. For the other, namely as though the price of the other. Hence simony of divine law is not had if someone, moved by the recommendation of a powerful man, confers a benefice upon an unworthy person, unless namely by that conferral he principally intends human favor. S. Th. 2. 2, q. 100, a. 5 ad 3; for he gives a spiritual thing, but receives nothing for it. Likewise if someone gives a dowry to a girl so that she may become a nun; for he gives something temporal, but again receives nothing for it.

But simony of ecclesiastical law exists when, contrary to the prohibition of the Church, a spiritual thing is given for another spiritual thing, as in an exchange of benefices made by one's own authority; or when a thing temporal in itself, annexed to another spiritual thing or ordered to it, is given for a

temporal price, as if someone buys the ecclesiastical office of steward, treasurer, sacristan of a Church, etc.; or when in the administration of sacred things a gift or wage is required or accepted, when this is forbidden by Law. For although the malice of equating the spiritual with the temporal is properly absent from those exchanges and acceptances, nevertheless they bear before themselves the appearance of a certain sale and purchase of spiritual things, and contain danger. Whence the Church deservedly forbade them from a motive of religion and reverence toward sacred things. Therefore this simony of merely ecclesiastical law is not intrinsically evil, but is evil only because it is prohibited by the Church on account of reverence toward sacred things. For law has the force of causing its object to be the matter of some virtue, in view of the cause on account of which it commands it; thus, for example, Communion made by a man not fasting, without an excusing cause, is sacrilege, because the Church from a motive of reverence forbade the taking of food or drink before Communion. Hence, since penalties are of strict interpretation, penalties against simoniacs are to be limited to those guilty of simony of divine law, unless something else is clearly deduced from the law itself. L. 68, 69, 108.

510. What kind of sin is simony? - Simony is a most grave sin of irreligiosity; and, if it is of divine and natural law, it does not admit smallness of matter; but if the simony is of ecclesiastical law, smallness of matter can be given in it. The first part is proved: 1. from the common opinion of theologians; 2. because any spiritual thing, by comparison with a temporal thing, is vilified with great injury to God himself.

And therefore it is a certain species of sacrilege; indeed, according to Suarez, c. 1, n. 7, it is a species distinct from all other sacrileges, because a spiritual thing exceeds every temporal thing by its most excellent dignity. Whence by that comparison there is a special injury to it. This is also established from the words of St. Peter to Simon Magus, Acts 8:20: Your money perish with you, because you have thought that the gift of God may be possessed by money. The second part is proved. For on the part of the spiritual thing, this, although very small, is always of the greatest estimation. But on the part of the price, the less this is, the more the spiritual thing is vilified. The third part is proved. Because simony of ecclesiastical law is not forbidden because, as it were, a temporal price is given for a spiritual thing; but it is prohibited by the Church for removing every appearance of simony and avarice, and other inconveniences. Whence through this an injury is not properly done to the sacred thing, but only a precept of the Church is violated; but in this smallness of matter can be found. Yet according to some an exception seems to have to be made as to examiners in a competition for a parish. Trent, sess. 24, c. 18. But others omit this exception or expressly deny it. Can. 1, q. 1, 2, 3, *de Simon. et ne aliq.*, etc.; L. 50; E. M.

511. Is it simony to give principally something temporal on account of something spiritual, or conversely, but not uniquely? - R. Affirmative. The reason is that even thus comparison of a temporal thing with a spiritual thing is present. For although the temporal is not given as a price, but as a motive, so that the other may give the spiritual, if it is given as the principal motive, it would not be given if it were known that the other would not give the spiritual. Whence virtually it is a certain price. But the motive which is added, however honorable it may be, does not destroy the malice of the prior motive, on account of which principally the temporal is given. Confirmation is from propositions 45 and 46 condemned by Innocent XI.

But in order that simony be had, when one thing is not given for another but is given on account of another, it is necessary that, although it is given without a previous pact, it nevertheless is not given gratis, but is given either with the mind of obliging to give, or by title of compensation or retribution, however much it is given voluntarily and is given from gratitude, namely if it is given as owed. For only then is the thing which is given on account of another, equivalently in moral estimation, truly given for the other. Then there is in reality at least implicitly an unnamed contract: I give that he may do; I do that he may give. But otherwise it would be if something temporal is given on account of something spiritual, or conversely, principally on account of gratitude, but not for obliging, nor as owed, every obligation even of mere fidelity having been removed, merely for signifying a grateful mind, or for attracting benevolence, etc. For one thing is the quasi-intrinsic motive of the work, on account of which, for which, the work itself is intended; another is the extrinsic end of the work performed or of the one working, who orders his action in favor of another to this or that. "For in any sale the price is received as the end" of the thing or work sold. S. Th., Quodl. 8, a. 11. L. 51, 52, 53, 54, 55, 64; S. Th. 2. 2, q. 100, a. 5 ad 3; 4 D. 25, q. 3, a. 2, q. 2; E. M.

512. Is it simony to perform sacred functions for earning a stipend, and to receive something for the spiritual instruction of others? - R. To the first. These words are from S. Thomas, 2. 2, q. 100, aa. 2, 3: "To receive money for spiritual grace is the crime of simony, which can be excused by no custom, because custom does not prejudice natural or divine law.... But to receive something for the support of those who minister the sacraments of Christ, according to the ordination of the Church and approved customs, is not simony nor sin. For it is not taken as the price of a wage, but as a stipend of necessity.... Yet in such a way that the intention of buying and selling is absent, and that it is not exacted from the unwilling by withdrawal of spiritual things which are to be exhibited; for this would have a certain appearance of sale. Yet spiritual things first having been exhibited gratis, established and customary oblations, and any other revenues, can licitly be exacted from those unwilling and willing to pay, the authority of the superior intervening." "If he receives distributions of this sort as the end of his work principally intended, he commits simony and thus sins mortally. But if he has God as the principal end in such an act, but looks to distributions of this sort secondarily, not as to an end, but as to that which is necessary for his sustenance, it is established that he does not sell the spiritual act, and thus he does not commit simony nor sin. For thus the acceptance of distributions will not be the cause why he goes to church, but properly the determination of this sort, why he goes now and not at another time." S. Th., Quodl. 8, a. 11. "In certain Churches also some are enticed to serve the Church by temporal distributions; not that they receive a reward, but they are certain secondary inducements to serving God, just as the Lord also says, Matt. 6:33, Seek first the kingdom of God and his justice, and all these things, namely the necessities of life, will be added to you." S. Th., Quodl. 4, a. 23.

Nor therefore does it stand in the way that such a person would neither read Mass nor preach without profit; for this does not prove that the temporal is a price, but only that it is an end, namely the end not of the spiritual work but of the one working, occupied in favor of another, or a condition without which he would not work, namely the stipend of fitting sustenance failing, or a stipend for the necessity of sustaining life. S. Th., Quodl. 2, a. 12. Namely, from labor undertaken in favor of the neighbor, someone has a title of sustenance. Therefore the wage is then intended as a means of sustenance, a simoniacal mind being excluded. Therefore simony exists when something temporal is given for something spiritual, as though the price of it; but by no means when something temporal is

required as a just stipend or wage of the work and labor, and also of the help or temporal office furnished, and much less if the temporal is given as a subsidy and alms. Labor is any inconvenience by which someone is affected in furnishing or undertaking a spiritual matter. But help is any office which is furnished short of inconvenience. "Tithes," says S. Thomas, Quodl. 6, a. 10, "are owed to priests in common indeed according to natural law. But natural reason dictates that those who labor for the people in spiritual things receive from the people stipends for their support; and according to this it is also sanctioned by divine law in the New Testament. For, as is said in 1 Cor. 9, the Lord ordained for those who announce the Gospel that they should live from the Gospel. But in the Old Law, by a judicial precept, the quantity of that which was to be paid by the people to the ministers of God was fixed, namely the tithe; and this also is from the statute of the Church, although the priest is rich, nevertheless a poor man is bound to pay him tithes"; namely, because the aforesaid stipend is owed from justice and from positive precept. 1 Cor. 9:7, 11. Yet those who thus "perform sacred ministries principally on account of temporal emolument, (namely as a means of sustenance, not as the price of the sacred ministry) cannot easily be excused from venial fault, since it is a certain disorder to direct spiritual things to the temporal." L. 55. Indeed it is a certain disorder principally to intend, for example, in performing the sacred rite, not the honor of God and the salvation of souls, but one's own temporal utility. Yet the same St. Alphonsus, l. c., says: "It is not illicit to order a spiritual thing, even principally, to an honorable temporal end." Therefore, per se, what is licitly accepted can also be licitly intended. Nor indeed does it stand in the way that such a person does not need sustenance, for this is accidental. But since this stipend is owed from justice, it is also permitted to bargain about it. Whence it is clear that this stipend is owed and does not have simply the character of alms, which is liberally given to one in need. Schmalz., l. 5, t. 3, nn. 89-95; S. Th. 2. 2, q. 100, a. 3; L. 55, 104.

As to Ruthenian priests in the Canadian region, it has been provided that they not exact stole fees and emoluments of sacred ministry from the truly poor; and it is altogether forbidden to extort them under threat of baptism or blessing of marriage, or to exclude a faithful person unable to pay from any sacred function. S. C. de P. F., 8 Aug. 1913, art. 18. Stole fees are so called which are paid to the pastor for sacred functions for the advantage of the faithful, for example for baptism, for marriage, etc. These stole fees are simply the pastor's, without any obligation of spending them for pious causes or giving them to the poor.

R. To the second. One must distinguish: either that instruction by its nature tends only to the spiritual utility of others, for example catechesis, preaching of the word of God, and similar things; or it tends toward some temporal good of theirs, for example to the natural instruction of a matter even sacred and religious, for every doctrine, even revealed, insofar as it is doctrine, is something natural. For it is naturally compared and handed down, and ordered to the erudition of the mind, which is a natural good. Such is the resolution of cases of conscience, instruction for interpreting Sacred Scripture, for unraveling theological controversies, etc.

If the first, certainly it is simony to receive for that instruction something temporal, since it is a merely spiritual thing, unless it is received by reason of the necessary sustenance of the one working, occupied in favor of another. If the second, there will simply be no simony, because he who teaches science can receive a stipend, as though hiring out his services. Nor does it matter that that science is supernatural; for proximately and per se it is not ordered to the salvation of the soul, but to

enlightening the intellect, just as other natural sciences are. L. 94; S. Th. 2. 2, q. 100, a. 3 ad 3; Schmalzgr., l. 5, tit. 3, nn. 34, 89 seqq.

513. Is it simony if a priest promises a layman a Mass for the outcome of a game, while his companion puts up a temporal price? - R. Negative per se, because by this reason a spiritual thing is not properly equated with a temporal thing, just as it is not equated when Mass is said for a stipend; but only the execution of a spiritual thing is offered in place of a temporal thing which otherwise would have to be handed over. Therefore the commutation of a debt is with a stipend. For he does not sin who offers a creditor 100 Masses to be celebrated for him, so that he remit a debt of 100 francs; therefore, by parity, neither does he sin who promises a Mass for the outcome of a game, while the other puts up 20 asses. Moreover, a game of this kind is rarely without some scandal, and therefore must always be dissuaded. L. l. 3, n. 882; Voit 506.

514. Is it simony if a priest requires for Mass a stipend above the usual tax, or that established by the Bishop? - R. Negative as to the internal forum and before God, unless he acts with a simoniacal mind, because since he has another title of requiring remuneration, the comparison between the spiritual and the temporal is lacking. Indeed he would sin against obedience or justice by requiring more than is equitable, but by no means against religion. Yet in the external forum he would be held as simoniacal, because this kind of increase would be presumed to be required not for sustenance but as the price of a spiritual thing; for this reason several theologians and canonists absolutely affirm that in that case true simony is committed. But the stipend of Masses is not usually so taxed that it alone suffices for the daily sustenance of a priest. For the celebration of Mass does not require the labor of a whole day on the part of the priest, and it is always supposed that the priest is not otherwise lacking other supports of life. It belongs to ecclesiastical authority to determine the just stipend. One requiring a stipend greater than is just, either because above the tax established by ecclesiastical law or because it exceeds the just compensation of labor extrinsically annexed, is bound to restitution, and ought to restore to the giver. Gousset 694; Benedict XIV, *de Syn.*, l. 5, c. 9, n. 1.

515. Is a cleric serving a Bishop, and expecting something spiritual as recompense, simoniacal? - R. Negative, if he serves in spiritual things, for example, in the office of preacher, for "those sweating over ecclesiastical utilities are worthy to enjoy ecclesiastical remuneration." C. *Eccles.* 76, c. 12, q. 2. R. Negative also, if he serves in temporal things, and if the primary intention is of giving the temporal gratis, because then the immediate comparison is made of a temporal thing with a temporal thing, namely the benevolence of the superior. But otherwise, if a spiritual thing is intended as owed recompense, not however as the effect of a grateful mind. L. 51, 62; S. Th. 2. 2, q. 100, a. 5 ad 1.

516. Is it simony to confer a benefice on account of carnal affection, namely on account of kinship? - These words are from S. Thomas, 2. 2, q. 100, a. 5 ad 2: "If someone confers something spiritual on someone gratis on account of blood relationship, or any carnal affection, it is indeed an illicit and carnal conferral, but not simoniacal, because nothing is received there; whence this does not pertain to the contract of buying and selling, on which simony is founded. Yet if someone gives an ecclesiastical benefice to someone with this pact or intention, that from this he may provide for his own blood relatives, it is manifest simony." Quodl. 4, a. 15; Quodl. 5, a. 23.

517. Is it simony to hand over something temporal for omission of a spiritual thing? - It is simony if it is given for the omission of a thing which someone is bound to place by force of spiritual power, so that that omission is as it were a positive act of authoritatively binding, retaining as impeded, etc., as

is, for example, the omission of absolution, dispensation, etc.; or if that omission directly and proximately prepares the way to spiritual things, for example if you give money to another so that he not compete for a benefice, since in the first case the exercise of a spiritual thing is sold for a temporal thing, and in the other, by a temporal thing, at least mediately, a spiritual thing is intended to be bought. "Correction is a spiritual act; whence he commits simony who receives money so that he not reveal or punish a sin which he is bound to reveal or punish." S. Th. 4 D. 25, q. 3, a. 2, q. 11.

But if omitting the thing depends merely on liberty, and that omission contributes nothing to obtaining a spiritual thing, it will indeed be able to be a shameful sin, but nevertheless it will not be simony, because nothing sacred is sold, since omission is nothing, but only the use of free choice, which is something temporal, as would be the omission of praying, celebrating, etc. Temporal; for simony, on the contrary, will be present if a spiritual thing is handed over, since not doing something spiritual is something temporal, namely the liberty or choice of doing. L. 97; Ithur., Cas. 36, n. 17; S. Th. 2. 2, q. 100, a. 2 ad 5; C. 14, *de Simonia*.

518. Is it simony to give or receive something for entrance into religion? - It is certain that it is not permitted to give or receive something for entrance alone, because this would be an exchange of a sacred thing, of which sort religion is, with a temporal thing. It is likewise certain that it is permitted for a monastery to require something for the sustenance of novices, because since they do not yet pertain to religion, and can depart at will and often in fact do depart, it is not equitable that the monastery be under so grave a burden for them.

It is also certain that it is permitted for a poor monastery to require something for the sustenance of the one entering, because then a spiritual thing is not exchanged with a temporal thing, and otherwise equity demands that something be received, lest the monastery collapse, burdened by obligations. And when a monastery has no goods, the one entering cannot acquire a right to them. But it is controverted if the matter is of a wealthy monastery. St. Liguori, n. 92, denies, unless the one to be received is old or infirm, who would be an extraordinary burden and of no advantage. For the right to sustenance is annexed to the religious state. But not a few others affirm, provided that money is not required for the entrance itself, but is received or asked only by reason of sustenance or dowry. Because then religious profession is not sold, but sustenance, which is something temporal. As to nuns, from the Decrees of the Sacred Congregation and common practice, it is established that a dowry is to be handed over by individual nuns without distinction for their sustenance. For these monasteries are liable to various misfortunes. Whence it is enough for the Bishop if he imposes moderation on the expenses usually made on the occasion of entrance, etc., as Benedict XIV admonishes him, *de Syn.*, l. 11, c. 6. Yet they ought to take care not to receive unsuitable persons solely on account of dowry or some other temporal thing; for this would be simoniacal. Trent, sess. 25, c. 16, *de Reg.*; S. Th. 2. 2, q. 100, a. 3 ad 4; E. M.

519. Is it simony to redeem oneself by money from unjust vexation concerning benefices, or another spiritual good, for example, the sacraments, etc.? - By money, that is, by a temporal thing, whatever it may be, in some way estimable by money. By money; for if vexation is redeemed by a spiritual thing, simony is certainly present. Cf. 511. For vexation is something temporal. For it is to be hostile to someone, whether by doing or by not doing, lest he be able either to obtain or retain some good. But it is unjust when through it the right of him who is vexed concerning the aforesaid good is injured.

Moreover someone can be unjustly vexed either in a spiritual right already acquired, whether in the thing or to the thing, or in such a right not yet acquired but certainly to be acquired. If the first, it is not simony to redeem by a temporal price unjust vexation from whomever it may finally come. For the price is not given for a spiritual thing, but for the cessation of unjust vexation. Therefore it would not be simony to give money to electors so that they desist from the election of an unworthy person, because the Church has an acquired right in worthy persons; whence it would be given for desisting from evil. Just as neither would it be simony to give for choosing a worthy or worthier person in general; for it would be given for this, lest a bad election be made. But if the person were determined, it would be simony, since it would directly be to give money for his election.

Unjust vexation; for if the vexation is just, for example if someone is accused of a true crime on account of which he ought to lose a benefice, or can no longer exercise spiritual rights, it would be simoniacal to redeem this vexation by a price, because such a right is not firm; and therefore by removing just vexation, a firm right is bought, which is spiritual. And the same must be said if the right is doubtful and by redeeming vexation it is rendered certain. For then a certain right is rather bought than vexation redeemed. If the second, it is also lawful to redeem unjust vexation by a price, because the price is given for a temporal thing. Thus, for example, if someone by defamation impedes a patron from choosing you for a benefice, you will certainly be able to give money to the defamer so that he cease from that defamation, because in this case you would redeem nothing but reputation, and would remove force and fraud; these being removed, the patron still remains most fully in his own judgment to choose you or not choose you for the benefice.

The thing is not changed per se if the unjust vexation proceeds from a person who can not only harm but also help, for example, from a co-patron who unjustly turns other co-patrons away, although the matter is dangerous. For the fact that he can help and does help is accidental; for nothing is redeemed except his unjust vexation by which he harms. Therefore there also will not be simony if someone, in order that he may receive baptism, absolution, the Eucharist, which otherwise he could not receive and which otherwise he would have to lack altogether, gave money to the one vexing; yet in this case simony is contracted by the one vexing. Per se; for by Canon Law it is held as simoniacal to redeem vexation, even unjust, in ecclesiastical benefices, from him who by ceasing to harm thereby helps. C. 23, 33, *de Simon.* Unjust vexation; for when money is given to him who can help or place a just impediment, he is induced not to oppose what he could justly oppose; and thus directly and properly a way is laid to the benefice, for example, by a temporal good having been given. Proposition 45 condemned by Innocent XI. A fortiori, if a temporal price is given for intercession. Then intercession is bought by a temporal price, which in itself is something temporal; yet mediately the thing is as though spiritual, insofar as the intercession is for obtaining a benefice. Struggl 29; Suarez, *de Relig.*, t. 1, l. 4, c. 12; L. 49, 64, 65, 98, 99 seqq.; S. Th. 2. 2, q. 100, a. 2 ad 1, ad 5; E. M. 511.

520. In how many ways is simony of ecclesiastical law committed? - In the following ways. 1. By exchanging benefices, making transactions about them, making pacts, resigning them in favor of another, reserving pensions in them, without license of the superior. C. *Quaesitum* 5, *de Rer. perm.*; C. *Constituimus* 4; C. *Super eo* 7, *de Trans.*; C. *Nobis* 27, *de Sim.*; C. *Ex multis* 9, q. 3, caus. 1. The reason of the law is the danger lest this be done in view of a temporal thing, since these include some advantage. S. Th. 2. 2, q. 100, a. 1 ad 5, a. 4 ad 3.

Add: to sell benefices, even according to that which is temporal in them, namely according to the right of receiving fruits. "Yet more probably," says St. Alphonsus, n. 70, "they say that it is simony by divine law from S. Thomas, 2. 2, q. 100, a. 4 ad 2... as is gathered from C. *Si quis* 15, caus. 1, q. 3, and from C. *Ex diligenti* 17, *de Simon*." Cf. also L. 76. Add also: to sell the right of patronage of presenting to a benefice. C. *De iure* 16; C. *Praeterea* 23, *de Iure patr.* Yet Lessius, Palaus, Laymann, etc., affirm that this sale is forbidden also by divine law. L. 71; S. Th. 2. 2, q. 100, a. 4 ad 3. Transactions concerning the right of patronage and concerning another spiritual thing annexed, an oratory, a temple, etc., are likewise prohibited, if namely on one side something spiritual is given and on the other something temporal, C. *Praeterea* 9, 10, *de Trans*. But they are licit if on both sides something spiritual or annexed to the spiritual is given. C. *Ad quaestiones* 6, *de Rer. perm.* "The right of patronage cannot be sold per se, nor given in fief; but it passes with the village which is sold or ceded." S. Th. 2. 2, q. 100, a. 4 ad 3. "Trent, sess. 24, c. 14, *de R.*, commands Bishops not to permit any payment or promise for admission to possession of a benefice, as having the stain of simony or suspicion of avarice, any custom to the contrary being rejected. The Council permits only that, if there is a custom, something be given to be converted to pious uses." L. 99; C. *Cum in Ecclesiae* 9; C. *In tantum* 36, *de Simonia*.

2. By giving or accepting anything, even spontaneously offered, before or after, on occasion of an examination for parochial care, for example, when there is a question of choosing a pastor in a competition, from Trent, sess. 24, c. 18, *de R*. On occasion of the examination; for to give or receive for the examination itself would be simony of divine law. From the Decree of S. C. Cons., 15 Feb. 1612, synodal examiners and parochial consultors, on occasion of their office, neither before nor after, can receive anything, by the oath taken, even offered under the appearance of a gift. Likewise any gift whatsoever is prohibited to be received by ministers of whatever order in the Roman curia. *Ord. serv. in Rom. Cur.*, Norm. comm., c. 3.

3. By accepting anything, even spontaneously offered, on occasion of the conferral of an order, or of letters for the order itself, or even of first tonsure, from the same Trent, sess. 21, c. 1, *de R*. Yet there is excepted there the tenth part of a gold coin for the notary, if no salary has been established for him and custom permits him to receive it. But the Sacred Congregation, 8 Oct. 1678, permitted Bishops to receive a candle, and also a cloth from those to be ordained priests; indeed the same Congregation, deputed by Innocent XI, also fixed the emoluments which are required for dimissorial and testimonial letters, etc. "It is granted to Bishops in dispensations (of marriages) to accept something to be distributed in alms, provided that nothing comes to themselves or their own, by way of penalty or commutation, but not by way of sustenance. For this is forbidden to them from... Trent, sess. 25, c. 18, *de R*." L. 96.

It is not permitted to a Bishop in the visitation of a diocese to receive gifts besides victuals. Council of Trent, sess. 24, c. 3, *de R.*; Collectan. S. C. de P. F., n. 1502 seqq. Innocentian Tax: Innocent XI, Decree of 8 Oct. 1678, established what emoluments could be required for various acts and writings of non-contentious ecclesiastical jurisdiction. But with the conditions of times having changed, S. C. C., 10 June 1896, issued a new Decree concerning this matter. According to the norms of this Decree, a description or schedule of these taxes is to be made in individual dioceses and transmitted for approval to the same S. C. C. In France, a determined tax for sacred worship to be imposed on the faithful from obligation is not approved. Secretariat of State, 8 Oct. 1907.

4. By selling or buying temporal ecclesiastical offices ordered to sacred things, of procurator, sacristan, steward, defender of the Church; this indeed has been done in view of religion. C. *Si quis* 3; C. *Salvator* 8, c. 1, q. 3; Suarez, c. 29. But to sell spiritual ecclesiastical offices, for example of vicar general, coadjutor of a pastor, chaplain, is simoniacal by its nature.

5. By selling a part of a cemetery; indeed it will be simony of divine law if it is sold as a sacred place, or if the right of burial is sold. Yet the right of a tomb can be bought, so that someone may be buried in such a place, because then burial would not be sold even by reason of the earth, but the price would be required by reason of the burden which is assumed, of not burying others there; this indeed is something temporal, and law does not prohibit it; indeed usage approves it. The same must be said if more is required for carrying a silver cross instead of an iron one; for one is not of greater blessing than the other, but this is a worldly honor, which certainly can be sold. C. *Abolendae* 13, *de Sepult.*; L. 71; S. Th. 2. 2, q. 100, a. 3 ad 2.

6. By selling blessed oil or sacred chrism, even according to its physical species; yet the usage has prevailed in cathedral churches that something is accepted from particular churches for compensating the expenses which have been made in procuring the matter. C. *Placuit* 102, c. 1, q. 1; C. *Ea quae* 16, *de Simonia*. Nor indeed is it permitted to accept anything for administration of the sacraments beyond that which has been established by custom and ordination of the superior. Cf. 505, 512. Likewise every shameful profit, trade, and species of business with stipends of Masses is prohibited. S. C. C., 11 May 1904.

7. By requiring money for admission into religion, not for the state itself, which would be simony of divine law, but by reason of sustenance, unless either law, or custom, or the poverty of the monastery excuses. Cf. 518.

8. By accepting something for the erection, institution, communication, or aggregation of Confraternities, against the Constitution *Quaecumque* of Clement VIII. And reception into a Confraternity will be invalid if anything is received contrary to the laws of the Church, even under the title of alms.

9. By publishing Indulgences and other spiritual graces, some wage having been accepted, Trent, sess. 21, c. 9, *de R.*, and by making gain from the concession or publication of Indulgences and other spiritual graces. St. Pius V, Const. *Quum plenum*, 2 Jan. 1569. By several decrees of the Sacred Congregation of Indulgences it was forbidden that blessed rosaries, crosses, or medals be exposed for sale. And if otherwise is done, the indulgences are lost. Decret., tit. *de Simonia*, l. 5, tit. 3; Struggl 23; L. 68, 69, 72, 74, 77; E. M.

521. What are the penalties laid upon simoniacs? - Even now there remains firm the penalty of excommunication latae sententiae against simony committed in the election of the Roman Pontiff. Pius IX, Const. *Apostolicae Sedis* on Censures; L. 112, last paragraph. A simoniacal election of the Supreme Pontiff is altogether illicit, but is not void ipso facto, lest a pretext be had for attacking the validity of the election of the Roman Pontiff. Pius X, Const. *Vacante Sede*, 25 Dec. 1904; Julius II, Const. *Cum tam divino*, 19 Kal. Feb. 1505.

Under penalty of excommunication, pacts by which Cardinals, even with an oath added, oblige themselves to give their vote for someone, are prohibited and are void and null. Likewise void and

null are those things which are established by common consent, for doing something if they are assumed to the Pontificate. Pius X, Const. *Vacante Sede*, 25 Dec. 1914. [Translator's note: the printed text reads "25 Dec. 1914"; this appears to be a printing error, since Pius X died on 20 Aug. 1914.] "He who has simoniacally acquired ecclesiastical dignities shall be deprived of them by the law itself, and for the future shall be incapable of obtaining them and any others." St. Pius V, Const. *Cum primum*, 6 Kal. Apr. 1566, sec. 8.

There is excommunication latae sententiae reserved to the Roman Pontiff against "those guilty of real simony in any benefices whatsoever, and their accomplices." Pius IX, Const. *Apostolicae Sedis*. On account of the same real simony, in benefice matter, there is incurred besides nullity of election, presentation, and canonical institution, so that one thus promoted and instituted cannot make the fruits of the benefice his own, even if the money was given by a third person, he himself being completely ignorant; unless perhaps either he possessed the benefice in good faith for the space of three years; or if he, the wicked plan of simony having become known, contradicted, and yet, without his knowledge, another promised or conferred; or if a third party committed simony for this end, that he might render him incapable.

In addition, incapacity for obtaining the same benefice is incurred. The same: for he does not become incapable of obtaining others except after sentence, as they more probably and commonly teach in explaining the Bull of St. Pius V, l. c., where the contrary seems to be hinted, concerning the external forum, since the Bull then speaks of convicted guilty persons. Indeed, if he already has other benefices, he can retain them, because no express law decrees this penalty ipso facto. Riganti, Reg. 36 Canc. 132; Suarez, *de Relig.*, l. 4, cc. 57, 58; L. 111, 112; S. Th. 2. 2, q. 100, a. 6.

These are the words of St. Pius V, l. c., immediately after the other words related above: "He who has obtained a benefice or ecclesiastical office simoniacally shall likewise be deprived of them by the law itself, and shall be bound to restitution of all fruits which he has received, and shall be perpetually incapable of obtaining them and any other ecclesiastical benefices. But if anyone has been convicted of having committed such a crime several times, etc."

It must be noted: Penalties of this sort for real simony are not incurred if there has not been an external sin completed on both sides. For odious things are to be restricted. Hence one accepting an ecclesiastical benefice with a pact of furnishing money is not bound before payment of the money either to resign the benefice or to restore the fruits received from the benefice. But it is otherwise concerning confidential simony, as will soon be said. For then, from the Bull *Intolerabilis*, 1 June 1569, of St. Pius V, penalties are incurred even through mixed conventional simony, namely completed on only one side, when the benefice has already been handed over or accepted with a confidential pact. For if the other has also received, or has begun to receive, what was promised to him by pact, not only confidential but also real simony is had. L. 106.

As to the faculty of dispensing from incapacity for obtaining a simoniacally conferred benefice, these things are to be observed: If the benefice is simple, even of a canonry or dignity, to which care of souls is not attached, and it was accepted through simony ignorantly, namely when simony was committed by another, the beneficiary being ignorant, then the Bishop can dispense even in that vacancy, provided that the beneficiary spontaneously renounces. C. *Si alicuius* 54, *de Elect*. Indeed the same faculty is to be attributed to the Bishop when the benefice indeed is double, but the conferral of the same has not been declared void by sentence. For, with a sentence of this sort intervening,

recourse would have to be made to the Supreme Pontiff for dispensation at least for that turn. It is said for that turn, because if the same benefice is first conferred on another and happens again to become vacant, it certainly can be conferred upon him who had been ignorant of the simony committed by another in his provision. Cf. Reiffenst., l. 5, t. 3, n. 337. If knowingly someone has accepted a benefice simoniacally, whether simple or with cure, even if he spontaneously renounces, the Bishop cannot dispense with him for having the same benefice, neither for that turn nor for another. L. 111, 117, 118; S. Th. 2. 2, q. 100, a. 6; Ithur., Cas. 34, n. 32.

There is also excommunication latae sententiae reserved to the Roman Pontiff against "those guilty of confidential simony in any benefices whatsoever, of whatever dignity they may be." Pius IX, Const. *Apostolicae Sedis*. In addition, on account of completed confidential simony, that is, when the benefice has been given and accepted in confidence, even if the pact has not yet been fulfilled by the other party, there is had: nullity of the resignation or conferral made in confidence; incapacity for the same benefice; reservation of the same benefice to the Apostolic See. But the fruits badly received from these benefices are applied to the Apostolic Camera. L. 89, 90, 111, 117; Schmalz., n. 273; Giraldi, t. 2, p. 572. By the Constitution *In sublimi* of Benedict XIV, 29 Aug. 1741, resignations of benefices with reservation of pension and a pact of canceling it are prohibited and annulled, with the penalty of deprivation of the benefice, incapacity for obtaining others, and restitution of money; and cancellations and extinctions of pensions obtained within six months from the possession of the benefice having been taken are invalidated.

Likewise there is excommunication latae sententiae reserved to the Roman Pontiff against "those guilty of real simony on account of entrance into religion." Pius IX, Const. *Apostolicae Sedis*. But it is very probable that this penalty is not incurred in simple entrance, but in profession, which even if made simoniacally is certainly valid. "Likewise infamy of law and consequently irregularity are incurred on both sides." L. 108. All simoniacal elections to the Generalate, Rectorate, and any spiritual office in religion are more truly void. L. 112; Extr. Comm. *Sane* 1, *de Simonia*.

Excommunication latae sententiae reserved to the Roman Pontiff is also present against those making gain from indulgences and other spiritual graces by conceding or publishing them; and likewise against those collecting alms for Masses and seeking profit from them by causing them to be celebrated where they are celebrated at a lower price. Pius IX, Const. *Apostolicae Sedis*. Cf. v. 2, nn. 1194, 1195. In addition, quasi-business on occasion of Masses is prohibited under penalty of excommunication reserved to Bishops for laypersons, and of incapacity and suspension for clerics, according to the norm of the Decree of S. C. C. *Ut debita*, 11 May 1904. Cf. v. 2, nn. 1206, 1238.

As to simony committed by synodal examiners of parochial benefices, these things are decreed by Trent, sess. 24, c. 18, *de R.*: "Let them beware lest they receive anything at all on occasion of this examination, neither before nor after; otherwise both they themselves and others giving incur the vice of simony, from which they cannot be absolved unless the benefices which they in any way, even previously, obtained have been dismissed. And they are rendered incapable of others for the future." Therefore they are deprived, before any sentence, of benefices already obtained. Thus Scavini, ed. 12, Milan, 1874, l. 2, n. 143, and St. Alphonsus, n. 112. But others deny, because this penalty has not been received with so great a rigor. D'Annibale, ed. 4, p. 3, n. 118. Cf. here 230; Thesaurus, *de Poen. eccl.*, v. *Simonia* IV, 1.

Besides these, there are also other penalties, but probably they are not incurred except after the sentence of a judge. When simony is notorious, infamy of law is incurred, and therefore irregularity. Decretal., l. 5, t. 3, *de Simon.*; Extrav. Comm., l. 5, t. 1; S. Th. 2. 2, q. 100, a. 6; E. M.

The print's appendix has more on this paragraph: [Power of the Sacred College](/manuals/bucceroni/power-of-the-sacred-college). (ed.)

522. Is the spiritual thing acquired simoniacally to be restored? - R. Affirmative as to benefices; thus the common and certain opinion of the doctors. The reason is that the laws, as a penalty of the delict, stand in the way so that the receiver cannot acquire ownership either of the price or of the benefice received. And since acquisition of the benefice is void, by that very fact ownership of the fruits cannot be acquired either; and therefore these too are to be restored, if they were received in bad faith. But these are to be restored to the church to which the benefice pertains. C. 11, *de Simonia*, provided that those who committed the simony receive no advantage from this. But it is probable that they can be "spent in alms" for the poor. S. Th. 2. 2, q. 32, a. 7, or returned to the successor in the benefice, or "converted to pious uses," S. Th. 2. 2, q. 62, a. 5 ad 2. A composition can also be made with the Pontiff concerning the said fruits. Received in bad faith; because someone does not seem bound also to restore fruits received in good faith, except insofar as he had become richer, and therefore only those extant. S. Th. 2. 2, q. 100, a. 6 ad 3. And whether the discussion is of a simoniac in good faith or even of a simoniac in bad faith, it is also very probable that fruits received in view of the stole are not to be restored, because those fruits are not given as revenues of the benefice, but as a stipend of office.

R. Negative as to the rest, although a judge can impose restitution as a penalty of the crime. Thus the common opinion with Schmalz., l. 5, t. 3, n. 284. The reason is not only because certain things cannot be restored, for example, sacred order; but also because in order that the transfer of a spiritual thing, for example, of holy relics, be valid, by divine law nothing more is required than power in one person of transferring ownership of the thing, and in the other of receiving it. But unless from elsewhere there is a defect in one or the other, this power is present in both as to the spiritual thing. Therefore. But if the transfer is valid by divine law, it will also be valid by human law, since by this, scarcely anything except simoniacal provisions of benefices are decreed void. L. 113, 116.

523. Is the price accepted simoniacally for a spiritual thing to be restored? - If only the crime of simony intervened, but no injury of justice, there is no obligation of restoring the simoniacal price before the condemnatory sentence of a judge, unless the price itself exceeds the estimation of the temporal advantage which is transferred with the spiritual thing to another. Schmalz., l. 9, t. 3, n. 286. Understand this with the exception of benefice matter, in which what is given and accepted must be restored before every sentence of a judge in the forum of conscience, not indeed by natural law, but only by ecclesiastical law from C. *De hoc* 11, h. t. The reason is that the laws impede the one accepting both the benefice and the price, so that he cannot acquire ownership of the thing received, and this as a penalty of so grave a delict. Schmalz., l. 5, t. 3, n. 283. But where the simoniacal pact is also repugnant to commutative justice, the price is to be restored before every sentence of a judge. The reason is that from injury to commutative justice, the obligation of restoring arises by the very law of nature. L. 114, 115.

524. You will resolve: Therefore he is bound to restore the price who accepts a price for a merely spiritual thing which brings no temporal advantage, since for a thing which is not estimable by price there is no price; and therefore a price is accepted for it against justice. He who accepts a price for a

spiritual thing, even if this brings a temporal advantage, which nevertheless someone, for example a pastor, is bound from office and justice to furnish. S. Th. 2. 2, q. 100, a. 3 ad 3. A Bishop or Prelate who sells benefices or ecclesiastical offices, the conferral of which pertains to him by force of his office; since from his office he ought to dispense them gratis, and therefore, by accepting a price, he sins against justice. Schmalz., l. c., nn. 293, 295.

525. To whom is the simoniacal price to be restored? - If the price has been given, but the spiritual thing has not yet been handed over, the common opinion teaches that the price is to be restored to him who gave it, unless the judge has decreed otherwise. The reason is that the laws establish penalties only against real simony.

But if handing over has followed on both sides, the benefice cause must be distinguished from the rest. For in this the simoniacal price, from C. *De hoc* 11, *de Simonia*, is to be restored to the church in which the benefice is situated; or, if the superior so decrees, it can be distributed to the poor or to another church. S. Th. 2. 2, q. 100, a. 6 ad 4. Yet there are not lacking those who think that restitution must be made to him who was injured, that is, to him who gave. D'Annibale, ed. 4, p. 3, n. 116.

But as to the price accepted for another spiritual thing, since we find nothing clearly decreed by Law, it remains that it be restored to him who paid it. The reason is that per se, and unless law or a superior establishes otherwise, where unjust acceptance intervenes, restitution is to be made to him who was injured. But in the case, he who gave the price was injured. Therefore, if he who paid the simoniacal price gratuitously remits what was paid, he who accepted it licitly retains the same until, as a penalty of the crime, he is ordered by a judge to spend it for the church or the poor. Schmalz., l. 5, t. 3, nn. 297, 301; Struggl 32; L. 115; S. Th. 2. 2, q. 32, a. 7 c.; q. 62, a. 5 ad 2.

On the Second Precept of the Decalogue

I. On Vain Usurpation of the Name of God

526. What is the second precept of the Decalogue? - The second precept of the Decalogue is: You shall not take the name of the Lord your God in vain. Ex. 20:7. This precept directly prohibits every inordinate usurpation of the name of God, such as is done especially by blaspheming, by swearing rashly, by vowing and not keeping a vow. But indirectly it commands the reverent usurpation of the name of God and its praise. Struggl 11; L. 120; S. Th. 2. 2, q. 13, a. 2 ad 2. Therefore, as superstition is especially prohibited by the first precept, so irreligiosity is prohibited by this precept; these two are impediments of true religion. S. Th. 2. 2, q. 122, aa. 2, 3.

527. What is vain usurpation of the Most Holy Name of God? - The Most Holy Name of God is said to be usurped in vain when it is assumed without reasonable cause, or without due reverence. And this is usually done in three ways: 1. from impatience or indignation toward creatures; 2. from admiration, by way of exclamation; 3. merely superfluously, or from lightness, or from custom and a certain formula of speaking.

528. What kind of sin is vain usurpation of the name of God? - It is a venial sin per se. Per se; for 1. all fault can often be absent because of inadvertence. 2. It can also become mortal on account of formal contempt of God, or grave anger against God. The first part is proved: per se it is a sin, because it injures the reverence owed to the divine name. It is established besides from Ecclus. 23:10: Let not the naming of God be frequent in your mouth. The second part is proved: per se it is only venial sin, because that reverence is not gravely injured.

529. Is it a sin in the same way to usurp the names of the Saints uselessly? - R. Affirmative. For what is said concerning the most holy name of God must also, proportion being preserved, be said concerning the names of the Saints, as is established from the cited place of Ecclesiasticus, where it is added: And do not mingle yourself with the names of the Saints. The same also must be said concerning the vain usurpation of the words of Sacred Scripture, when they are taken irreverently. L. 123.

530. Is the frequent and useless usurpation of the name of the demon a sin? - R. Negative per se. Yet it is to be reproved as less becoming in the mouths of Christians, especially in priests, who by reason of scandal sometimes are not immune from some fault. But some assert that it is venial per se. L. 131; Voit 514.

II. On Blasphemy

531. What is blasphemy? - Blasphemy is defined: speech of malediction against God. By speech are comprehended not only words, but also thoughts and deeds which inflict insult upon God; as if someone tramples a Crucifix underfoot, or emits spittle toward heaven as toward the seat of God. Hence blasphemy is opposed to the virtue of religion, since it is directly contrary to God's honor and worship. Malediction here is not restricted to the imprecation of some evil, but is extended generally

to speech of any evil whatever, so that there are comprehended insult, railing, reproach, opprobrium, mockery, derision, jeering, illusion, irony, imprecation, any derogation from the excellent divine goodness and divine honor, whether by denying something of God which belongs to him, or by asserting of him what does not belong to him. Against God, namely considered either in himself or in his Saints and creatures in order to God himself, insofar as in them some divine perfection shines forth, for example sanctity, goodness, wisdom. L. 121, 122, 125; S. Th. 2. 2, q. 13, a. 1; q. 14, a. 1.

532. Note: If the discussion is of reservation or of other penalties inflicted upon blasphemy, only oral blasphemy is properly understood. For the word blasphemy then is to be used strictly. Moreover, in the common usage of men, blasphemy signifies a vice of the tongue, and it is opposed to the praise of God, which is exhibited by words alone. Therefore blasphemy of deed, by which rather the honor of God is injured, is not properly blasphemy, but is reduced to blasphemy as to the character of the injury against God. S. Th. 2. 2, q. 13, a. 2 ad 2; q. 103, a. 3; Struggl 34; Ithur., Cas. 30; Suarez, *de Relig.*, tr. 3, l. 1, c. 4, n. 1.

533. You will resolve: If someone from anger against a man, or by exclaiming to exaggerate the truth, names the Saints, the Blessed Virgin, the death of God, the Body of Christ, the Blood of Christ, the Head of Christ, and other honorable members of Christ, per se he does not commit blasphemy, but only an unworthy usurpation of the divine name. Per se; for otherwise it is if these are uttered from anger or indignation against God by way of contempt, or if among the hearers God and his sacred things are judged to be dishonored. Nor is it blasphemy to say: I deny God, if I do not strike you; for he who speaks thus wishes only to signify that he certainly will strike. Nor to say: this is true as God; for created truth is not equated with uncreated truth, but only a certain hyperbolic likeness is implied. But it would be blasphemy if it were in fact intended to signify that the truth is as great according to equality as it is in the truth of faith.

On the contrary, it is blasphemy to say: may the death of Christ or the blood of God destroy you; may the sacraments destroy you; because injury is inflicted upon the death, blood, and sacraments of Christ, which are ordered not to the ruin but to the salvation of men. Consequently it is blasphemy to say: may God damn you. Likewise it is blasphemy to say that one wishes to act with God unwilling, and similar things. It is blasphemy to say: God has entirely forgotten me; why did God create me? Except, however, if these are uttered in a human manner of speaking, from lightness, or to show the gravity of grief or weariness, as is often accustomed to happen. But those are never to be excused from sin who advertently and seriously say: God is unjust; God unjustly burdens me with tribulations; he unjustly permits the evil to be happy in the world. Voit 519; L. 123-126, 128; Aertnys, ed. 2, n. 67, q. 6; Lehmkuhl, Cas., ed. 3, n. 218, 336, note.

534. Of how many kinds is blasphemy? - Blasphemy is first distinguished: 1. into direct or indirect, according as the dishonoring of God is intended directly and formally by the blasphemer, or, although it is not intended in itself, is nevertheless contained in deeds or sayings injurious to God, which are uttered by him with the intention, for example, of joking, of manifesting anger, with advertence to the sense which the words contain. 2. Into immediate or mediate, according as it immediately affects God himself, or only mediately, namely by dishonoring the Saints or sacred things by words. 3. Into heretical, which is also against faith; imprecative or execrative, which is also against the charity of God; and merely reproachful, according as it contains heresy, or imprecation, or mere contempt of

God, although it pronounces true things, but from anger and an evil mind against God. L. 122, 123, 126; S. Th. 2. 2, q. 13, a. 1 ad 2.

535. What kind of sin is blasphemy? - Any formal and deliberate blasphemy, whether direct or indirect, whether immediate or mediate, is a mortal sin from its whole genus. The reason is that any derogation from divine goodness is a grave injury inflicted upon the divine Majesty. Hence Lev. 24:16: The man who has cursed his God shall bear his sin; and he who has blasphemed the name of the Lord shall die the death. Insofar as it derogates from divine goodness by denying something of God which belongs to him, or by asserting of him what does not belong to him, it is opposed to confession of faith, and pertains to infidelity, or to sin against faith. Insofar as it again derogates from divine goodness by wishing evil to God, it is against charity toward God. Insofar as it is opposed to divine praise and divine honor, it is against religion and is a sin of irreligiosity. St. Pius V, Const. *Cum primum*, 6 Kal. Apr. 1566, sec. 10; Struggl 36; S. Th. 2. 2, q. 13, aa. 2-4; E. M.

536. Note: Blasphemy, as any other sin, can become venial from imperfection of the act, namely from defect of advertence or of perfect consent. To the point is S. Thomas, 2. 2, q. 13, a. 2 ad 3: "Blasphemy can proceed without deliberation from surreption in two ways: in one way because someone does not advert that what he says is blasphemy, which can happen when someone suddenly from some passion breaks out into imagined words, whose meaning he does not consider; and then it is a venial sin, and does not properly have the notion of blasphemy." Direct blasphemy brings a merely aggravating circumstance over indirect blasphemy, and therefore it is not necessarily to be expressed in confession. For that circumstance of direct voluntary, as merely subjective, indeed makes the act more voluntary with respect to the evil object, but does not tend toward a new objective malice.

537. You will resolve: He does not sin gravely who pronounces words which are indeed blasphemous in themselves, but so halved or corrupted that he does not attend to their true sense; for example, he who says: I deny Di! I deny Diana! For these no longer have the character of blasphemy. L. 123.

538. Is the intention of dishonoring God altogether necessary for blasphemy? - For perfect blasphemy, by reason of the act, an express and explicit intention of dishonoring God is not necessary, but an implicit intention suffices, which is present in indirect blasphemy. The reason is that the indirectly voluntary suffices for sin. Therefore he who advertently pronounces blasphemous words, whence in reality there is dishonoring of God, for whatever cause he does this, voluntarily admits the sin of blasphemy and becomes guilty of it. Therefore he who knowingly and willingly pronounces blasphemous words is not excused by the fact that he did not have the intention of contemning God, but did it moved by anger or despair, for the sake of frightening, or for the sake of empty solace. Reuter 442; L. 124, 127.

539. Do blasphemies uttered against God and against the Saints differ in species? - Busembaum with others probably affirms, because the persons are distinct to whom their own honor is owed. Bonacina, Sanchez, and others probably deny, because the Saints are intimately connected with God, whence injury inflicted upon them is referred to God himself. Finally the Salmanticenses and others hold that besides proper malice against latria, it contains another malice distinct in species against dulia.

But since those who blaspheme the Saints, more truly, commonly speaking, intend to affect them with injury not precisely on account of their own excellence, but insofar as they are referred to God;

therefore they sin not against dulia but against latria, and therefore they are not bound to explain whether they blasphemed God or the Saints. But if something is uttered against the Saints, but only as men once dwelling on earth, it will be only against dulia. Indeed it will even be only venial if it is done from jest, for example, if someone calls Saints Crispin and Crispinian cobblers; but, on the contrary, it will be mortal if it is done from contempt, from hatred, or from indignation against the Saints. Struggl 37; Lugo, *de Poenit.*, d. 16, n. 277 seqq.; L. 124, 125, 132; S. Th. 2. 2, q. 13, a. 1 ad 2.

540. Is blasphemy uttered in jest grave? - These words are from Reuter, n. 442: "Blasphemy is grave... if someone in jest says blasphemous words, where among the hearers dishonoring of God is joined to them." Therefore grave fault will be absent where among the hearers that dishonoring is absent. L. 124.

541. Is it blasphemy to curse creatures? - It is blasphemy to curse creatures with relation to God, for example, rains or winds as commanded by God, or with the word of God added; likewise to curse a creature which of itself has a special relation to God, for example, our soul, the Catholic faith, heaven, and similar things. But otherwise, as generally happens, if indignation is borne toward creatures without relation to God. "To curse irrational things insofar as they are creatures of God is the sin of blasphemy; but to curse them, considered according to themselves, is idle and vain," namely it is venial. S. Th. 2. 2, q. 76, a. 2. But per se there is no sin if irrational creatures are cursed because of harm brought, for example, a storm, because it devastated vineyards. Thus David without sin cursed the mountains of Gilboa, namely on account of the slaughter of the people which had happened on them. To curse rational creatures, to whom from charity we ought to wish good, is against the same charity.

L. 128; S. Th. l. c., a. 4 ad 1.

542. You will resolve: It is not grave simply to curse an hour, day, or year, unless the word holy is added; or unless the day of itself bears before itself something special of sanctity, such as Easter day, etc. The reason is that whatever imports sanctity is per se referred to God, who is the author of all sanctity; and the utterance of words by which a certain special sanctity is explained, at least indirectly, speaking per se, is referred to God.

To curse beasts, winds, etc., is regularly a light fault; nor regularly, in anger, is the mind present that the curse be carried into execution; and it is an act of impatience. Likewise "in anger to imprecate upon others a demon, hail, thunderbolts, etc...., for the most part, at least when it is said against those who are loved by the angry person, on account of sudden commotion and inadvertence and defect of serious will, is only venial.... But it is grave if subjects thus curse superiors, children parents, even only materially, especially to their face; because it is grave against due reverence." L. 130. Cf. ibid., n. 126 seqq., Epist. Resp. and n. 134; S. Th. 2. 2, q. 76, a. 3.

542.bis Note: To curse is the same as to speak evil. And this is done either by way of simple enunciation, by reporting the evil of another, which pertains to detraction; or by way of cause, either by effecting something or by moving others through command to do something; or by way of the expression of a certain desiring affection. "In those two modes in which evil is spoken by way of commanding or by way of wishing, by the same reason something is licit or illicit. For if someone commands or wishes the evil of another insofar as it is evil, as though intending the evil itself, thus to curse in either mode will be illicit; and this is to curse, speaking per se. But if someone commands

or wishes the evil of another under the aspect of good, thus it is licit, nor will it be cursing, speaking per se, but per accidens, because the principal intention of the speaker is not borne toward evil, but toward good. But it happens that some evil is spoken by commanding or wishing under the aspect of a twofold good: sometimes indeed under the aspect of the just, and thus a judge licitly curses him upon whom he commands a just punishment to be inflicted; and thus also the Church curses by anathematizing, just as the Prophets in the Scriptures sometimes imprecate evils upon sinners, as though conforming their will to divine justice, although imprecations of this sort can also be understood by way of foretelling. But sometimes some evil is spoken under the aspect of the useful, as when someone wishes some sinner to suffer some sickness or some impediment, either that he himself may be made better, or at least that he may cease from harming others." S. Th. 2. 2, q. 76, a. 1. "Blessing or cursing properly pertains to that thing to which something good or evil can happen, namely to a rational creature. But good or evil is said to happen to irrational creatures in order to the rational creature, on account of whom they are. But they are ordered to him in many ways. In one way indeed by way of assistance, insofar as human necessity is assisted from irrational creatures. And in this way the Lord said to man, Gen. 3:17, Cursed is the earth in your work, namely so that man might be punished through its sterility. And thus also is understood what is had in Deut. 28:5, Blessed are your barns, and below, v. 17, Cursed is your barn... In another way an irrational creature is ordered to the rational by way of signification; and thus the Lord cursed the fig tree in signification of Judea. In a third way an irrational creature is ordered to the rational by way of containing, namely of time or place; and thus Job cursed the day of his birth, on account of original guilt which he contracted by being born, and on account of the punishments following; and on account of this also David can be understood to have cursed the mountains of Gilboa, 2 Kings 1, namely on account of the slaughter of the people which had happened on them." S. Th. l. c., a. 2.

A licit curse, and one conformed to the divine will, as being just, does not lack its effect. Hence "the curse of a mother uproots the foundations." Ecclus. 3:11, namely, "it uproots houses down to the foundations, that is, it plainly destroys and extinguishes his offspring and family and its riches and honors... An example of a curse is in Ham... St. Augustine relates a similar example, lib. 22, *de Civit*., c. 8, and more fully in Serm. 34, concerning a mother who, cursing ten sons, made them all trembling, miserable, and wandering. Thus today we see sons and illustrious families, which seemed likely to endure for ages, fall and be extinguished." Cornelius a Lapide on the same place. Likewise, "the prayer of him who curses you in the bitterness of his soul will be heard," namely of the poor man. "But he who made him will hear him." Ecclus. 4:6; "that is to say, God the Creator will hear him as his afflicted creature, despised by you and abandoned to you. Therefore he himself, as advocate and father of the poor and orphans, will take up his just complaint and cause against you, and will condemn and punish you." Cornelius a Lapide on the same place. But anyone can pray away from himself the evils of a curse both by penance and by prayer, conciliating God's blessing to himself.

543. Is it blasphemy to curse the whole world? - St. Liguori, n. 129, affirms, because just as to swear by creatures in which the divine attributes shine forth more is a true oath, so to curse them is true blasphemy, because God is indirectly contemned in them. "Yet in reality such a sense is scarcely accustomed to occur to the mind of the one uttering these things." Thus Gury 304. But the same St. Alphonsus, l. c., thinks the opposite: "Ordinarily speaking, I judge that country people who curse the world for the most part sin gravely, while they accuse themselves of such a curse with grave horror." S. Th. 2. 2, q. 76, a. 4 ad 1.

544. Is it blasphemy to curse the dead and the devil? - R. To the first. Negative, yet in that case in which the mind of those cursing is not borne to this, that he curse them insofar as they are creatures of God. Indeed for the most part this is not even mortal, because through this no grave injury is inflicted upon them, either in themselves or from the mind of those uttering it: not in itself, because the word dead is more to be referred to the body which dies than to the soul which always lives; or at most it signifies men who have finished life, who can be either saved or damned. Not from the mind of those uttering it, because those cursing the dead in no way intend to pray evils upon the souls of the dead, but rather to reproach the living, to whom they are accustomed to refer their curses as an injury. L. 130. R. To the second. Tamburini rightly thinks that to curse the devil is rarely mortal sin, because he is always accustomed to be cursed as the author of evils or as the enemy of God; in this manner, abstracting from the act of impatience, he says that it is not even venial. L. 120; S. Th. 2. 2, q. 76, a. 1 ad 4.

545. Are these French expressions blasphemous: "Nom de Dieu! Noms de Noms! Mille Noms! Sacré Nom!" without an addition, etc.? - R. Negative per se, even if they are uttered in anger, unless the anger is borne against God himself, or unless there is present a blasphemous intention, which is generally absent. For these words contain no blasphemy in themselves. Therefore they will be only venial on account of the vain usurpation of the name of God; but if the name of God is employed in these formulas neither explicitly nor implicitly, they will per se be free from all fault.

546. Is the French expression "S. Nom de D." blasphemy? - Some answer: affirmative per se, because those words, by reason of the common acceptance of the faithful, are insulting to God. Others answer: negative per se, unless a blasphemous intention explicitly, or at least implicitly, intervenes, because those words in their obvious sense contain no insult of God in themselves; for in reality they signify the blessed name of God. Therefore in practice all those who utter words of this sort are not easily to be accused of mortal sin. For it is certain, experience being witness, that not a few, especially the uneducated, do not apprehend grave malice in them. Therefore the confessor should attend first to the varied common usage of places, which could well have determined the meaning of the word sacred to signify cursed. Likewise he should attend to the various circumstances of penitents. "Sins of words are especially to be judged from the intention of the speaker." S. Th. 2. 2, q. 73, a. 2.

547. Note: In doubt whether some expression is or is not blasphemy, it is by no means to be taken as blasphemy. L. 129, 130. If the words according to themselves express no diminution of divine honor, it is not to be judged blasphemy, nor mortal sin. L. 130. If the meaning is doubtful, then attention must be given to the intention and affection of the one uttering the words. L. 130. The uneducated often confuse with blasphemy any less becoming words and curses against beasts and men. Therefore they are to be taught, "lest so many souls perish miserably from ignorance on account of an erroneous conscience of mortal sin." L. 131.

III. On Oath

548. What is the nature of an oath? - An oath is: the tacit or express invocation of the Name of the Lord, as the first and infallible truth, as witness of some truth. Heb. 6:16; L. 133; S. Th. 2. 2, q. 89, a. 1. Hence it is clear that an oath is an act of the virtue of religion, or of latria; because "in this very thing, that man swears by God, he professes God to be more powerful, as one whose truth is indefectible and knowledge universal, and thus in some way exhibits reverence to God... But to

exhibit reverence to God pertains to religion, or latria." S. Th. 2. 2, q. 89, a. 4; Bouquillon, *de Virt. Rel.*, l. 2, p. 3.

549. Of how many kinds is an oath? - An oath is distinguished: 1. as assertory, according as God is invoked as witness of a past or present truth; and promissory, according as "divine testimony is brought in for confirming something future." S. Th. 2. 2, q. 89, a. 1. The promissory oath is twofold, strictly or broadly such. The first is confirmatory of a promise either toward God, which is a sworn vow, or toward one's neighbor, which adds to the obligation of justice or fidelity arising from the promise an obligation from the virtue of religion. The second contains no promise toward another, but a mere purpose, to which is added an obligation from the virtue of religion, insofar as by oath God is brought forward as witness and as it were guarantor of fulfilling the purpose. But it is comminatory if the one swearing, under the attestation of the divine Name, threatens another with punishment; for example, I swear by God that unless you do this, you will pay the penalties.

2. Solemn or simple, according as it is made in the form required by law and with solemn ceremonies, for example, with Mass, with preceding Communion, or with these excluded. Laypersons swear in court by touching the Gospels; ecclesiastics swear with the Gospels only placed before them and the hand brought to the breast. C. *Cum in* 7, *de Iur. cal.* In court; for outside court, when clerics swear and make profession of faith, the custom is that they do it with the Gospels touched. Holy Office, 6 Aug. 1897, VIII. Clerics, especially priests, cannot interpose a solemn oath except by license of the Bishop, which is granted only for a grave cause, before a judge not their own, even if ecclesiastical; but before a layman they ought not furnish an oath. But Bishops need the license of the Supreme Pontiff. C. *Inhaerentes* 1, *de Iur. cal.*; C. *Quoties* 31, c. 22. But outside court, ecclesiastics do not need the Bishop's permission. C. *Ex rescripto* 9, *de Iurei.*; S. Th. 2. 2, q. 89, a. 10. Likewise clerics, unless they are vassals, are prohibited from furnishing an oath of fidelity to Princes. C. *Nimis* 30, *de Iurei.* Yet by Concordats it is permitted.

3. Explicit or implicit, according as God is expressly invoked as witness, or creatures are employed for testimony, in which the divine attributes specially shine forth. 4. There is also added the invocatory oath, by which God is simply invoked as witness; and the imprecatory oath, by which God is invoked at once as witness and as avenger of perjury or of broken faith. To this is referred the formula: So may God help me, and these holy Gospels of God. For just as he who pronounces these words prays good for himself if he speaks the truth, so he imprecates evil upon himself if he lies. Whence he who voluntarily perjures himself in this way, seriously wishing evil for himself, sins not only against religion, but also against charity toward himself. Struggl 3; L. 139-142; S. Th. 2. 2, q. 89, a. 1 ad 3.

Doctrinal, political, and judicial oaths are also distinguished. Doctrinal oaths are assertory and promissory oaths concerning profession of some doctrine. Such are the oaths prescribed by the Supreme Pontiffs for heretics and schismatics returning to Catholic faith and unity, and most recently prescribed by Supreme Pontiff Pius X against the errors of the modernists. Political oaths are also assertory and promissory oaths concerning the observance of civil laws and the conservation of civil government. The licitness of this oath depends on its matter; if this is not licit, it is often permitted by the Holy See on account of grave causes, with restriction to passive subjection and obedience, and

in those things which are not opposed to divine and ecclesiastical laws. S. Penit., 18 Dec. 1860; 1 Dec. 1866; A. S. S., v. 2, p. 676.

Judicial oaths are those which are emitted in a tribunal, so that truth may be known and justice rightly administered. And first there is the decisory oath, which is tendered by one of the litigants to the other, by authority of the judge, and carries with itself the decision of the suit. It is a certain species of transaction. Besides this there is the supplementary oath, which the judge tenders to one of the litigants because of defect of full proof, whence it is called supplementary. Third, there is the estimatory oath, or oath in the suit, when the harm inflicted is established, but because of defect of proofs its quantity cannot be determined; the oath is tendered by the judge, so that by it the value of the thing and the harm inflicted may be established. In addition, the oath of calumny is called the oath by which the litigating parties protest that they proceed not calumniously, but judge that they have a good cause and right. The oath of malice is called the oath by which protestation is made of not maliciously proposing exceptions, seeking delays, etc. Bouquillon, *de Virt. Relig.*, l. 2, p. 3, c. 4; Sebastianelli, *Prael. Iur. Can.*, p. 1, tit. 7, c. 2, a. 5; Schmalzgr., l. 2, tit. 24.

550. What are the requisites for the essence of an oath? - Two things are required for an oath: 1. the intention of swearing, at least virtual, because without such intention a formal oath cannot exist. 2. an oath-formula, either explicitly through God or implicitly through creatures, because God is given to another as witness, which cannot be done by the mind alone; and since God is invoked as witness, it is necessary that this be expressed in the oath. When there is doubt concerning the intention of the one swearing, judgment is usually made according to the common acceptance of the words which he used. But this intention contributes so much to the value of the oath that if someone uses words in no way importing an oath, yet thinks that they are oaths, he truly swears as to the internal forum; and on the contrary, that intention being lacking, the oath is null as to the internal forum, even if words truly oath-making are employed. S. Th. 2. 2, q. 98, a. 1; L. 134; Struggl 1.

The profession of faith having first been made, the following are bound to furnish the oath according to the prescribed formula: doctors in seminaries, at the beginning of the year; before they enter office, doctors or lecturers, likewise in religious orders; preachers, pastors, beneficiaries before entering possession of the benefice, canons; officials in episcopal curias and tribunals, not excepting the Vicar General and judges; officials in Roman congregations or tribunals; religious superiors; clerics to be initiated into major orders. To each of these an exemplar both of the profession of faith and of the formula of emitting the oath is to be handed over beforehand, so that they may know them accurately beforehand. But the formula of the oath is to be signed and preserved in the archive. Those are to be denounced to the Holy Office not only who violate the oath, but also who refuse to sign it. Pius X, Motu proprio *Sacrorum antistitum*, 1 Sept. 1910; S. C. Cons., 25 Sept., 25 Oct. 1910. Priests who profess sacred disciplines in civil universities are not bound by this oath. Pius X, Letter to Card. Fischer, 31 Dec. 1910. But the anti-Jansenistic oath was abrogated in Belgium and Holland. S. C. C., 22 Feb. 1912. A Bishop can grant the faculty of hearing Confessions for some more or less long space of time to an extra-diocesan Priest already approved by his own Ordinary, without being compelled to receive from him again the oath prescribed by the Motu proprio *Sacrorum Antistitum*. And by way of a passing act he can grant the same faculty to a Priest who has never furnished the aforesaid oath. S. C. Cons., 20 June 1913. It suffices that the oath to be furnished before the reception of sacred orders be furnished before entering the sacred order of subdiaconate, preserving the right of the Ordinary to

require it again before conferral of each of the sacred orders, if from any cause he judges it necessary or useful. S. C. Cons., 24 March 1911. Alumni of the Urban College of Propaganda Fide, of North America, of Ireland, of Scotland, and of other Colleges according to the decision of S. C. Cons., 12 Nov. 1908, 25 July 1909, are also bound to furnish the oath according to the prescribed formulas; officials of the Roman Curia and ministers of any order in the Roman Curia; Consultors and Cardinals of the S. C. of the Holy Office, of the Index, of Consistorial affairs; Pius X, Const. *Sapienti consilio, Ord. serv. in R. C.*, p. 1, c. 3, p. 2, c. 7, art. 2, n. 4, art. 7; examiners of books and writings of Servants of God; those to be named doctors in Sacred Scripture, Pius X, Motu proprio, 29 June 1910; synodal examiners and parochial consultors, S. C. Cons., 15 Feb. 1912. Missionaries are bound to furnish the oath by force of the Bulls *Ex quo* and *Omnium sollicitudinum* of Benedict XIV, not only European priests, but also indigenous presbyters. S. C. de P. F., 21 June 1895; E. M. 550, 551.

The print's appendix has more on this paragraph: [Power of the Sacred College] (/manuals/bucceroni/power-of-the-sacred-college). (ed.)

551. You will resolve: A fictitious oath, or one merely external, is not valid on account of defect of will or intention of swearing. But one swearing thus sins, yet only venially, if he says what is true, or has the mind of fulfilling what he promises, because he utters nothing except a lie with vain usurpation of the name of God; but mortally, if he says what is false, or does not have the mind of fulfilling the promise, or there is a precept of a superior, for example in judgments. For grave abuse and irreverence of the name of God for the deception of others would be present. Proposition 25 condemned by Innocent XI.

More probably a promissory oath made indeed with the mind of swearing, but not of obliging oneself from religion, is not valid, because it is nugatory. But an oath made with the mind indeed of swearing, but not of obliging oneself from justice or from fidelity, is valid. L. 172; H. A. 17.

A promissory oath made without the mind of fulfilling, but with the mind of swearing and obliging oneself, is valid. But he who swears thus sins mortally, because he invokes God as witness of a fictitious purpose or fictitious promise, and therefore swears against truth. For in a promissory oath God is assumed as witness of a present purpose or promise, and in some way as guarantor of future execution, insofar as this at least depends upon human will.

It is an oath to say: I swear by God; I call God to witness, etc. Likewise it is an oath to say: I swear by the Saints, the Church, the Gospel, the Catholic Faith; because then the very Author of the Faith, of the Gospel, of the Church, and of the Saints is judged to be brought in as witness. Likewise an oath is judged to be made by nobler creatures, since through them their Creator is then taken, who singularly resides and shines forth in them. Thus, for example, when one swears by heaven, its Dweller and Lord is understood; when by earth, He whose footstool it is; when by the temple, He who is worshiped there. Thus likewise several more probably judge it to be an oath if you say, by my soul, because God singularly shines forth in the soul, who then is judged to be brought in as witness. Yet it must be confessed that there is scarcely anyone who, while using these words, thinks of God; and therefore this formula too rarely contains an oath. But otherwise it would be if someone swore by creatures in which divine goodness or power does not specially shine forth, for example, by a beard, etc.

It is not an oath to say: God is truth, God lives, God knows, I speak before God, if these are uttered merely narratively to signify the serious and grave attention of the one speaking; but otherwise if

invocatively, for calling God as witness of truth, which is discerned from the circumstances or intention of the speaker. Likewise to say: I swear it is so, is not truly an oath, because then divine testimony is invoked neither explicitly nor implicitly; unless nevertheless an interrogation concerning an oath preceded, because then through the preceding interrogation that "I swear" is sufficiently determined to a true oath. C. I. Proc. Poen. 229. In addition, these words: may I be killed if this is not so, and similar ones, although they are true oaths if they are said by way of execration, because God is considered to intervene specially in that killing, nevertheless commonly they contain only a certain pledge or obligation of penalty, and signify: if it is not so, I pledge my life. The same must be said concerning the other formula: may the devil seize me. But otherwise, if God is expressly named there by saying: may God destroy me if I lie, because then God is invoked as avenger of a lie, if perhaps one is uttered.

It is not an oath to say: truly, certainly, in truth, by the faith of a good man, of a Christian, of a priest, of a soldier, of a Prince, of a King; nor to say: by my conscience, because God is not brought in as witness. He does not swear who says: it is as true as the sun shines, as I sit here, walk, etc.; whence even if the comparison is false, it is only a lie, since no one is invoked as witness. Although to say: it is as true as God is; as Christ is in the venerable Sacrament; as the Gospel is true, etc., commonly seems to contain an oath with blasphemy, nevertheless this does not sufficiently appear, because no one is invoked as witness, nor does it seem to be blasphemy if it is true and the mind of the one uttering it is only to signify a likeness of truth, not equality of certitude. L. 134-143; S. Th. 2. 2, q. 89, aa. 1, 6; Suarez, *de Rel.*, tr. 5, l. 1, c. 13; E. M. 551, 554.

552. Is an oath licit? - An oath clothed with due conditions is honorable and licit; and, if it is promissory, it obliges in conscience, unless a just cause stands in the way, or its obligation has legitimately ceased. This is established both from the definition of the Council of Constance, sess. 8, against Wyclif, and from proposition 101 condemned by Clement XI in the Bull *Unigenitus*, and from proposition 75 condemned by Pius VI in the Bull *Auctorem fidei*, and also from the universal practice of the Church and peoples, and from various places of Sacred Scripture. Deut. 6:13: You shall fear the Lord your God... and by his name you shall swear. And indeed God and his attributes are especially honored from this, that he is brought into the midst and invoked as the highest and infallible Truth in testimony of truth. C. *Etsi* 26, *de Iurei.*; L. 144 seqq.; S. Th. 2. 2, q. 89, aa. 3, 4. From a grave cause, and with a protestation employed, an oath upon Protestant Bibles can be permitted, insofar namely as they contain the true word of God. E. M.

553. What are the requisites for the licitness of an oath? - A threefold condition is required, according to Jer. 4:2: You shall swear: The Lord lives, in truth, and in judgment, and in justice. The reason is that otherwise it cannot be furnished with due reverence to God.

Truth, that is, conformity of the assertion with the knowledge and intention of the one swearing. Therefore it excludes every lie, but not every error. In an assertory oath, truth regards the existence of the fact according to the mind, not also according to the truth of the thing; in a promissory oath, it regards the existence of the intention of obliging oneself and of furnishing what is promised.

Judgment, that is, that it be done with discretion, prudence, consideration, and reverence, and not without necessity or a grave cause. For since an oath is a most holy thing, it ought not be made without prudence, consideration, reverence, and rashly without any necessity and cause.

Justice, that is, that the oath be concerning a matter, whether promised or simply proposed, or concerning an assertion, just and honorable. Thus he would swear against justice who would oblige himself by oath to inflict harm unjustly upon a neighbor, or would affirm what he was prohibited from manifesting. Ecclus. 23:9, 12; L. 144; S. Th. 2. 2, q. 89, aa. 3, 5, 10; E. M.

554. What kind of sin is it to swear without truth, without judgment, without justice? - To swear without truth is always mortal, even in light matter, because to bring God into testimony of falsity is to will to destroy his infinitely perfect truthfulness. This is also established from proposition 24 condemned by Innocent XI; S. Th., Quodl. 1, a. 18. To swear without judgment, from lightness, for example from custom, without grave cause, or if someone swears before he has sufficiently investigated the truth, is venial per se, scandal and danger of perjury nevertheless being excluded, because it is only vain usurpation of the name of God. To swear without judgment from rashness, lest perhaps what is asserted is true, or what is promised can be fulfilled, is grave on account of the danger of perjury. To swear without justice is certainly mortal in a promissory oath if the matter concerns committing a grave sin, as is clear; indeed, according to St. Liguori, even if the matter concerns only a venial sin, at least more probably, because it seems grave irreverence to invoke God as witness or guarantor of any sin whatever to be committed. Yet Suarez with others says that the opposite opinion is common.

But in an assertory oath, more probably it is only venial per se, because the oath per se falls upon the assertion, not as evil but as true. Thus he who boasts by oath about fornication committed, although by this boasting he sins lethally, nevertheless by force of the oath per se he does not confirm the boasting, but only the truth of the fornication. Except unless the oath is assumed as an instrument or means of sinning, for example, for strengthening detraction. And this holds even if someone uses an oath as an instrument or means for consummating venial sin, because one swearing thus, as far as in him lies, makes God an accomplice of his sin. "If someone swears," says S. Thomas, 2. 2, q. 89, a. 7 ad 2, "that he will not do some better good which nevertheless he is not bound to do, (for example, not entering religion), he indeed sins by swearing, insofar as he places an obstacle to the Holy Spirit, who is the inspirer of a good purpose; nevertheless he does not sin by keeping the oath, but he would do much better if he did not keep it." But a sin of this sort, since the matter concerns only a counsel not to be embraced, is venial per se. L. 145, 147; Suarez, l. 3, c. 12; S. Th. 2. 2, q. 89, a. 7, a. 9 ad 3; q. 98, aa. 2, 3; Quodl. 1, a. 18; Struggl 5, 7, 9; E. M.; cf. here 582, 583. In public disturbances of civil society, the oath of passive obedience, as it is called, is permitted, namely that one will do nothing against the Government, and with the laws of God and the Church preserved. Pius VII, Instruction, year 1808; S. Penit., 18 Dec. 1860. Cf. here 549.

555. What is a sufficient cause for swearing? - Any honorable cause of some weight, for example, peace to be confirmed in families, greater security in contracts, etc. L., H. A. 14.

556. Is it permitted to swear with probability of truth? - "For swearing rightly absolute and altogether infallible certitude is not required, but some moral certitude suffices, or a certain probability which reaches a certain moral certitude. Thus Tamburini. Indeed Sanchez, Suarez, the Salmanticenses, Lessius, Bonacina, Azor, with the common opinion, say more expressly that in an oath, whether assertory or promissory, probability of the truth asserted or of the fulfillment of the promised thing to be executed suffices, provided that there is not a probable reason to the opposite. Hence they say that what has been heard from a person so worthy of faith that he makes us morally certain can

indeed be affirmed with oath. Yet this does not run in judgment," L. 148, where the oath which is required is to be emitted from one's own certitude. Struggl 6. Therefore he sins gravely who swears in mere doubt of truth, because God, infallible truth, cannot be invoked except in testimony of a thing which seems at least morally certain. Struggl 6; S. Th. 2. 2, q. 89, a. 7 ad 1.

557. Is it permitted to swear with mental restriction? - R. Negative, if it is purely mental; and here, according to St. Alphonsus, pertain propositions 26, 27, 28 condemned by Innocent XI. Affirmative, if it is broadly mental, from a just cause. "It is certain," says St. Alphonsus, n. 151, "and common among all, that from a just cause it is permitted to use equivocation... and to confirm it by oath...

But a just cause can be any honorable end for preserving goods useful to spirit or body." And again: "For swearing thus, except in judgments and contracts, an absolutely grave cause is not required, but any reasonable cause suffices, for example, to free oneself from the troublesome and unjust interrogation of another." And Busembaum, n. 170, adds: "When there is a just cause of necessity or utility, one can use amphibologies in an oath, even if he spontaneously offers himself to the oath." Finally St. Alphonsus, n. 151, adds that, according to the more probable opinion, it is venial if he furnishes this without cause. "The reason is that in an oath of this sort truth and justice are already present, and only judgment or discretion is lacking; and the deficiency of this is only venial... Yet one must except, with the Salmanticenses and others commonly, unless this is done in judgment or in contracts." The reason of this exception as to the first is that we are bound from obedience to answer a superior legitimately interrogating according to the sense of the one interrogating; but as to the second, because then from justice we are bound to utter words according to the mind of the contracting party, lest he be deceived and suffer harm. Struggl 16 seqq.; Lugo, *de Fid.*, d. 4, n. 67; S. Th. 2. 2, q. 89, a. 7 ad 4; E. M.

558. What is the obligation of a promissory oath? - Every promissory oath concerning a licit and honorable thing, besides the obligation of justice or fidelity which arises from a simple promise, also induces an obligation of religion. The reason is that a promise per se already obliges, and with divine testimony invoked it is confirmed and strengthened. "For someone is bound to make true what he swore; otherwise truth is lacking in the oath." S. Th. 2. 2, q. 89, a. 7. But an oath concerning an illicit or plainly useless thing by no means obliges, because an oath, as an act of religion, cannot be a bond of iniquity or of an idle thing. R. 58, *de R. I.* in 6. Oaths of this sort do not revive, even if the thing afterwards ceases to be idle or illicit according to R. I. 18 in 6: "That which by law does not subsist from the beginning is not strengthened by lapse of time."

Nor likewise does an oath impeding a greater good oblige, for example, of not entering religion or of marrying, unless someone swore in favor of another. For then, without injury to the other's right, he cannot embrace the evangelical counsels. Thus alumni of the College of the S. C. de P. F. cannot enter religion without permission of the Holy See, because of the oath by which they are bound. Struggl 24 seqq.; L. 172, 176; S. Th. 2. 2, q. 89, aa. 7, 8; Quodl. 5, a. 27; Scavini, ed. 12, Milan, 1874, v. 2, n. 229; v. 4, nn. 243, 244, 245; cf. here 554. Alumni of the Urban College of Propaganda Fide promise by oath the observance of the laws of the College, that they will not enter a religious order without special permission of the Holy See, that they will ascend to sacred orders up to the priesthood, and that they will return to their own diocese and there give perpetual work to the sacred ministry. S. C. Cons., 29 July 1909.

559. You will resolve: He who swore to an evil thing is never obligated by the oath; indeed he sins in two ways if he fulfills the oath, namely against religion and against the virtue to which the matter of the oath is opposed. S. Th. 2. 2, q. 89, a. 7. He who confirmed a prodigal promise by swearing is not obligated by the oath, because that promise is at least lightly evil. He does not sin against an oath who for the sake of courtesy swore that he would not sit, drink, enter the house, etc., before another, if, compelled by the other, he sits, drinks, or enters first; because for the most part an oath of this sort is null from defect of intention of swearing, or, if it is valid, it is relaxed by the other yielding his right.

Parents who do not fulfill an oath of punishing their children rarely sin, because for the most part the oath concerns a useless thing, or rather inordinate vengeance; add that often those delinquent either have already been corrected, or at least have promised amendment. Likewise merchants for the most part do not seem to be bound by an oath not to sell for less, or many persons not to buy; either because oaths of this sort generally concern a useless thing, or because these men do not have the mind of swearing, or certainly because there is present in the oath a tacit condition, unless things seem likely to turn out better otherwise. L. 176, 180, 185, 186; S. Th. 2. 2, q. 89, a. 7.

560. How is a promissory oath to be interpreted? - The obligation of an oath is to be interpreted strictly and according to the nature of the act or contract to which it is added, so that it follows all its conditions. The reason is that the one swearing is judged to have wished to oblige himself as little as he could, and otherwise the oath does not change the nature of the act, but superadds to it only the obligation of religion; and therefore it ought to have the same conditions and limitations. Hence he is not bound by oath who under oath promised marriage to a girl rich, healthy, virgin, of good reputation, if she has fallen into poverty, illness, infamy, fornication, because the simple promise then does not oblige. C. *Quemadmodum* 25, *de Iurei.* Likewise, if you promised and swore to Titia that you would marry her, you can, leaving her, enter religion, because this tacit condition is present in the promise of marriage: unless I enter religion. And this also holds if betrothals were confirmed by oath, unless the marriage were necessary for legitimating offspring, repairing scandal, or providing for the honor of the betrothed woman, if it could not be met in another way. He who reveals a sworn secret does not sin when the very law of secrecy ceases to oblige, because an oath, as we have said, follows the nature of the act to which it is joined. L. 180, 183, 727; l. 6, n. 870.

561. What are the tacit conditions included or understood in a promissory oath? - They are: 1. If I shall be able without grave harm, because no one is judged to oblige himself to a thing impossible both physically and morally. 2. If the thing has not been notably changed. 3. If the rights or will of a superior do not stand in the way. 4. If the other has preserved reciprocal fidelity. 5. Unless the other yields concerning his right. L. 180; Struggl 31. Cf. here 566.

562. Is smallness of matter given in transgression of a promissory oath? - The first opinion denies, because not only a simple promise is violated, but a sworn promise. Therefore in any matter a grave injury is inflicted upon God, whose testimony has been invoked in vain by the one swearing. And indeed God would be called either as guarantor, namely by his authority, or certainly as witness of falsity, if truth were not conformed to the thing promised. For in this oath God is invoked as witness of the present intention, and either as quasi-sponsor or also as witness of future execution. But God can in no way either fail faith or lie in any matter, even the smallest. "Whoever swears that he will do

something is obligated to do it, so that truth may be fulfilled," on account of reverence for divine testimony. S. Th. 2. 2, q. 89, aa. 7, 8.

The second opinion affirms, because in a promissory oath God is not properly brought in as witness of the future execution of the thing promised, but only as witness of the actual promise, or of the true intention of executing the promise. Nor indeed is he brought in as guarantor of future execution, but merely as confirming, or furnishing authority to, the obligation which arises from the promise made before him, just as a Prince renders betrothals contracted before him firmer by his authority. Now as to the first, no irreverence is committed against God through transgression of a promissory oath, or God is not made witness of falsity, since we suppose that the promise and the intention of execution were sincere in the one swearing. But as to the other, by infidelity in the matter promised, to be fulfilled under divine authority, irreverence indeed is inflicted upon divine authority, but one which is neither direct and formal, since it is intended only indirectly in the very violation of the promise, nor greater; indeed, with S. Thomas as witness, 2. 2, q. 89, a. 8, per se it is less than the irreverence which is found in transgression of a vow. Since therefore in this, as also in any indirect irreverence against God, lightness of matter is admitted by all, it must also be admitted in that which transgression of a promissory oath inflicts. And indeed if the one swearing, in the act of the oath, had the will of fulfilling, and afterwards does not fulfill it, he does not commit a lie and perjury, but only infidelity, which, since the thing promised is not grave by hypothesis, will not be able to be extended to grave fault. Besides, in this oath God is brought in as witness of the contracted obligation, which consequently cannot be violated without irreverence toward God; but this indeed can be grave or light according to the nature of the matter. St. Liguori, n. 173, says that each opinion is probable; but he adheres more to the second opinion, and in H. A., n. 13, says: "If the thing promised is not grave, infidelity does not reach grave fault." Suarez, l. 3, c. 16, n. 9 seqq.; L. 172, 173, 178, 211.

563. Does a promissory oath emitted through error or deceit oblige? - R. Negative, if the error or deceit concerns the substance of the thing; but otherwise if it affects only its accidental adjuncts, because a simple contract would be invalid in the former case, but not in the latter. L. 175. Yet the same St. Alphonsus, l. 3, n. 187, warns that the opposite opinion is probable when the error or deceit concerns those circumstances which, although accidental, if they had been known from the beginning, would have deterred one from the oath and promise. Those things entering the quasi-substance of the contract are as a condition without which not. This warning of St. Alphonsus indeed ought to hold, as in vows, so in gratuitous contracts, but not in onerous contracts. Cf. 575.

564. Does a promissory oath extorted by grave and unjust fear oblige? - The first probable opinion affirms. For the general rule is that any oath is to be kept when it can be done without sin, lest God be brought in as witness of the false. The second opinion, also sufficiently probable, denies, because an oath follows the nature of the act to which it is added. But that promise by natural law is void, or at least rescindable by the very one who suffered fear, according as the promise is gratuitous or onerous, on account of the grave injury which it contains, which is not to be confirmed and continued by oath. Whence even the patrons of the first opinion warn that he who suffered fear can ask relaxation of the oath, so that he may be excused from the obligation of paying; but if he has already paid, he can seek in judgment what he gave, or secretly compensate himself. L. 174; S. Th. 2. 2, q. 89, a. 7 ad 3; q. 98, a. 3 ad 1; Ithur., Cas. 15, nn. 11, 18; Struggl 23, 29.

565. Must a promissory oath in favor of a third party always be fulfilled, as long as it can be fulfilled without sin? - R. Affirmative, if that third party already has a right acquired through an accepted promise, even if it is against the evangelical counsels, and even if the promise made is void by law in hatred of the creditor, as a promise of paying usuries and a promise of money made to a prostitute, although such an oath was illicit. Understand this if the prostitute, for example, has already furnished her work; otherwise, if not. Yet it must be said otherwise if the promise is void by law because it would be against the common good and concerning a prohibited thing. The reason is that in this second case the fulfillment itself would be illicit. Therefore an oath extorted by fear concerning religious profession, marriage, betrothals, etc., does not oblige. On the contrary, as to the first case, on account of reverence for the divine Name, the oath is to be observed whenever it can be observed licitly. Cf. 554, 558, 560, 566, 970; L. l. 6, n. 870.

566. How does the obligation of a promissory oath cease from within? - The obligation of an oath, namely a promissory oath, can cease both from within and from without. It ceases from within: 1. If what was good at the time of the oath afterwards becomes illicit on account of circumstances, or impedes a greater good, or is better omitted than fulfilled. For an oath is an act of religion, and God is not worshiped by an illicit thing, or by one which rather detracts from divine worship. 2. If you change the oath into some work plainly better and more pleasing to God; for each person can do this per se. Yet always except if you have sworn something for the advantage of a man; for God does not wish him to be defrauded. Cf. 568. 3.

If the state of the thing is notably changed, for such a change makes another object to which the intention of the one swearing does not extend. 4. If the thing sworn has become useless for the intent, especially if it is more destructive of it; for example, if correction of an impenitent son would be wholly useless, indeed he would become worse from it. 5. If those conditions so bear, which nature and the doctors teach are tacitly understood in any promissory oath. Cf. 561. 6. If its final cause ceases, for without the final cause the effect does not subsist; for example, you promised alms to a poor man, but he afterwards becomes rich. But otherwise, if only an impulsive cause ceases. L. 180, 187, 188; S. Th. 2. 2, q. 89, aa. 7, 9.

567. Is that change sufficient of itself, even if not notable, which nevertheless, if foreseen, one would not have emitted the oath? - The first opinion affirms from S. Thomas, 4 D. 38, q. 1 ad 1. The reason is that the intention of obliging oneself then is either lacking, or is so understood. The second opinion holds that it does not suffice, because the obligation is not to be taken from a promise which would not be made in the future, but from that which has already been made. Thus Suarez, Sanchez, Cajetan, etc. "Yet deservedly they say that the probability of the first opinion cannot be denied. Indeed they themselves, with the Salmanticenses, judge that change to be notable which, if it had been known from the beginning, the one swearing would not have promised, which certainly agrees with the first opinion." L. 187, 226; cf. 563, 564, 575, 597, 598.

568. How does the obligation of a promissory oath cease from without? - It ceases by annulment, dispensation, commutation, remission. Annulment is the nullification of an oath. Annulment is made by any superior having dominative power over the one swearing, concerning those things which are subject to his power, even if the matter concerns promises and contracts. For these oaths have an implicit condition: if the superior consents, if they are not revoked by him. The Supreme Pontiff has this dominative power as to ecclesiastical matters; a superior as to matters subject to his own power;

a father, husband, tutor, master; and these can annul and nullify the oaths of their own in plainly the same way in which they can annul the vows of their own. Num. 30:4 seqq.; S. Th. 2. 2, q. 89, a. 9 ad 3. Cf. 599 seqq.

Dispensation is given by one having jurisdiction in the external forum; understand spiritual jurisdiction. Whoever has ordinary power of dispensing in vows can dispense in oaths and in vows, even if these are sworn. L. 189. "Dispensation which is made in an oath does not extend to this, that something be done against the oath; for this is impossible, since observance of an oath falls under a divine precept, which is indispensable. But dispensation of an oath extends to this, that what fell under the oath no longer falls under the oath, as though not existing as due matter of an oath; just as we said above concerning a vow, q. preceding, a. 10 ad 2... The matter of a promissory oath is something future, which can vary, namely in such a way that in some event it can be illicit or harmful, and consequently not be due matter of an oath; and therefore dispensation can be made in a promissory oath, because such dispensation regards the matter of the oath, and is not contrary to the divine precept concerning observance of an oath." S. Th. 2. 2, q. 89, a. 9 ad 1. "Sometimes something is promised under oath concerning which it is doubtful whether it is licit or illicit, profitable or harmful, either simply or in some case; and in this any Bishop can dispense. But sometimes something is promised under oath which is manifestly licit and useful; and in such an oath dispensation or commutation does not seem to have place, unless something better occurs to be done for the common utility, which seems especially to pertain to the power of the Pope, who has care of the universal Church; or also absolute relaxation, which also pertains to the Pope generally in all things which pertain to the dispensation of ecclesiastical affairs, over which he has fullness of power." S. Th. 2. 2, q. 89, a. 9 ad 3.

Commutation is reduced to dispensation, and is made, like it, by one having spiritual jurisdiction in the external forum. L. 191. Cf. here 566.

Remission is the relaxation of an oath made in favor of a man, by the same man, or by him to whom the one promising and the promised matter is subject. It must be noted: 1. That if a promise in favor of a man, confirmed by oath, has not yet been accepted, there is no obligation of fulfilling it, and it can be revoked; because the oath is then accessory and follows the nature of the promise. But otherwise, if the promise was principally made to God. 2. If such a promise has been accepted by the third party to whom it was made, and a right has been absolutely acquired by him, then without his consent it cannot be relaxed, not even by the Pontiff. But this latter is limited in three cases. The first is if the one swearing is a subject, and the oath concerns those things which are subject to the power of superiors. The other is if the oath cannot be kept without common harm, or is upon a contract forbidden by law. Such oaths more truly do not need relaxation, since of themselves they are null. The third is if the oath was extorted by deceit or fear; for then, even if it is valid, it can be relaxed. And this holds even if the promise is not undue, say concerning paying a true debt, but the oath was unjustly extorted; and even if the oath is extorted by light fear, at least for the internal forum, from C. *Sollicite* 2 and from C. *Accepta* 3, *de Restit. spol.*, where only an altogether spontaneous oath cannot be relaxed. But not only the Pontiff can relax it, but also Bishops, chapters when Sees are vacant, and others having episcopal jurisdiction, and also Confessors having delegated faculty of dispensing in oaths.

3. It is certain that an oath in favor of a third party can be freely remitted by him, without relaxation of the Church, because each person can yield concerning his own right. For "from such a promise he to whom the promise was made can absolve; for it is understood that he has already paid the promise when he does concerning it according to his will." S. Th. 2. 2, q. 89, a. 9 ad 2. L. 189-193.

569. Can one who has delegated faculty of dispensing in vows dispense in oaths? - These words are from Suarez, *de Voto*, l. 6, c. 14, n. 6: "It is sufficiently probable that power delegated simply for dispensing in vows extends to dispensing in pious oaths concerning the same matter, when they stand per se and produce their own sole obligation. This is the common opinion, and without doubt can be observed in practice." And n. 19: "Even if vow and oath immediately fall upon the same matter, and each obliges per se to the honor of God, by an absolute faculty of dispensing in vows, either the vow, or the oath, or both can be removed, at the judgment of the one dispensing. For this assertion we can allege all the authors of the first, namely the preceding, assertion..., and other moderns and learned men hold it." The intrinsic reason of this opinion is that oath and vow, on account of the affinity of obligation, are equated with each other.

But others deny, because the bond of a vow and of an oath is diverse. Thus Lessius, l. 2, c. 42, n. 60, who nevertheless admits the prior opinion when the oath is accessory to the vow. For indeed, when the vow is dispensed, the oath vanishes. But an oath by its nature is accessory to the promise to which it is added. St. Alphonsus, n. 160, holds each opinion as probable; nevertheless he says that the second must altogether be held: "for the obligation of an oath already contracted, since it is certain and possesses, cannot be removed by a dispensation that is only probably valid." But if the opposite opinion is probable, it is altogether safe in practice, since, that probability standing, the superior granting the first faculty is rightly judged also to grant the latter, unless he expressly limits it. Yet S. C. de P. F., 19 May 1845, decreed: "the faculty of dispensing from vows does not per se include the faculty of dispensing from an oath." And as to sworn vows the same S. C., 3 May 1828, left the matter doubtful. L. 189, 190, 192, 254; D'Annibale, ed. 4, p. 2, n. 431, note 36; *Monitore Ecclesiastico*, vol. 18, pp. 139, 140; Collectan. S. C. de P. F., nn. 2085, 2087; E. M. Regulars, from special privilege, can commute oaths and also dispense in them, unless they were in favor of a third party and accepted by him. L. *de Privil.*, 108.

IV. On Vow

570. What is the nature of a vow? - A vow is: a deliberate promise made to God concerning a possible and better good. Made to God; for a vow is an act of religion, indeed it is an act of latria, owed to God alone. "A promise can also be made to man; and the promise itself of good which is made to man can fall under a vow insofar as it is a certain virtuous work. And in this way must be understood a vow by which someone vows something to the Saints or to Prelates; so that the promise itself made to Saints or to Prelates falls under the vow materially, insofar namely as man vows to God that he will fulfill what he promises to Saints or Prelates." S. Th. 2. 2, q. 88, a. 5. Therefore a vow is made principally to God, secondarily in honor of the Saints, just as temples and altars which are principally dedicated to God are also said to be dedicated to them. Therefore two conditions are required for the validity of a vow: true intention of a vow, and apt matter. L. 194; S. Th. 2. 2, q. 88, aa. 1-6; Lugo, *de Poenit.*, d. 16, n. 281 seqq.; Bouquillon, *de Virt. relig.*, l. 2, p. 2; E. M.

571. Of how many kinds is a vow? - A vow is distinguished: 1. as absolute or conditioned. The former is that which is made without any condition; but the latter is that which is made with a condition, so that, unless this is posited, no obligation arises. Hence a penal vow is specially distinguished, namely when a good thing is vowed as a penalty or penance, for example, I will give alms if I become drunk.

2. A vow is of some determinate thing, or disjunctive of some thing to be determined afterwards from several at one's judgment. If in this one part is apt and another part inept, for example, either to pray or to play, the whole vow is not valid. L. 203. 3. Personal or real, according as an action or omission of the one vowing, for example, a pilgrimage, or some thing separable from the action of the person, for example the donation of a chalice, alms, etc., is promised. 4. Temporary or perpetual, according as it is promised to be observed only for a certain time, or through one's whole life. 5. Public or private, according as it is made with the Church accepting the vow, or without this authority of the Church accepting intervening. S. C. EE. et RR., 11 Aug. 1889. 6. Solemn or simple, according as it is made solemnly and is accepted by the Church as solemn; or, solemnity and this acceptance of the Church being excluded, it is emitted. Therefore the solemnity of a vow is had in this acceptance and approval of the Church, by which, by that vow, someone is totally bound over to divine worship as to preserving chastity, obedience, and poverty, through the blessing and consecration of the Church, implicit in that acceptance and approval. But the Church annexed this blessing and consecration to the reception of sacred order, by which someone is applied to divine ministry, and to the profession of a certain rule, by which, through renunciation of the world and of one's own will, someone assumes the state of proper perfection. But since solemnity signifies a certain exterior apparatus and ceremony which is employed when someone is totally bound over to some thing, hence a vow is said to be solemnized through reception of sacred order and through profession of a religious rule, to which the Church has annexed a solemn vow. Therefore only the vow of chastity annexed to major orders and the vow of religious profession is solemn. L. 195; S. Th. 2. 2, q. 88, aa. 7, 11; Cajetan on this place; Struggl 28; cf. here v. 2, n. 248.

572. What sort ought the intention of a vow to be? - For the validity of a vow a true and deliberate intention of emitting a vow is required, or a true promise made to God and inducing obligation from the virtue of fidelity. For a vow is in the likeness of a certain law which the one vowing, otherwise capable of weighing the burden which he assumes, imposes upon himself. But no one is judged, short of sufficient deliberation of mind, to oblige himself. Hence a vow essentially differs from a purpose, because a purpose means a deliberate will of doing or omitting something, without the mind of obliging oneself. Therefore a purpose, however firm, produces no bond of obligation, nor is omission of the thing proposed a sin, unless perhaps sometimes per accidens, for example, on account of inconstancy, weariness, or negligence, which per se do not exceed venial sin. C. *Litteraturam* 3, *de Vot.*; S. Th. 2. 2, q. 88, a. 1; L. 196-199; Struggl 3, 16.

573. You will resolve: For the validity of a vow, not just any will and deliberation suffice which would suffice for mortal sin. For grave sin, it is enough to know confusedly the gravity of guilt and to have the voluntary at least indirectly and in the cause; but a more perfect cognition and willing of the burden to which one obliges oneself is required where the matter concerns a promise and an

obligation to be contracted. For good is from an integral cause, evil from any defect. "Since the obligation of a vow is most grave, intention, deliberation, and perfect liberty are required, by which someone freely and directly in himself has willed to promise with the mind of obliging himself." L. 196. Therefore a vow made with half-full advertence or deliberation does not oblige. Likewise vows made in drunkenness, even foreseen beforehand, and thus willed in the cause, are not valid, since they are not willed in themselves and directly.

Yet for this full and perfect deliberation it is not required that someone weigh exactly all the circumstances which can allure toward a vow or deter from it; but it suffices that someone has sufficiently recognized the burden and obligation of the vow as to substance. Likewise virtual intention suffices, which proceeds from a previous actual intention. Hence one who, from a previous intention of religious profession, emits the three vows of religion, although altogether distracted in mind, is truly bound by them. But if someone vows with the positive mind of not promising, nor obliging himself from religion, certainly the vow is null. If someone also wishes to promise, knowing the obligation of a vow, but does not wish to oblige himself to the promise and vow, more commonly and probably he is not held by the vow. But thus to vow without the mind of obliging oneself, Sanchez, etc., say is ordinarily only venial on account of a certain disorder. Ordinarily, because in religious profession and reception of sacred orders it would undoubtedly be mortal, because it would be deception in a most grave matter. L. 196, 201; S. Th. 4, d. 38, q. 1, a. 1, q. 1 ad 2; Struggl 5, 6; Laym., l. 4, t. 4, c. 1, n. 4.

574. Note: "For a vow an implicit promise suffices, as is clear in the reception of sacred orders, where, although it is not said, I vow, or I promise chastity, nevertheless this vow is made implicitly, by this very fact, that, knowing that the Church has annexed this vow to orders, you receive them. But whether, if someone plainly were ignorant of this, he would still be judged to vow from implicit intention, is doubtful. Some affirm, but others more probably deny, and say that such a person is bound to chastity, not from a vow, but from the precept of the Church." L. 200; Struggl 6.

575. Is a vow made through error valid? - R. Negatively, if the error concerns the substance of the thing, or substantial circumstances, or those which are principally intended, or pertain to the substance, or notably change it; because then the thing promised is not sufficiently known and willed. Indeed St. Alphonsus, n. 198, adds: "it is certain that error concerning the substance invalidates a vow, even if it was concomitant, that is, not giving cause to the vow, for example, if even when the error was known, you would still have vowed; and even if the error was however crass." For even such ignorance renders the act non-voluntary.

R. Affirmatively, if the error is only concerning an impulsive cause. "The vow is valid, because that is only a secondary cause, and if it is set aside, the act is sufficiently voluntary according to its substance. Nor does such an error vitiate the act in other contracts; for example, someone vowed a pilgrimage to Rome with zeal for worshiping God, and at the same time also had a secondary impulsive cause, that he might visit his brother, whom he thought to be at Rome; even if afterwards he understands that the brother is not there, he does not therefore cease to be obligated by the vow." L. 198.

R. Affirmatively also, if the error concerns accidental circumstances of lesser moment, which would not have stood in the way of the vow if, the error being excluded, they had been known; for one who vows is judged to oblige himself to undergo merely accidental inconveniences which can occur in

fulfilling the vow. Thus St. Liguori, who nevertheless in n. 198 does not deny that it is probable that error invalidates a vow in accidental circumstances, if these are of great moment, and if, had they been known, the vow would not have been emitted. Cf. 563, 567, 597, 598.

Yet vows must be excepted which are emitted after the novitiate in any approved order; for these are not void because of any error, except only substantial error, concerning the substance. For by their nature they constitute a stable and irrevocable state; and therefore one dependent upon no other error than substantial error. Moreover, because otherwise it would follow that many Professions would be invalidated, to the grave damage and scandal of the commonwealth. This also holds concerning marriage. L. ib.; Lugo, *de Iust. et Iure*, d. 22, n. 88; Sanch., *de Matr.*, l. 10, d. 9, n. 20.

576. Is a vow made through fear valid? - R. Negatively, if the fear is grave, unjust, inflicted from without in order to extort the vow. The reason is that that cannot be acceptable to God which is violently extorted from someone through injury, since the law of nature demands that right be restored entirely. And this indeed proves that vows of this sort are invalid by natural law. It is clear, moreover, from canon law as to solemn vows of religion, and probably also as to other vows. C. *Perlatum* 1, *de His quae*, etc.; L. 197.

Unjust; for if the fear is just, the vow is valid, since there is no true coercion in that which one ought to do, nor is the one vowing reasonably unwilling. Inflicted in order to extort the vow; for otherwise the vow is valid, for example, if someone, fearing death which robbers threaten, made a vow to God that he might be delivered. Grave; whether a vow emitted from light unjust fear is invalid, "Busembaum here affirms with Suarez and Filliucci. Likewise Navarrus and many others cited by Sanchez, *Decal.*, l. 4, c. 3, n. 24. The reason, as they say, is that fear therefore annuls a vow because it takes away full liberty of consent; therefore light fear also will annul it, when it takes away the same liberty and is the cause that the vow is made. And Sanchez calls this opinion probable. But the opposite opinion is more probable, which Sanchez holds, n. 24, with Soto, Valentia, Sa, Azor, etc., and the Salmanticenses, ibid., n. 161, who call it common, and prove it from C. *Perlatum*, *de His quae vi*, etc. The reason is that light fear, which can easily be cast off, is not judged to be the cause of so grave a thing as a vow, just as we shall likewise say concerning contracts, n. 718." L. 197.

R. Affirmatively, if the fear arises from within or from a necessary cause, unless it takes away the use of reason from the one vowing; the reason is that vows of this sort are simply voluntary.

577. Is one bound by a vow who doubts whether he emitted the vow; whether he emitted it with sufficient deliberation; whether he has fulfilled the vow emitted? - R. To the first: negatively; and the same must be said if you doubt whether something is comprehended by the vow; you are not bound as to the part about which you doubt. For an obligation is not to be imposed unless it is certainly established.

R. To the second: it is certainly impossible that, while a true and positive doubt remains concerning sufficient use of reason and sufficient deliberation, a certain obligation of a vow should be had from it. For a vow essentially includes perfect deliberation of reason. Therefore if this is doubtful, consequently the vow is doubtful, and its obligation doubtful. Suarez, l. 4, c. 6, n. 10. In a negative doubt, before the seventh year the presumption is for defect of deliberation; after the seventh year, the presumption is for sufficient deliberation.

R. To the third: negatively, for the same reason as to the first, if the doubt is positive. But affirmatively if the doubt is negative, because possession then stands for the vow. L. 196; Elbel, *de Actib. human.*, 156 seqq.

578. Must the matter of a vow be something morally possible? - R. Affirmatively. The reason is that a vow is a promise made to God with the intention of obliging oneself; but no one can oblige himself to something morally impossible for him. But if the thing is divisible and in part possible, the vow is valid for this part. Except, however, if it were clear that the one vowing wished to oblige himself to both parts by way of one thing, and had both before his eyes indivisibly. The reason is that a vow is a particular law, which is not extended beyond the intention of the one vowing; and therefore if the one vowing collectively promised both parts, and one depending upon the other, if one is impossible, the whole vow remains void. Thus the Salmanticenses, tr. 17, c. 1, n. 74, who soon after, ibid., nn. 75, 76, add several examples of vows which either are to be observed in the part which remains possible, or are judged void because of the impossibility of some part. But a vow is not valid if the thing is morally indivisible. L. 202, 225.

579. You will resolve: A vow of doing whatever is more perfect is not valid without a special impulse of the Holy Spirit; nor a vow of avoiding all sins, even venial sins, even half-deliberate ones; because this is morally impossible without special grace and privilege. Trent, sess. 6, c. 23. A vow of avoiding all mortal sins is valid, or even all fully deliberate venial sins, because this is morally possible with the ordinary help of divine grace, and does not need a special privilege, provided, however, that the matter concerns persons truly pious. "But a vow," adds St. Alphonsus, n. 303, "of abstaining from venial sins in some determinate matter is commonly valid, especially in persons of great virtue; but in others of moderate virtue it will be impossible matter; indeed in some matters, for example of unchaste thoughts, idle thoughts, etc., since they are unavoidable for all, the vow is null." But the Salmanticenses and others cited by the same St. Alphonsus, l. c., assert on the contrary that a vow of avoiding all venial sins, even if it were concerning fully deliberate sins, is altogether invalid, as concerning a thing morally impossible, from c. 23, sess. 6, Trent. But in this canon the discourse is not only about fully deliberate sins. Sanchez, *in Decal.*, l. 4, cap. 5, n. 17.

580. Must the matter of a vow be something morally good, indeed concerning a better good? - R. Affirmatively. The reason is that otherwise the promise of a vow would not be pleasing and acceptable to God. "Vows which are concerning vain and useless things are more to be mocked than to be kept." S. Th. 2. 2, q. 88, a. 2 ad 3; L. 204. Likewise a promise which impedes a greater good, under this respect, detracts from the worship of God, and consequently cannot be pleasing and acceptable to him, so as to beget an obligation in conscience from the motive of religion, or divine worship. But this better good is not to be understood comparatively to any good whatever, but comparatively to its opposite, so that this good is such that its positing is better than its omission. Likewise a better good is understood not only absolutely in itself, but also relatively to the circumstances. Cf. the formula of the oath of certain Colleges of the City. M. E., v. 21, pp. 351 seqq.

581. You will resolve: A vow of a good thing from an evil end is not valid, if the evil end stands on the side of the vow itself, namely if the vow itself is ordered to an evil end; for example, if you vow alms in order to obtain the successful outcome of theft. The reason is that the giving of alms for such an end is a blasphemous action, as though God would furnish help for sinning. Likewise a vow is not

valid from a cause evil in itself, as for example if you make a vow because you have won an unjust lawsuit, or have killed an enemy.

It must be said otherwise, according to the common opinion, if the bad end only accompanies the vow accidentally, and stands entirely on the side of the one vowing; for example, if someone vows on account of the glory of God, but with some vanity, and from vain ostentation more gladly vows externally.

Likewise a vow of a good thing with a bad condition is valid, if the vow is made from affection toward the good thing, as it is good, although joined with a cause or occasion and bad condition; as if someone vows alms because he was not caught, or if he is not caught, in theft. For although theft is evil, nevertheless not being harmed is not evil, but a gift of God; and the vow does not fall upon the evil, but upon the good, insofar as it is good in itself. Much more does this hold if the vow is made from detestation of the bad condition; as if someone vows alms if and as often as he blasphemes.

A vow concerning a thing otherwise prescribed is valid, because a vow of this sort is concerning a thing good in itself, since it is supposed to be prescribed, and is concerning a better good, since it can confer a new bond and greater fidelity and devotion in fulfilling the law. L. 206, 213; S. Th. 2. 2, q. 88, a. 6; Laymann, l. 4, tr. 4, c. 2, n. 7.

582. Is a vow invalid concerning a good which impedes a greater good? - These are the words of St. Alphonsus, nn. 207, 209: It is invalid and a venial sin to vow a good which is an impediment of a greater good, as especially are vows against the evangelical counsels, for example, to remain in the world, to take a wife, to go to military service, to engage in trade. Yet if some good, lesser per se and absolutely, should become by accident a greater good, then to vow such things is valid; for example, if someone saw that reception of orders would be harmful to him. Hence a vow of marrying, speaking per se, is null, even if it is concerning marrying a poor woman, a prostitute, or for removing the sins of others, because celibacy is always more pleasing to God. It is otherwise if the vow was emitted in order to repair scandal, or the honor of a girl from obligation, or for the common good; or also, far more probably, because of experience of one's own frailty, supposing that such a person does not wish to use other remedies. For in such a case marriage is a greater good, since it was granted by God for calming concupiscence for him who does not wish to take up other better remedies. 1 Cor. 7:9. Cf. 554, 558.

583. Does he sin, and how, who vows an evil thing? - These are the words of St. Alphonsus, nn. 204, 205: He who vows a vain, useless, indifferent thing sins venially. He who vows a mortal sin sins mortally. He who vows a venial sin, some say sins venially, others mortally. "It seems more probable to me that it is a grave fault, since of itself it is blasphemy to will that evil should redound to the honor of God; but commonly because of ignorance this is only venial." Cf. 554.

584. Whether and how does a vow oblige? - The response is contained in the following propositions: A vow is obligatory. For a promise made to a man certainly obliges; how much more, therefore, one made to God. Hence the breaking of a vow is a certain species of infidelity. S. Th. 2. 2, q. 88, a. 3. And the Scriptures most evidently persuade this: *When you have vowed a vow ... you shall not delay to pay it*, etc. Deut. 23:21. *If you have vowed anything to God, do not delay to pay it*, etc. Eccles. 5:3. It is heretical, says St. Thomas, Quodl. 3, aa. 1, 2, to assert that a vow does not oblige.

585. A vow obliges per se, like a law or precept of the Church, and therefore gravely in grave matter, and lightly in light matter. For a vow is as it were a certain private law which someone imposes upon himself. Struggl 17; L. 211, 213.

586. A vow obliges according to the intention of the one vowing, if he determines the quantity of the obligation in the act of vowing, so that he can bind himself only under light obligation in matter however grave. The reason is that just as a legislator or superior can oblige only lightly in grave matter, so also he who vows can impose only a light obligation upon himself in a grave thing. Yet, conversely, he cannot oblige himself gravely in a light thing, because light matter is not capable of grave obligation. But in the vow of chastity annexed to sacred orders, and in the vows of religious profession, the Church specially requires the will of obliging oneself gravely. Hence religious profession is void when it is expressly emitted without the will of obliging oneself gravely. Struggl 18; S. Th. 2. 2, q. 88, a. 3; L. 211, 212.

587. Note: That matter is judged grave which, when prescribed by the Church, obliges gravely, such as fasting, Mass, etc.; or which, compared with another precept, seems grave; or which contributes notably to the end of the vow, or to the worship of God.

588. No one can be obligated by another's vow by force of the vow, because a vow is a personal burden voluntarily undertaken, and therefore no one can promise another's thing or action. S. R. C., 18 Apr. 1643; 23 Jun. 1703.

By force of the vow; for 1. from justice an heir is bound to pay the real vows of the deceased, just as he is bound to pay his other debts, legacies, etc. The reason is that a real vow affects the thing itself, and therefore it remains bound into whatever hands it comes. Hence such vows must be satisfied before legacies, because the obligation of real vows is prior to a free legacy by reason of death, but after debts of justice, because the deceased is judged to have emitted real vows to be paid only from that part of his goods concerning which he was able to dispose freely and without injury to others. Hence a necessary heir can lawfully reserve the legitimate portion, or the portion due according to law, not only for himself but also for other descendants, and therefore he is bound to pay the real vows of the deceased only from the remaining substance.

2. From obedience, subjects, both those who now live and those who in the future will become members of the community, are bound, by force of a certain pact or statute or custom, and from the motive of religion, to fulfill a vow which has been emitted in their name by the civil magistrate, with the Bishop consenting, or by the superiors of a religion. Struggl 24, 26; Suarez, *de Voto*, l. 4, c. 1, 9; Tamburini, *Expl. Decal.*, l. 3, cap. 12, § 4; cap. 16, § 2, n. 12; 7; Scav., ed. 12, Mediol. 1874, l. 2, n. 219; L. 213, 214, 216; S. Th. 2. 2, q. 98, a. 2 ad 2, ad 4; E. M.

589. You will resolve: Real vows are to be paid from one's own goods; but he who cannot pay from his own goods is not bound to beg from another so that he may be able to satisfy them. Yet he satisfies if another, whether asked or spontaneously, wishes to pay for him, even though he himself is able to satisfy; because what the other gives, with the consent of the one vowing added, or with ratification if he gave without his knowledge, becomes his own. Except if the matter of the real vow was determined; for then that thing must be given in its individuality, when namely a particular reason moved him to vow this thing in its individuality.

Personal vows can be fulfilled only by the one vowing himself, nor do they pass to heirs. Hence he who vowed a pilgrimage does not satisfy if he hires another; nor is he bound to hire someone if he himself cannot go.

The vows of parents, devoting their children to some religion, or imposing upon them an obligation, for example, of fasting on certain days, etc., cannot bind them. But although children are not bound by the vow of parents who devoted them to religion or to some obligation, nevertheless the vow obliges the parents so that, as far as lies in them, with the freedom of the children preserved, they move them to embrace that which they vowed for them; and much more, that they not stand in the way of children wishing to embrace it. L. 213, 216, 217, 220.

590. Conditional vows do not oblige when the condition ceases, even if the one vowing himself was the cause that the condition is not posited, provided he did not impede it by deceit, force, or malice; for then someone sins indirectly against the vow, but the vow no longer subsists. The reason is that the condition is now not fulfilled, although by the fault and fraud of the one vowing.

In a disjunctive vow, "if each part is apt matter, that which is chosen must be performed, even if after the election the other part perishes, or is rendered impossible. Conversely, if one part perishes, or is rendered impossible before the election, you are not bound to the other, unless the thing perishes by your fault, or you were in delay in delivering or determining it." L. 224, 218, 219.

591. He who vows something to be done at a certain time, after that time has passed, whether with fault or without fault, is bound to nothing, if the day was added to terminate the obligation, as, speaking per se and regularly, it is to be judged in personal vows, unless the contrary is established, as very commonly they say. For transgression of a vow does not oblige to compensation. Hence one who did not fulfill on one day is not bound to fulfill on another day.

It is otherwise if the day was added only to urge fulfillment, just as conversely it must be judged, per se and regularly, in real vows, unless again the contrary is established, since that day has no more special reason than others. But if the vow is indeterminate as to time, for example concerning a daily rosary, etc., the vow obliges perpetually, unless something else is gathered from the circumstances. Suarez, l. 4, c. 15; Sanch., *in Decal.*, l. 4, c. 14, n. 25; Struggl 17; L. 212, 220.

592. Vows are to be interpreted according to the more benign part, since they are laws of a free will. L. 224.

593. You will resolve: One vowing that he will hear Mass for a month is probably not bound to hear two Masses on feast days; just as this is also probable if it is imposed by a Confessor for penance. One vowing that he will observe fasting can eat milk foods. One vowing fasting for a month is not bound on Sunday. One vowing fasting on the vigil of some Saint which falls on Sunday can anticipate the fast on Saturday. One vowing fasting on each Saturday is probably not bound to the vow if Christmas Day falls on Saturday, unless he expressly intended that he still wished to be obligated on that day, because then he is bound beyond doubt.

But since the matter or substance of fasting is divisible, if the fasting is strict, namely one which includes both one meal only and abstinence, so that those also are bound to one meal who in any way, whether culpably or inculpably, have eaten meats, he who vowed fasting, if he eats meats, and the obligation of the vow is ended on the same day, is bound at least to observe the one meal; but if

the obligation of the vow is not ended on that day, if indeed it is not affixed to the day, he is bound to fast on another day.

One vowing that he will recite the rosary satisfies by reciting a third part, because it is commonly so understood; and he satisfies by reciting it alternately, because such a vow obliges after the manner of the divine office; and he also satisfies by dividing the decades. If someone, forgetful of the vow or of the imposed penance, etc., performs the work due, he satisfies well by the general will which each person is judged to have of satisfying first his obligations.

Whether a Religious who has vowed, when he asks license from his superior to fulfill the thing promised by vow, is bound to manifest his vow to him? It is controverted. Some affirm, because this manifestation of the vow conduces, regularly speaking, to obtaining license more easily. Others more probably deny, because a vow is of strict interpretation, and consequently the one vowing is judged to oblige himself only to that which is a necessary and commonly sufficient means for obtaining license. Thus Schmalz., in h. t., nn. 23-25; L. 222-224, 226.

594. Can light matters in vows coalesce with each other so as to make grave matter? - Either those light matters are vowed separately and by way of several things disjoined from each other, say from a diverse end; or they are vowed in a mass, and by way of one thing. If the first, omissions, even if multiplied, will never be able to combine into grave matter, because they are in no way united with each other. If the second, they can certainly, for the contrary reason, constitute grave matter and arrive at mortal sin.

But matters are judged to be vowed by way of several things disjoined from each other in personal vows; but by way of one thing and in a mass in real vows, unless the contrary is established. For personal vows are commonly judged to be affixed to the day, whence transgression of one does not coalesce with another; not likewise real vows. Thus, for example, a real vow is judged to exist if someone vows to give one little coin daily for a year; but it would be a personal vow if he vowed to recite one *Pater* on each day of the year. Therefore by omitting to recite this prayer even for a long time, it would be a venial sin; but by omitting that small alms, it would be grave when it had arrived at grave matter. Hence an omission of this sort will always have to be supplied, since by the lapse of time the obligation of the vow does not cease. Yet if the intention of the one vowing were truly doubtful, the vow is judged affixed to the day, so that its matters do not coalesce, but each is terminated in the day. For each person is judged to oblige himself as little as he can. Struggl 17, 33; L. 212, 220.

595. What delay is to be judged grave? - Per se, any delay of a vow gravely obliging is grave when it is affixed to a determinate time, as is a vow of fasting on such a vigil, etc., because once the time has elapsed the obligation of the vow ceases from the general principle that transgression of a vow does not oblige to compensation.

But if a determinate time was not set, or was set only to urge, not also to terminate, the obligation of the vow, either the delay diminishes the matter promised or it does not. If the first is verified, grave delay in a grave thing will be a grave sin, unless a reasonable cause excuses, as if someone meanwhile awaits a suitable time for the end which he proposed to himself. Hence, for example, if someone has vowed religious life, then, says Tamburini, "the time, or age, of the one vowing must be considered; for if the one vowing is, for example, in his fifteenth year, I would not judge a delay of three or even

four years notable. For youths are accustomed to take up religious life around the fifteenth and twentieth year, namely when a state of life is usually assumed. Therefore, while someone in his fifteenth year vows perpetual religion, unless he determines the time for entrance, he does not seem to have renounced the customary manner and time in assuming a state of life... But if the one vowing had reached, for example, the fortieth year of age, I freely admit that a delay beyond six months is sufficiently notable; for such an age does not permit a longer delay."

But if the second is verified, the same Tamburini says that "it does not seem improbable that any delay whatever, provided there is not probable danger of omitting the vow altogether, is only venial. The reason can be that no one, when he gives the whole which he promised and causes no damage to the creditor from delay, seems to be condemned of grave fault, but only of light negligence; but no damage comes to God from the aforesaid delay, etc." And soon after he adds: "That is deservedly certain, when there is no danger of diminution of service, that a vow made without determination of time can be delayed, even without venial sin, until the time in which someone believes he will fulfill it with greater devotion; because this redounds to the greater honor of God, to which the vow is ordered; therefore that greater hoped-for devotion is to be judged a sufficient cause of delay." *Explic. Decal.*, l. 3, c. 12, § 3, n. 11. But others assert generally that it is grave to defer temporary vows beyond two or three years, and perpetual vows beyond six months. S. Th. 2. 2, q. 88, a. 3 ad 3; L. 221, l. 4, n. 72 seqq.; Struggl 19, 21.

596. How manyfold is the sin committed by one who violates a vow? - Either the vow concerns a thing otherwise prescribed, or not. If the first, there will be a double sin, one against the virtue to which the thing promised by vow pertains, the other against the virtue of religion; for a double precept is violated. If the second, there will be one sin, against religion, because the one vowing in this case does not wish to impose upon himself another obligation than that which arises by force of the vow itself.

But the malice of this sin against religion is perfidy, or violation of the fidelity owed to God, which violation directly pertains to irreverence toward God. But whether violation of any vow whatever, that is, even not solemn, also takes on the malice of sacrilege strictly such, that is, induces another sin against religion directly pertaining to irreverence toward sacred things, some affirm, others deny. Cf. 500. But violation of a solemn vow contains infidelity and violation of a person consecrated to God. From the fact that violation of a vow as such is not of diverse species from diverse matter, "if someone having a vow of chastity fornicates, he can accuse separately the breaking of the vow." L. 224. Roncaglia, tr. 7, q. 2, c. ult., quaest. 5; L. 213, 224.

597. How does a vow cease from within? - The obligation of a vow can cease from within and from without.

It ceases from within: 1. If the matter formerly possible becomes impossible, formerly honorable becomes shameful, formerly a better good becomes indifferent and an impediment of a greater good, by reason of the destruction of the thing itself, prohibition, and a new circumstance. For the obligation is extinguished if it falls into that case from which it could not begin. 2. If you change the vow into a work evidently better; for each person can do this even by himself, provided no special prohibition is present in the particular case. Cf. 623. 3. If the state of the thing is notably changed. "It is the common opinion," says St. Alphonsus, n. 226, cited by the Salmanticenses, "that in every promise, as also is a vow, a change of matter notable of itself takes away the obligation. The reason is

that through the change the thing becomes diverse from that which was promised." Understand, "except the simple vow of chastity and of religion." L. l. 4, n. 50. 4. If the thing vowed has become useless for the intent, especially if it is more destructive of it. 5. If those conditions also so bear, which are understood in any vow whatever. S. Th. 2. 2, q. 88, a. 3 ad 2. 6. If its final cause ceases; but otherwise if only an impulsive cause ceases. Cf. 566. 7. When the condition is not fulfilled, if the vow was conditioned; when the determinate time has elapsed, if the vow was affixed to a certain time. Cf. 590, 591. Struggl 32, 36; L. 225, 243.

598. Is that change sufficient of itself, even not notable, which nevertheless, if foreseen, one would not have emitted the vow? - The first opinion affirms, and St. Thomas expressly holds this; he teaches: "That frees from the obligation of a vow or oath which, if it had been known from the beginning, would have prevented them from being made"; 4 D. 38, q. 1, a. 3. The reason is that then the intention of obliging oneself is lacking, or it is so interpreted according to what was said in the preceding number, in the fifth place.

The second opinion denies, because, in order to exempt the one vowing from the obligation of the vow, attention must not be given to what he would have promised if he had remembered, but rather to what he actually promised. Now St. Alphonsus, n. 226, speaking of the first opinion, says: "This opinion seems to me not less probable, indeed perhaps more probable." And he hands it down as quasi-certain, l. 3, n. 720. Cf. here 563, 567, 575, 597, 3.

599. How does a vow cease from without? What is annulment, and of how many kinds is it? - A vow ceases from without through annulment, dispensation, commutation.

Annulment of a vow is its nullification or suspension made by him to whose dominative power the will of the one vowing, or the matter of the vow, is subject. It is 1. direct, if it falls directly upon the person or upon the will of the one vowing; 2. indirect, if it falls only upon the matter of the vow. In the former case the vow is altogether annihilated, nor does it afterwards revive any longer; but in the latter its obligation is only suspended as to matter subject to the power of another, and it revives when the one vowing has become perfectly his own master. Struggl 30, 31, 43.

600. What is direct annulment? - Since the dominion of anyone ought not to be violated, and any master can use his own liberty, hence, if the will of someone is subject to the dominative power of another, that one can directly annul, validly, all the vows of that subject, of whatever sort they are, emitted during the time of subjection, at his own pleasure, without any cause; that is, he can will and pronounce that those vows are null, so that in no case does the obligation afterwards revive. For this annulment is not the placing of some impediment to the execution of an act of the will, but the nullification of its value, on account of the implicit condition in the act itself: if he to whose power it pertains does not contradict; if it is not revoked by the superior. And this holds even if the vow is in favor of a third party, and perhaps accepted. This right comes from natural law, and also from positive law, by which legitimate dominative power over the will of another is given to someone. Dominative power is distinguished from jurisdiction in this, that the latter arises from the right of a public office, but the former from the right of a private office, whence it also is usually called economic power.

Schmalz., l. 1, t. 32, n. 4; Laym., *de Leg.*, c. 5, n. 1; L. 227; S. Th. 2. 2, q. 57, a. 4; q. 88, aa. 8, 9; q. 189, a. 5; Suarez, *de Relig.*, tr. 6, l. 6, cc. 6, 7; Bouix, *de Iure Reg.*, v. 2, pp. 481-505; Ferraris, v. *Votum*, art. 3, n. 10 seqq.

Dominative power: It is the power of a master over his own things; and besides this, it is that power over persons which is similar to the aforesaid power over things; such as the power of a father over a son, who is something of the father, the power of a master over a slave, who is something of the master, and also the power of a regular prelate over his own religious, by force of religious profession, by which someone has consecrated and handed over himself wholly and totally to God in a religious Order. Therefore it is well distinguished from the power of ecclesiastical jurisdiction, and from the power of jurisdiction properly such, and from the power which is properly called economic. S. Th. 2. 2, q. 57, a. 4; C. He. 331. And by force of this power the same St. Thomas, 2. 2, q. 189, a. 5, grants that the vows of children can be annulled by parents.

601. What is indirect annulment? - If indeed not the will of the one vowing, but the matter of the vow is subject to someone, so that he has a right over it, that one can, by indirect annulment, suspend such a vow, at whatever time it was emitted, that is, suspend its obligation, insofar as prejudice is done to his right; and this from the law of nature teaching that no one can promise something to another to the prejudice of a third party. Hence the vow, when the state of things has changed, revives. But per accidens it can be extinguished, if the vow, for example, obliges for a certain time, and license is denied for that time, or the matter is prohibited. L. 241; S. Th. 2. 2, q. 88, a. 8.

602. Can a superior annul vows if these have been ratified by him, or after the time of subjection has passed? - R. To the first: affirmatively, because he cannot take away from himself the power which he has over subjects. But, on the contrary, one who once annulled a vow, if afterwards he does not wish this, the vow is not therefore revalidated. The reason is that through annulment the vow is extinguished. But that an extinguished vow may revive, the repentance of the superior who annulled it contributes nothing; rather the will of the subject is required, who would again oblige himself by vow. L. 239.

R. To the second: Vows made in the time of subjection can still be annulled after that time, for example, when a son is now pubescent, and this, says St. Alphonsus, n. 238, is the more probable opinion. Moreover, Sanchez hands down a double rule in this matter, *in Decal.*, l. 4, c. 30, nn. 7, 8. "The first is: When the power of the superior, during whose time the vow was emitted, is not altogether extinguished or altogether suspended, but remains as to some things, he can annul a vow emitted in the time of his subjection, even if that time has now passed; provided, after it has passed, it has not again been confirmed (understand confirmed, in such a way that he then knows the vows were infirm, as St. Alphonsus has, l. c.). The later rule is: When that power of the superior is altogether extinguished or altogether suspended, he cannot annul those vows."

603. Is some cause required for the annulment of vows? - To annul the vows of subjects without cause is of itself no sin, because they are judged to have been emitted under the condition of the superior's consent; whence obedience stands in place of cause. Of itself, because in practice it can with difficulty be excused from venial sin; for it would be an idle act, and the progress of another would be irrationally impeded. Nevertheless this commonly does not exceed venial sin. But any reasonable cause suffices for excusing from venial sin.

Suarez, *de Relig.*, tr. 6, l. 6, c. 7, n. 16, warns that for annulling a lesser cause suffices than for dispensing. Hence, from the opinion of all, he infers that a subject who asks annulment of a vow from his Prelate, when he does not have a cause which would suffice for a just dispensation, does not sin, because, as he says, he uses his right, because the vow was not absolute, but conditioned, and

through it he did not oblige himself to beware lest the condition be impeded, or not to take precautions that it not be posited, as is clear from the common manner of vowing. But he who feels the burdens of religion can, without sin, enjoy its advantages. Therefore, just as a Prelate does not sin by annulling, so neither does a subject by asking. L. 228; S. Th. 2. 2, q. 88, a. 8.

604. Who can annul the vows of religious? - The Pope indeed can directly annul all vows of religious; and the Bishop can annul the vows of nuns subject to him. Moreover, besides the Pope, abbots, guardians, priors, and rectors, even secondary Prelates in the absence of the primary ones, and probably also abbesses, can directly annul the vows of religious, whatever they are, even internal vows, even those emitted under predecessors. Yet exception is made, besides the very vows of religious profession, cf. Trent, sess. 25, c. 1, *de Reg.*, of the vow of passing to a stricter religion, as is established in C. *Licet* 18, *de Regul.* For from that profession arises the power of annulling. And because the accessory follows the principal, other vows annexed to profession are also excepted. The aforesaid vow not even the Pope can annul, insofar as he is supreme Prelate of the religious order, although not only the Pope, but also a regular Prelate, can dispense from it. C. *Monacho* 2, can. 20, q. 4; L. 233, 242; S. Th. 2. 2, q. 88, a. 8; Struggl 37, 38; cf. here 616.

Of religious; the matter concerns religious of solemn vows. Superiors can annul the vows of religious of simple vows only indirectly. For by force of a solemn vow a religious no longer has to will and not to will; by force of a simple vow a religious is bound only to obey a superior legitimately commanding in the matter of the Rule and Constitutions. Can annul; therefore the vows are valid in themselves before they are annulled. L. 231, 233; S. C. EE. et RR., 28 Jun. 1901, n. 132, *Normar.*; *Monit. Eccles.*, v. 16, pp. 367 seqq.

Nor is it valid to object against this that these Institutes are themselves also approved by the Holy See. They are indeed approved by the Holy See, but not as religious Institutes of solemn vows. They are approved only in an altogether inferior grade, namely as Institutes of simple vows, by which there is certainly not that perfect handing over of oneself and surrender of oneself, so that a religious is said to have neither to will nor not to will, as is expressly contained in C. *Religiosus* 2, *de Testam.*, and *ult. vol.* in 6, C. *Religiosi* ult., *de Sepult.* in 6, C. *Si Religiosus* 27, *de Elect. et elect. potest.* From this, moreover, it is that the solemn vow of obedience so subjects the will of the one vowing to the Prelate that without his consent it is ineffective for contracting any civil or natural obligation through contract or any other mode. But the simple vow of obedience does not have such an effect, neither by force of its natural obligation alone, nor by force of the approval of the Church. For by force of this vow the religious only "assumes the obligation of obeying the precept of a legitimate superior, in those things which pertain directly or indirectly to the life of the Institute, that is, to the observance of the vows and Constitutions." *Norm.* S. C. EE. et RR., 28 Jun. 1901, art. 132. Now the obligation alone of obeying the precept of a Prelate, according to the Constitutions of the Institute, is not of itself sufficient to annul any will whatever of obliging oneself to another in matter not contrary to them. Cf. Suarez, *de Relig.*, tr. 6, *de Voto*, l. 6, c. 7, n. 5; tr. 7, l. 13, nn. 4, 5; Congr. Gener. S. I. 1, Can. 22.

605. Note: A Prelate can licitly and validly annul the vow of a subject confirmed by an equal or inferior predecessor, but not by a superior. L. 239.

It is certain that the vows of religious are extinguished through solemn profession, as is had from C. *Scripturae* 4, *de Voto*: "He is not held guilty of a broken vow who is known to commute temporal

service into the perpetual observance of religion." L. 237; S. Th. 2. 2, q. 88, aa. 8, 12. The same vows of religious are suspended through profession of simple vows; and therefore they revive if someone returns to the secular state. As to novices, regular Prelates can indirectly annul the personal vows of a novice when the execution of these prejudices the exercises of probation. But they cannot annul their real vows, because these do not prejudice the exercises of probation. Struggl 42.

606. Can a father, grandfather, or tutor annul the vows of children? - A father, or paternal grandfather in his absence, can directly annul any vows whatever of those below puberty, whether personal or real, even vows of chastity and religion, although the son is capable of deceit and the vow concerns castrense peculium, or quasi-castrense peculium, because at such an age perfect deliberation for so great an obligation is lacking. Therefore nature has provided for such a defect by furnishing parents the faculty of annulling such vows. In doubt whether a vow was emitted before or after puberty, the father can still annul it, because his power prevails.

But parents cannot annul the personal vows of pubescent children, for example of chastity, etc., except indirectly, that is, unless they prejudice domestic governance, as vows of pilgrimage, etc. Likewise they can well indirectly annul the real vows of pubescents in minority, because in it they lack the administration of goods. Except if the vow concerns castrense peculium, or quasi-castrense peculium; or if the son has gone out from paternal power.

What has been said about the father and grandfather must also be said about a tutor with respect to a ward, and about a curator with respect to a minor; and if there are several tutors or curators, each has the same power. C. *Puella* 2, c. 20, q. 2; L. 229, 242; S. Th. 2. 2, q. 88, aa. 8, 9.

607. Can a mother or grandmother also annul the vows of children? - A mother can annul the vows of children, the father being lacking, if she has been designated tutor or curator, and she can do what tutors and curators can do. But if she was not designated as tutor or curator, and the son lacks father and paternal grandfather, Sanchez, Suarez, etc., think that then the son is his own master. But the opposite, namely that in that case it falls to the mother, or even grandmother, to be tutor or curator, is held more probably by the Salmanticenses, Tamburini, etc., because it is reasonable that a mother or grandmother provide for a minor, and therefore she can well annul his vows as tutor or curator.

But Sanchez, Suarez, etc., deny that a mother can annul the vows of children when the father or tutor is present, and they say that the mother, and in the absence of the mother, the grandfather or grandmother on the mother's side, can annul only the vows of those below puberty when the father or tutor is lacking. But not less probably, the Salmanticenses, Roncaglia, etc., assert that the mother, even when the father is present and not contradicting, or the tutor, can annul all the vows of those below puberty, even vows of chastity and religion, and also the personal vows of pubescents which prejudice the governance of the house; but not real vows, whose administration pertains to the father or curator. The reason is that such power, although not civilly (by common law namely it belongs only to the father of the family), nevertheless naturally is also in the mother, to whom children are bound to obey, although with subordination to the father; so that the father can annul the vows of children when the mother contradicts, but not thus the mother when the father contradicts. By more recent laws, indeed, paternal power is in the father and mother, although it is exercised by the father alone. Inst. 1, l. 1, t. 9; C. I. 220; C. G. 371-373; C. H. 154; C. A. 143, 144, 147; C. B. 1627, 1634; L. 230; C. He. 273, 274; S. Th. 2. 2, q. 88, aa. 8, 9; Struggl 39, 40.

608. Note: It is owed to positive law, namely Canon Law and Common Law, that religious are most fully subject to their superiors, C. *Monacho* 2, c. 20, q. 4, and that parents can directly annul only the vows of children below puberty, but indirectly the vows of pubescent children. C. *Puella* 2, c. 20, q. 2. For by natural law no one is so subject to another that he depends upon him in all his actions; and that distinction between those below puberty and pubescents, as to children of a family, comes only from the aforesaid Law. This distinction between those below puberty and pubescents is passed over in more recent laws. Hence not improbably parents can directly annul all vows of children as long as they remain under paternal power. C. I. 120; C. G. 372;

C. A. 174; C. H. 154; C. B. 1626; C. L. 311; C. He. 14. L. 227, 232; S. Th. 2. 2, q. 88, a. 8; D'Annib., ed. 4, p. 3, n. 206.

609. Can a husband annul the vows of his wife? - It is more probable that a husband can directly annul all vows of his wife, although they do not prejudice the use of marriage, or the education of offspring, or domestic governance. And the reason is both because the husband has dominion over the wife, and because it is very expedient for the peace of the family, for fostering mutual love, that the wife have her will totally dependent upon the husband, and thus the impulses of women be restrained. Therefore the husband can annul even vows of chastity and religion emitted by the wife, and to be executed after the death of the husband. But the husband cannot directly annul vows emitted by the wife before marriage, although he can well suspend their execution insofar as they prejudice his power. Num. 30:7, 9; Eph. 5:24; L. 234, 237; S. Th. 2. 2, q. 88, a. 8; C. A. 91.

610. Can a wife annul the vows of her husband? - A wife cannot annul the vows of her husband unless they prejudice her, as a vow of a long pilgrimage, etc.; or even a vow of not asking the debt, as Sporer, Laymann, etc., more probably hold against Lessius, Sanchez, etc., because it would be very grave for the modesty of a wife to be forced always to ask. The doctors commonly teach that such vows are to be annulled; but rather they seem to be invalid, as concerning inept matter, as the Salmanticenses think. L. 235, 242; S. Th. 2. 2, q. 88, a. 8.

611. Note: Spouses could also mutually annul a vow of continence emitted by mutual consent. This seems to follow from the power of the husband directly annulling the vows of the wife; from the power of the wife indirectly annulling the vows of the husband; and from the power of annulling vows even approved or ratified by oneself. St. Alphonsus, n. 236, denies this. Yet there is no lack of grave doctors who affirm it. S. Th. 2. 2, q. 88, a. 8 ad 3; Sanch., l. 4, c. 32, n. 7; Suarez, l. 4, c. 6, n. 1; Gur. Baller. 331.

612. Can a master annul the vows of servants? - A master can annul any real vows whatever of servants or slaves, unless they have something of their own, and personal vows which prejudice the master, such as vows of religion, etc., but not of chastity, etc. Yet these vows of slaves and servants cannot be directly annulled by masters, but only indirectly, or they can be suspended for the time of servitude and service, insofar as they prejudice the services due. L. 240, 242; S. Th. 2. 2, q. 88, a. 8.

613. Can a husband or Prelate directly annul the vows of a wife or religious concerning which it is doubted whether they were emitted before or after subjection? - The reason for doubting is that none of the aforesaid superiors can directly annul vows emitted before subjection, for example, before marriage, because the will of the one vowing was not then subject to him. Now St. Alphonsus, n. 237, denies. The reason is that the vows are certain, and the possession of the husband or Prelate is

uncertain, because it is doubted whether the vows were emitted at the time when subjection began. But Suarez, Sanchez, and others affirm. The reason is that on the contrary, possession of the present will of the subject is certain, since it is certain that she is a wife, or that this one is a religious; but the exception as to those vows is doubtful. Therefore, until the exception is proved, namely that the vows were emitted before subjection, the certain possession of the superior prevails. Just as, by parity, a spouse doubting about the value of the marriage is bound to render the debt to the other asking, on account of his certain possession, as is had from C. *Dominus, de Secund. nuptiis*.

614. What is dispensation of a vow? - Dispensation of a vow is: the remission of a vow made in the name of God himself, for a just cause, by one having spiritual jurisdiction in the external forum.

Remission, by which is not understood a release from the obligation of natural law, but an action by which the Church in the name of God withdraws the matter from the vow. This is clear by the example of one who remits a promise made to himself; for he does not dispense in the natural law of standing by promises, but rescinds the contract by remitting its obligation. Moreover, that this faculty is in the Church is clear both from fact, since she has always used it, and from law, since this is expedient for the good of the faithful, and those words of Christ are general: *Whatever you shall loose*, etc.; but that it is in the Church alone is clear from the fact that this act is spiritual; therefore it must belong to spiritual power alone.

Made in the name of God; for since the Church does not dispense in her own law, but in God's, she can act in this only in the name of God himself. Hence the distinction between dispensation and annulment is clear. Dispensation falls upon a vow insofar as it depends upon God's acceptance. But annulment falls upon a vow insofar as it is quasi-conditioned, either on the side of the will of the one vowing, or on the side of the thing promised, subject to the power of the superior and dependent upon it. Annulment can be made against the will of the one vowing, and the superior by prohibiting the matter, or by resisting the obligation of the vow, removes the condition, namely of honesty, without which a vow cannot be valid. Dispensation, on the contrary, cannot be made against the will of the one vowing, because, since in a vow the obligation depends upon one's own will, by not accepting the dispensation someone as it were confirms the vow, or emits it again.

For a just cause; because an inferior, since he is a mere executor, cannot dispense in the law of a superior without a just proportionate cause; and if he acts, he acts invalidly, and sins, unless good faith excuses him.

By one having, etc.; for since this power is for the utility of the Church, and pertains to external governance, just as the power of making laws, whose nature the vow imitates, those cannot have this faculty of dispensing from a vow as their own unless they are strong in external jurisdiction. Besides, since a Prelate does not dispense except in the name of God, only a Prelate can dispense who bears God's place in the Church, who indeed is he who has exterior jurisdiction in it. Add that an accepted promise cannot be released unless he who accepted, or his representative, consents. L. 250; S. Th. 2. 2, q. 88, aa. 10, 12.

615. Who can dispense from vows, and with whom? - 1. The Pope with respect to all the faithful and all vows, even solemn vows. 2. A Bishop with respect to his own subjects, even travelers, in all vows not reserved to the Pope; but not a parish priest, because he has only jurisdiction of the internal forum. Nor indeed is such a faculty communicated to him by law or by custom. 3. Exempt regular

Prelates with respect to their own religious and novices, as to vows which they made either in the world or even in the novitiate, except reserved vows. But non-exempt Prelates cannot dispense, nor abbesses, indeed not even penitentiaries nor vicars of the Bishop, unless the faculty is specially delegated to them. 4. By special privilege, all regular Confessors can dispense in non-reserved vows of the faithful, within or outside confession; nor indeed is it required that he be the ordinary Confessor of the one bound by vow. Other Confessors have no faculty in this matter unless it is communicated to them by the Pope or by the Bishop. 5. Legates *a latere* and Nuncios in the province committed to them have the same faculty; likewise a chapter, while the See is vacant, and abbots having episcopal jurisdiction. L. 256, 257, 262; S. Th. 4, d. 38, q. 1, a. 4, q. 1 ad 3; 2. 2, q. 88, aa. 9, 10, 11; Struggl 45, 46, 47; Diana, tr. 4, *de Voto et Iuramento*, r. 78; tr. 1, *de Dubiis Regularium*, rr. 274, 275.

616. Note: In the vows of religious their Prelates can dispense, even if the vows were emitted with their license; and even if it was a vow of passing to a stricter religion, if it is known to be more useful for the religious to remain in his own. A Bishop can dispense with his subjects in a vow of entering a stricter religion, the vow of religion as to substance being left intact, since in no law is such dispensation found to be reserved. Moreover, the faculty of dispensing can be delegated by the said Prelates even to a simple tonsured cleric. In the substantial vows of religion, or in those annexed to them, as in the vow of not eating meats, etc., which are usually emitted in some religions, no one can dispense except the Pontiff. Besides, in the vows of novices, if they are not reserved, dispensation can be made both by the Prelates of the religion and also by the proper Bishop. L. 257. Cf. here 604.

617. What are just causes of dispensation? - 1. The good of the Church, or the common good of the commonwealth, or of the family, or the progress of the one vowing. 2. Danger of transgression because of a particular indisposition of the one vowing, or because of the common frailty of men. 3. Great difficulty in execution, not only if it was not foreseen, but also if it was foreseen; both because then there is also danger of transgression, and because a thing is apprehended as much more difficult while execution is at hand than when it is deliberated; and even if such difficulty has arisen from the frailty of the one vowing. 4. If the one vowing is vexed by great scruples. 5.

If the vow was emitted immaturely, namely with too much ease, or from imperfect deliberation, or without perfect liberty. For this reason, in the vows of those below puberty, dispensation can be made absolutely without any commutation, without another cause. 6. If the vow was emitted because of light fear inflicted from without. C. *Ad audientiam* 4, *de His quae*, etc. 7. When imperfect deliberation or liberty in vowing proceeded from sadness, or from intrinsic fear of shipwreck, death, or another evil, because then vows are usually made immaturely, and therefore dispensation can be made in them without commutation. But if it were clear that mature deliberation was present, then some commutation should be mixed with the dispensation. Just as must also be done if the impulsive cause of the vow ceases. L. 250, 252, 253; Struggl 46, 47.

618. Can a superior dispense from vows made for the utility of a neighbor? - A vow, although gratuitous, if it was emitted for the utility of man alone, or principally for the utility of a third party, and that third party is determinate, for example, such a poor man, such a church, can in no way be dispensed, once it has been accepted by the poor man or by the rector of that church; for that poor man, that church acquires a true right, of which indeed it cannot be stripped without injury and without the consent of the party.

Although gratuitous; for much less could a mutual, onerous promise be dispensed, as happens in vows and oaths of perseverance which are made in some Congregations; for then they assume the nature of a contract, namely the Congregation obliges itself to sustain the subject, and he to serve, and Benedict XIV so declared in C. *Convocatis*, 25 Nov. 1749, § 32, which he confirmed by C. *Inter praeteritos*, 3 Dec. 1749, § 66. Yet the Supreme Pontiff can dispense from these vows of Religious Institutes. All religious vows, even simple and temporary, by present law and practice are reserved to the Holy See. Indeed even private vows of secular Congregations, or of persons not living in community and without habit, approved by the Holy See, are reserved to the same Holy See.

Or principally for the utility of a third party; for if it was emitted principally in honor of God, then the third party would not acquire a true right to the thing promised, except dependently on the will of God, which indeed can be relaxed. "Sporer, Viva, Fagundez, etc., say that it is sufficiently probable that such a vow can well be commuted by the authority of a Prelate or also by one's own authority even after acceptance." L. 255. But this which has been said concerning a vow must also be said concerning an oath principally emitted in honor of God, that it can be relaxed by the Bishop without the consent of the party.

If the third party is determinate; for a promise made to God alone of giving something, for example, to indeterminate poor persons, can always be dispensed and commuted. If it is accepted; for before acceptance a completed handing over is not had, and the very common opinion is that it can then be dispensed and commuted. L. 255, 276; Suarez, l. 6, c. 15, nn. 7, 8; Sanch., l. 4, c. 41, n. 15; cf. here 269.

619. What vows are reserved to the Pope? - By custom everywhere received and from Canon Law itself, besides the vows of religion and those annexed to them, are these five: 1. The vow of entering an approved religion. 2. The vow of perpetual and entire or total chastity. 3. The vow of pilgrimage to the sepulcher of the Lord in Jerusalem. 4. The vow of pilgrimage to the thresholds of the Apostles Peter and Paul. 5. The vow of pilgrimage to visit the relics of St. James of Compostela. Hence in a general concession of dispensing in all vows, those five vows are not comprehended, although they are not expressly excepted. The reason is that those things which are specially reserved require a special concession. R. 81, *de R. I.*, in 6; Struggl 48; L. 258.

620. Note: This reservation, as being odious, must always be interpreted strictly, and therefore reservation is not had: 1. If they are not perfect by reason of the vow, for example, if they are emitted under light obligation. 2. If they are not perfect by reason of affection toward the thing promised, for example, if you make a disjunctive vow, say of religion or fasting; or if you make a vow of chastity under a condition, even when the condition has been fulfilled, or a vow of going to Rome to visit the sepulcher of St. Aloysius Gonzaga, or of going to Palestine to serve pilgrims, the sick, etc. 3. If they are not perfect by reason of liberty, for example, if they are emitted from fear, even light fear inflicted by another. 4. If they are not perfect by reason of matter, for example, a vow of not marrying, or a vow of chastity as to external acts only and not also as to internal acts, of a non-approved religion, or of a religion in which solemn vows are not made.

But although vows are reserved, nevertheless their circumstances are not reserved, for example, of making a pilgrimage by begging, of entering religion immediately, etc. Struggl 49 seqq.; L. 258, 261; cf. here 616. Bishops, and those having similar jurisdiction, can rightly dispense in reserved vows in urgent necessity, for instance if access to the Pope is not easy, and in delay there is danger of grave

harm, either spiritual, as of violation of the vow, scandal, quarrels, or temporal, one's own or another's, namely grave infamy of a woman and similar things. The aforesaid faculty, which is probably granted to Bishops and to others to whom the power of dispensing in reserved vows has been communicated by them when necessity is urgent, is not granted to Confessors in the Jubilee who have from the Pope the faculty of dispensing in simple vows. But Mendicants have it. Moreover the aforesaid dispensation is not to be granted except insofar as necessity obliges; hence, if it is enough that the vow be suspended, it cannot be dispensed. Struggl 56; L. 258, l. 6, n. 987; Diana, tr. 1, *de Dubiis Regular.*, r. 277.

A Bishop can dispense a spouse from a vow of perpetual chastity, emitted both before and after marriage, in order to asking the debt; because he can dispense from every impediment impeding the exercise of the conjugal act. Mendicant Confessors can do the same, and indeed both within and outside confession. L. 258, l. 6, nn. 986, 987. Although the faculty of dispensing from an oath is usually equated with, indeed associated with, the faculty of dispensing from a vow, nevertheless an oath of chastity, religion, etc., is not reserved. L. 259. Cf. 569.

621. What is commutation of a vow? - Commutation of a vow is: the substitution of one matter in the place of that which was promised by vow, made under the same obligation of the vow. But it can happen in a threefold way, namely into something better, into something equal, into something less. This faculty of commuting, however, like the faculty of dispensing, is understood without prejudice to a third party. For God does not hold ratified a dispensation or commutation unjust and injurious to another.

622. Who can commute vows? - He who has the power of dispensing in vows also has the power of commuting, because commutation is part of dispensation. R. 80, *de R. I.*, in 6. Besides, according to R. 53, *de R. I.*, in 6, "to whom what is greater is permitted, surely what is lesser is permitted," namely in the same genus. Yet he cannot dispense who has only the faculty of commuting, because the lesser does not contain what is greater. C. *De peregrinationibus* 1, C. *Venientis* 2, C. *Magnae devotionis* 7, *de Vot.*; Struggl 57; L. 246.

623. Can someone commute his own vow? - Anyone can by private authority, and without a special cause, commute his vow into a work evidently better, provided the Church has not prohibited this in the particular case; because while someone performs a work more perfect than the thing promised, by that very fact he observes what he had promised, since the perfect is eminently included in the more perfect. This is also clear from C. *Pervenit* 3, *de Iureiurando*. But that is judged better which conduces to the greater spiritual utility of the one vowing and to greater service of God.

Except, however, vows reserved to the Pope, unless the change is made into the religious state, as is established in C. *Scripturae* 4, *de Voto*. Except also unless the vow was made in favor of a third party, and the promise was accepted by him, because that commutation, which would be made with injury to another, cannot be pleasing to God. Except likewise penal vows, which are called preservative from sin, unless the future commutation is judged to be of such a sort that it restrains no less from committing sin than the prior matter of the vow. Pius IX, Encyclical Letter *Gravibus Ecclesiae*, 24 Dec. 1874, for the Jubilee of 1875.

Into a work evidently better. For he who emitted a vow cannot commute it by his own authority into a lesser good; for he must give to God whatever he promised. But whether he can change his vow

into an equal good is controverted. The first opinion, more probable, denies from St. Thomas, "because commutation is a certain contract, which cannot be perfected without the consent of him who bears the place of God on earth, namely the Prelate." In 4 D. 38, q. 1, a. 4, q. 1. Then, because, the promise being supposed, it is judged to be more pleasing to God that the one vowing be faithful to him by performing rather the promised thing than another equal thing. Thus Sanchez, Cajetan, Covarruvias, Soto, etc. The second opinion, which Elbel, Tamburini, Sa, Bonacina, etc., hold, affirms. The reason is that God is presumed to accept a work equal as to substance, on account of divine benignity, at least so that the offering may be performed more cheerfully to him. Struggl 58; L. 243, 244, 536.

624. Can a priest delegated merely to commute vows commute them into a notably lesser work? - R. Negatively. The reason is that otherwise he would dispense in great part, and thus would exceed the faculty received. Yet the faculty of commuting vows is not to be interpreted so strictly that it is restricted to a work altogether equal; but it is to be taken in a broader sense, so that it sometimes extends itself to a lesser work. Otherwise it would be exposed to innumerable difficulties and scruples, since it is most difficult to find equality in things altogether disparate. Besides, commutation almost always must be made for the alleviation of him who has bound himself by vow. L. 247.

Merely to commute; but a faculty given of commuting vows by dispensing is not a faculty of dispensing absolutely, but is a faculty of commuting even into something less, and therefore of dispensing only in part. Otherwise it would be either a faculty simply of dispensing, or simply of commuting.

625. Is some cause required for commuting a vow into an equal or lesser work? - R. Affirmatively as to liceity, because otherwise a Prelate would use prodigally the power of commuting; and probably also as to validity, because the Prelate has a delegated faculty in this matter; for a delegate cannot validly dispense without a just cause. But commutation is a certain dispensation. Yet St. Alphonsus, n. 245, says that the opposite opinion is probable. The reason is that since there is no greater obligation toward men than that of supplying, so much more does this hold with God, with whom dealings are milder, or who deals more mildly with us.

626. Note: For commutation of a vow a lesser cause is required than for dispensation, because dispensation plainly frees from the obligation of a vow, while commutation substitutes another; and again a lesser cause is required for commuting into something equal than into something less. For the greater inclination of the person, or the lesser danger of transgressing the vow, suffices. L. 244.

627. After commutation has been made, is it licit to return to the first work? - R. Affirmatively, if the commutation was made into something less or equal, because the first work is equally pleasing to God, indeed it seems even more pleasing; and, more probably, even if it was made into something better, because commutation is made in favor of the one vowing. L. 248.

628. You will resolve: Although the one vowing has returned to the first work, nevertheless he can again return to the second substituted work. If commutation has been made several times into diverse works, the one vowing can choose whichever of them he prefers. L. 248.

629. Must you return to the first work if the second becomes impossible? - R. Negatively, if the change was made by the authority of another, even if it became impossible by your fault, because the

prior obligation has been dissolved through the commutation itself.

R. Affirmatively, if you made the commutation according to your own judgment, because then the prior obligation is not dissolved, but is only supposed to be supplied by an equal or better one. L. 249; Gur. 335. But D'Annibale denies this, ed. 4, p. 3, nn. 201, 209, since by God's acceptance the prior obligation has been extinguished.

630. When a reserved vow has been commuted, does the substituted matter also remain reserved? - R. Negatively; thus commonly and more probably. The reason is that although the substituted matter has the same bond of the vow, nevertheless since it is by no means reserved in itself, it by no means draws with itself the reservation, which is attached only to the first matter. L. 260.

631. Does one having the faculty of commuting vows for others have it also for himself? - R. Affirmatively, as Sanchez, Bonacina, etc., commonly teach concerning the faculty of dispensing. L. 249, 256.

V. On Adjuration

632. What is adjuration? - Adjuration is: an appeal made through God, the Saints, or a sacred thing, to induce an intellectual nature to do or omit something. An appeal, that is, an invocation of the name of God, etc. Through God, etc., indicates the motive, for love, reverence, or fear of which the one adjuring intends to induce another to do or omit something. Made to induce: superiors indeed by entreating, inferiors by commanding. Yet no obligation is induced by force of the adjuration, but the obligation is only by force of command, which receives greater force from adjuration. An intellectual nature, namely God, Angels, men, demons. "Yet we use adjuration in one way toward man and in another way toward God. For by adjuring man we intend to change his will through reverence for the sacred thing; which indeed we do not intend concerning God, whose will is immutable. But that we obtain something from God through his eternal will is not from our merits, but from his goodness." S. Th. 2. 2, q. 90, a. 1. And thus God can be adjured through himself and through his attributes. Therefore irrational creatures are not properly and directly adjured, but only indirectly, namely by adjuring God or the Saints that their use may help us, or demons that through them they may cease to harm. 1 Thess. 5:27; L. 1, 2, 3; Bouquillon, *de Virt. relig.*, l. 2, p. 4.

633. Of how many kinds is adjuration? - One adjuration is solemn or private, according as it is made by ministers of the Church and in the manner determined by her, or is destitute of solemnities; another is deprecative or imperative, according as it is made through prayers or through command. L. 1, 3; Struggl 37 seqq.

634. What things are required for the liceity of adjuration? - That adjuration be licit, three things are required, as in an oath, namely: 1. Truth, that is, that the one adjuring truly intend to attain what he asks, and that the cause for which he asks be true. But lack of this truth will rarely be more than venial, since God is not in reality invoked as witness of the false. Hence a beggar who pretends that he is poor and asks through Jesus Christ sins against religion; nevertheless his sin is venial. 2. Justice, from the lack of which one asking for a gravely evil thing certainly sins gravely. But if someone asks for a lightly evil thing, some hold that it is mortal, others venial. Yet if someone deliberately adjured God himself or the Saints to furnish him help for a thing even lightly illicit, he would sin mortally, because such adjuration would be directly against the holiness of God. 3.

Judgment, that is, due discretion; and therefore both that a sufficient cause of adjuring be present, and that due submission and resignation to the divine will be present. Lack of this judgment certainly is only venial. L. 2.

635. Is adjuration against demons licit? - Private adjuration against demons is indeed licit to all. But solemn adjuration through exorcisms belongs only to ministers duly ordained in the Church, namely exorcists; for it is an act of order. But in the present discipline of the Church, at least from introduced custom, it cannot be done except with the express license of the Bishop, without which it is prohibited under grave obligation. Cf. C. Benedict XIV, *Magno cum animi*, 2 Jun. 1751, § 34; and the Exorcisms published by order of Leo XIII, to which indulgences are attached even for private recitation. S. C. de Pr. F., 18 May 1890.

Adjuration against demons must not be made in a deprecative mode, but only in an imperative mode. For the former mode of adjuring seems to pertain to a certain benevolence or friendship, which it is not licit to use with demons. The latter mode is licit, because although the acts of demons are not subject to our disposition, nevertheless they are subject to the divine disposition and to that of the holy angels. Therefore by adjuring demons through the power of the divine name we can command them and compel them not to harm us spiritually or corporally. Such adjuration of a demon can in no way be made so that he furnish help, because this would pertain to having some fellowship with them, unless perhaps from a special impulse or divine revelation adjuration were made to obtain something through them. But it must be made only to remove harms and the vexation of one possessed. The reason is that power has not been given to us by God for invoking demons, but only for putting them to flight, as the most hostile enemies of God and of souls. Luke 9:1; 10:19; Mark 16:17; Roman Ritual, *de Exorc. obsess.* Exorcisms always obtain some effect, at least by weakening the powers of demons for harming, although they do not always have the infallible effect of expelling them, as is clear from experience and is plain from Matt. 17:18, 19. Struggl 42, 43; L. 4, 5; S. Th. 2. 2, q. 90, a. 2.

The print's appendix has more on this paragraph: [Addenda] (/manuals/bucceroni/addenda). (ed.)

636. Does he sin who mixes conversations with a demon? - The doctors commonly say that he who had many useless conversations with a possessing demon cannot be excused from grave sin. Pallavicini affirms that to ask from a demon one or another curious thing is mortal; but St. Alphonsus more probably says that it is venial, if the adjuration is truly made in an imperative mode. At least it is venial, because this would pertain to vanity and curiosity. But it is licit for exorcists to interrogate a demon about all things which conduce to his expulsion, for example, about the number and names of those who dwell in the possessed person, so that the adjuration may be directed to them, from what time and for what cause, so that it may be removed, about the sign of departure, etc. L. 5.

637. Is it licit to ask imperatively from a demon the manifestation of some truth? - R. Negatively, because ministers do not seem to have any power except only of interrogating about those things which contribute to expelling him. And this besides seems to pertain to a certain fellowship with the demon. S. Th. 2. 2, q. 90, a. 2 ad 3. But it would be licit if this conduced to divine glory. S. Th. 2. 2, q. 95, a. 4 ad 1; L. 5.

VI. On the Praise of God

638. What is the praise of God? - The praise of God is speech by which we profess the excellence and beneficence of God with honor. This speech is not made so that we may manifest our affections to God, the beholder of hearts. Rather it is made so that our affection toward God may be aroused from his praise, and may be drawn back from those things which are against God. It is also made so that the affection of others may be stirred toward God, and that we may move others hearing us to the praise and reverence of God.

This praise is usually made in two ways: 1. by simple speech; 2. by chant and music. Chant must not be theatrical for ostentation or delight, but pious for devotion. And the same must be said of music. Nor indeed is the mind withdrawn by chant from consideration of those things which are sung. But if someone sings for devotion and not for the delight of the chant, he considers more attentively what is said, both because he dwells longer upon the same things, and because all the affections of our spirit, according to their sweet diversity, have their own modes in voice and chant, by whose hidden familiarity they are aroused. And the same reason also holds concerning hearers, in whom, even if some do not understand what is sung, nevertheless they understand on account of what it is sung, namely for the praise of God; and this suffices for arousing devotion. S. Th. 2. 2, q. 91.

Sacred music: From the decree of S. R. C., 8 Jan. 1904, in sacred music the Instruction concerning it must be observed in the Motu Proprio of Pius X, 22 Nov. 1903, by which Gregorian chant is to be restored in sacred solemnities. The aforesaid Instruction is to be received by all churches and most holily observed. And specifically in the City the ancient Roman or Gregorian chant is to be restored. Letter of Pius X to the Cardinal Vicar, 8 Dec. 1903. Classical polyphony is also to be restored. The more recent kind of music is also received in churches, provided it does not savor of anything profane. But in sacred liturgies it is prohibited to sing anything in the vernacular language. Music joined to the organ is permitted. Sometimes, within certain limits, other musical instruments can be admitted, always however by special license of the Bishop. S. R. C., 15 Apr. 1905. In sacred music musical instruments, oboes and clarinets, can be tolerated, provided this is done moderately, and license for any work whatever has been obtained from the Ordinary. S. R. C., 13 Nov. 1908.

Although the Ceremonial of Bishops never supposes that the organ is joined with voices in Gregorian chant, it has been declared that the present use of aiding chant with organs is licit, excepting only those parts of Offices and Masses which, according to the liturgical laws now in force, must be sung entirely without accompanying organs. Indeed, in case of necessity, this is licit also in Offices and Masses in which the sound of the organ is prohibited, except the single triduum of greater week after and before the Angelic hymn of the respective Mass. S. R. C., 11 May 1911. Cf. Letter of the Most Eminent Cardinal Vicar, 14 Feb. 1912, M. E., v. 25, pp. 167 seqq.

Chant: Gregorian chant is prescribed in churches. Music is admitted according to the path of the Motu Proprio of Pius X on this matter. Songs of any kind in the vernacular language are prohibited in solemn Mass and in all solemn liturgical offices. S. R. C., 31 Mar. 1909, ad 7, 8.

Women and girls are prohibited from singing inside or outside the ambit of the choir in solemn Masses. Yet it is permitted to allow girls and women, sitting in benches separated from men, to sing the invariable parts of the Mass in Gregorian chant; and outside liturgical functions to sing hymns or vernacular canticles, provided that among the Christian faithful men and boys, as far as can be done,

contribute their part in celebrating the divine praises, women and girls however not being excluded in their absence; and where choral office is had, the exclusive chant of women, especially in Cathedral churches, is not admitted, unless from a grave cause to be recognized by the Ordinary, and care always being taken that every disorder be avoided. S. R. C., 17 Jan. 1908; 18 Dec. 1908.

To sing in the churches of non-Catholics, at the time of sacred functions, is illicit. Nor are heretics to be admitted to singing in sacred functions in Catholic churches. Cf. 372. The use of the gramophone for strictly liturgical Gregorian chant is prohibited. S. R. C., 11 Feb. 1910.

Printing: From the more recent Decrees these things are to be observed as to the printing of liturgical books containing Gregorian chant: They cannot be printed without permission of the Holy See and without the approval of the Ordinary, by which it is declared that they agree with those which have been printed at Rome. S. R. C., 11 Aug. 1905. In the printing of these books containing liturgical chant and music, the several Decrees published in this matter concerning the mode of the aforesaid chant by S. R. C., 11, 14 Aug. 1905, and 14 Feb. 1906, are to be observed. They must be conformed to the authentic and typical Vatican edition of Gregorian chant, approved by the same Sacred Congregation; nor can they be otherwise permitted by Ordinaries. Motu Proprio of Pius X, 25 Apr. 1904; 14 Aug. 1905. The Vatican edition, as to Gregorian music and chant, is to be substituted for other editions used up to now. Proper Offices also are to be reformed and rendered conformable to the typical Vatican edition as to Gregorian melodies. S. R. C., 7 Aug. 1907; 8 Apr. 1908.

It cannot be impeded that, after due remuneration of the possessor, others publish some proper chant furnished with its own text of words. They pass into the power of the Holy See; nevertheless the customary rights remain firm for possessors. After ten years have elapsed, they become of public right, always saving the dominion of the Apostolic See. S. R. C., 24 Mar. 1909. Proper Offices which exhibit Gregorian chant need for the first edition, after the testimony of revisers, the approval of S. R. C.; therefore each sheet in triple copy is to be sent to it, permission of the Ordinary of the place or of the supreme Moderator of the Order, for whose use the edition is prepared, having first been had. For other editions, provided they are conformable with the first typical one, the approval of the Ordinary of the Diocese or of the supreme Moderator of the order for whose use the edition is prepared is required and suffices, and besides this the license of the Ordinary of the place in which the edition is produced and published. S. R. C., 27 Nov. 1908; 24 Feb. 1911. As to proper Offices for the Gradual or Antiphonal of the Roman Vatican edition, the approval of the Ordinary of that place where the edition is prepared and published is required and suffices. S. R. C., 24 Feb. 1911. The approval of the first edition from S. R. C. and the approval of the Ordinary of the diocese or Moderator of the Institute must be obtained in writing, as also the license of the Ordinary of the place, as above, and must be published at the beginning or end of the Proper. S. R. C., 24 Feb. 1911.

The last Decree on this matter is of 17 May 1911, and is the following: Editions of Books concerning the Sacred Liturgy, whether they contain Rites and Prayers to be performed in Sacred Functions, or prescribe the Sacred Ceremonies accompanying the aforesaid Rites and Prayers, or present the Decrees of this Sacred Congregation collected into one, are either Typical or according to the Typical editions. Only the Pontifical Vatican Polyglot Press, or other Pontifical Printers who have obtained permission from S. R. C., can print Typical Editions. Each sheet of the typical edition will be submitted to the revision of S. R. C., which will ask the judgment either of the Liturgical Commission or of the Commission on Sacred Music and Chant, according to suitability. Any typical

edition will bear a Decree of approval declaring such an edition to be typical, and at the same time prescribing to all publishers that they conform future editions altogether to the aforesaid typical edition. Publishers, when some typical edition has been completed, will hand over two copies to this S. R. C., to be preserved in the Archive of the same Sacred Congregation with the greatest care and zeal.

Any Printer, with the consent and approval of the respective Ordinary added, can print editions according to the typical ones, namely editions which correspond exactly to the aforesaid typical editions. The most Reverend Ordinaries of places, after appointing a reviser diligent and expert in liturgical matters, who is to see whether the aforesaid editions agree plainly with the typical ones, are to declare such agreement and affix the imprimatur. As to editions of Masses or Offices Proper to some Diocese, of which no typical edition exists, if they are to be printed in the Diocese itself, the most Reverend Ordinaries of places are to declare their agreement with the originals and affix the imprimatur. But as to editions either of another Diocese, or of Regular Orders or Congregations, the most Reverend Ordinaries of places, to whose jurisdiction the Printers are subject, are to affix the imprimatur, after either the Ordinary of the Diocese, or the Superior of the Order or Congregation, to whom the aforesaid offices or propers pertain, has sent to them the Rescript, which likewise must be published, concerning the agreement of these editions with the originals approved by S. R. C.

Among Books concerning the Sacred Liturgy, for the effect of the present Decree, the following are chiefly to be counted: the Roman Breviary, Missal, Ritual, and Pontifical, and excerpts from them; the Roman Martyrology; the Ceremonial of Bishops; Propers both of Offices and of Masses of some Diocese, Order, or Religious Congregation; the Memorial of Rites of Benedict XIII for lesser Churches; the Clementine Instruction for exposition of the Most Holy Sacrament; the Collection of Decrees of S. R. C.

On the Third Precept of the Decalogue

I. On the Precept of Hearing Mass

639. What is the third precept of the Decalogue? - The third precept of the Decalogue is: *Remember that you sanctify the sabbath day ... you shall not do any work in it*. Ex. 20:8, 10. Two things are contained in this precept: that man be free on the sabbath for divine things, and that he cease from every servile work. This precept is natural insofar as it commands that some time be dedicated to public divine worship; but insofar as in the Old Law it designates the sabbath, in the New Law Sunday by the determination of the Church, and other feast days, it is positive. S. Th. 2. 2, q. 122, a. 4 ad 4.

This precept, as determined by the Church, insofar as it is negative, chiefly prohibits servile works on a feast day. But insofar as it is affirmative, it commands under grave obligation to be present at Mass on Sundays and other feast days. And this is clear: 1. from various places of Canon Law, especially from C. *Missas* 64, *de Consecr.*, D. 1, likewise from C. *Omnes* 63, *de Consecr.*, D. 1; 2. from all Catechisms, by which the indubitable precept of hearing Mass on these days is declared; 3. from proposition 52 condemned by Innocent XI. But each, both to be present at Mass and to cease from servile works, is more truly from the precept of the Church; for this third precept of the Decalogue as to the sabbath day was ceremonial; and otherwise the Church could not dispense in these things, at least as to Sundays. S. Th. l. c. Besides this, however, it commands nothing else under grave obligation, or even under light obligation per se. The reason is that in fact nothing else is found prescribed in Law, or legitimately introduced by custom.

Hence it is clear: 1. That in reality there is no obligation from the force of this precept, insofar as it is natural or insofar as it is ecclesiastical, under grave or under light obligation, per se, of assisting at the evening office on Sundays and feast days, or of hearing a sermon. From the force of this precept; for perhaps someone could sin against other virtues and obligations of his state by omitting a sermon, catechesis, and other works of piety. 2. That he who hears a single Mass on the day of the Nativity of Jesus Christ satisfies this precept. 3. That there is no obligation of hearing Mass on Ash Wednesday, Thursday, Friday, and Saturday of greater week, nor on the days of Rogation, and on the day of all the faithful departed.

But this precept obliges all the baptized who have the use of reason, even priests not celebrating, but not infants before the completed seventh year, or catechumens. The first reason is because it is universal. The second reason is because then they are not yet regularly capable of observing it in a human manner. The third reason is because they are not subject to the Church.

Finally the obligation of a feast day begins from one midnight to another. For such is the present use of the Roman Church. Roman Catechism, n. 1 seqq.; L. 263-271, 308; S. Th. 2. 2, q. 122, a. 4; Struggl 12-14; Ithur., Cas. 20, nn. 1-4; E. M.

640. What is required for hearing Mass rightly? - For hearing Mass rightly it is required: 1. that the whole Mass be heard; 2. that it be heard in a due place; 3. with the body present; 4. with the mind attentive.

641. What sort is the obligation of hearing the whole Mass? - Mass must be heard entire under grave obligation; and consequently freely to omit a notable part of it is a mortal sin. This is proved: 1. from C. *Missas, de Consecrat.*, D. 1; 2. from the common consent of theologians; 3. because in a thing of great moment and gravely prescribed, freely to omit a notable part is a grave sin. Now a notable part is a part pertaining to the essence of the sacrifice; half or even a third part of the whole Mass, pertaining to integrity, and it can even be a smaller part if the dignity of the omitted part compensates for duration. But there is no obligation of hearing Mass only in one's own rite. S. C. de P. F., 11 Dec. 1838; E. M. 642.

642. You will resolve: It is grave to omit together the consecration and Communion, because then the essential nature of the sacrifice is lacking; indeed even the consecration alone, because it is the most worthy part, in which at least chiefly it consists. Indeed, more probably, it is grave not to be present at even one consecration only, because the essence of the sacrifice more probably consists in both consecrations. L., H. A. 33: "Yet others, such as Lugo, Tamburini, Diana, Escobar, excuse from grave sin, even if the whole consecration is omitted, since it is not sufficiently established whether the essence of the sacrifice is truly in the consumption or consecration; and Elbel with Suarez, etc., think it probable, and Sporer, etc., strongly adhere... This opinion does not seem improbable." L. 110.

But whether to pass over only Communion is grave is controverted. The affirmative opinion is more probable to St. Alphonsus, who thinks that the essence of the sacrifice also consists in Communion. Yet the more common opinion places it essentially in the consecration alone. But Communion pertains to the integrity and fullness of the sacrifice.

Hence he does indeed satisfy the precept who successively hears two halves of Mass from different priests, if the consecration and Communion are found in the same part of the Mass, because then the integral nature of the sacrifice is had in the same part, although he hears them in reversed order, or with some interval of time interposed, but not beyond an hour, L. 311. But he by no means satisfies if the consecration and Communion are not in the same part, because he does not assist at a sacrifice substantially integral. L., H. A. 34. Successively; for if simultaneously, he does not satisfy, prop. 63 condemned by Innocent XI.

From this it also follows that he who arrives after the consecration is at least probably not bound to hear the rest, because the essence of the sacrifice is now lacking, and therefore the obligation of assisting at it ceases, since the precept cannot be fulfilled through this. Yet the opposite opinion also rests on a grave foundation, because assistance can be had at a notable part of the ceremony prescribed by the Church. After the consecration; for if he came before, "it must altogether be affirmed that he is bound, with Sanchez, the Salmanticenses, Lugo, Suarez, and the common opinion." And indeed then both a part altogether notable and the whole essence of the sacrifice are had. L. 310.

It is grave to omit all things up to the offertory inclusively, or all things before the gospel, and at the same time all things after Communion, because this is a notable part as to integrity. Likewise the omission of the canon from the Preface exclusively to the consecration, and from the consecration exclusively to the *Pater* exclusively, must be held grave, because it is a notable part by duration and dignity at the same time.

On the contrary, it is certainly light to omit all things up to the epistle exclusively, and more probably even inclusively; indeed probably even, according to St. Liguori, n. 310, up to the Gospel inclusively. Suarez, *de Euch.*, d. 89, s. 3. Likewise it is light to omit all things which follow Communion; indeed to omit all things after Communion and all things before the epistle. The reason is that they do not constitute a notable part by reason of integrity, if attention is given: 1. that the Gospel of St. John at the end probably is not part of the Mass, because before it the people are already dismissed through the blessing; 2. that one account is had of the Mass of the catechumens, another of the Mass of the faithful, which extends from the offertory to the consumption.

But to omit all things up to the epistle inclusively, and all things after the consumption, "Bauny and Llamas also excuse; but Palaus, Suarez, etc., more commonly cited by Croix, contradict." L. 310. As to the Creed, since it is not a regular part, St. Alphonsus, n. 310, judges with others that no account is to be had of it. As to the offertory, its omission is reputed light, and the same is thought about the Preface, for neither pertains to the essence of the sacrifice, nor is either a notable part by reason of integrity or dignity. L. 310; E. M.

643. Note: Whether he who omits a light part of Mass is bound to supply it if he can: some affirm, because he is bound to hear Mass entire. But others probably deny, "because the precept has already been fulfilled substantially... and that manner of supplying it is very imperfect, and not much conducing to the integrity of the Mass... and because moral things are not to be weighed so rigorously, especially when they are lighter." Suarez, *de Euch.*, d. 88, s. 2; L. 310.

644. What sort is the due place? - It suffices for satisfying the obligation of hearing Mass to hear it in some public church, in a public oratory, or in a semi-public oratory; nor is there an obligation to hear it in the parish church. But he does not satisfy the precept who hears Mass in a private oratory, a special privilege being excluded.

The first part is proved: 1. from regular privileges granted even after Trent. This is clear especially from C. of St. Pius V, *Etsi mendicantium*, a. 1567; 2. from legitimately prescribed custom; 3. from the very common and certain opinion of the doctors, and especially from Benedict XIV, *de Syn.*, l. 11, c. 14, where he asserts that Decrees of Councils and Supreme Pontiffs establishing the obligation have been derogated by contrary universal custom, which constitutes a certain common law, against which Bishops cannot rise up either licitly or validly. Struggl 39; L. 320 seqq.

Private oratories are chapels erected in a private house from privilege granted by the Supreme Pontiff, so that divine mysteries may be performed there for the convenience of some private person or family. S. R. C., 23 Jan. 1899. Those oratories are not judged private, but are to be held public, which are legitimately erected in seminaries, monasteries, or houses of religious men or nuns, or of other communities, as in conservatories, prisons, hospitals, and also in the houses of Bishops and Cardinals. For these houses are not private. But because access is not freely open to all the Christian faithful in oratories of this sort, they are more properly called semi-public.

Sometimes, moreover, an oratory in the houses of private persons can simply be held as public. But for this it is required: 1. That entrance open onto a public road. 2. That it be subject to no servitude disapproved by Canon Law, and that access cannot be forbidden to anyone by the owner. 3. That it be dedicated in perpetuity to divine worship. 4. That revenues sufficient for divine offices be established.

Cf. nn. 262, 273; L. 319, l. 6, n. 357; Benedict XIV, *de Sacrif. missae*, l. 3, c. 6, n. 6; S. R. C., 2 Jul. 1661, n. 1196.

A fixed chapel on ships is public for those sailing and for others, and therefore all who assist at Mass in the said chapel, even when the ship is in port, satisfy the precept. S. R. C., 4 Mar. 1901; 10 May 1901.

The second part is proved. From the very Briefs of concession it is had that those who are present at Masses in private oratories do not satisfy the precept, unless they are the owners; or their relatives, namely consanguineous and affinal relatives up to the fourth degree, who dwell in the same house and live at their expense, as St. Alphonsus, n. 318, wishes, or as Gatticus, n. 11, notes, although they do not constitute one family; or unless they are their noble guests, and also those who are invited to dinner by the privileged person; or unless they are domestics, namely those who are occupied in the service of the owner and live at his expense, and are domestics actually necessary for furnishing services, namely whose presence in the oratory at the time of Mass is necessary, although these dwell outside the house. They are present, and therefore the celebrating priest and the minister serving satisfy the precept.

But for these it is required that someone be actually present from those to whom the indult was principally granted. The indult, moreover, is understood to have been principally granted only to those to whom the Brief is directed, namely those persons who are named by their own name on the back of the same Brief, or who are named at the beginning of the Brief if the Brief is directed to the Ordinary of the place. But, from the Norms of S. C. de Sacram., a simple concession of an Oratory imports, besides one Mass and the determination of the place, satisfaction of the festal precept for the indultaries alone, with the twelve more solemn days excluded, and for France four.

The more solemn days from the Ceremonial, l. 2, c. 34, § 2, are: the feasts of the Nativity of the Lord, Epiphany, Thursday in the Supper of the Lord, the feasts of Easter, Ascension, Pentecost, Annunciation, Assumption, the Blessed Apostles Peter and Paul, All Saints, the Saint Titular of the Church and Patron, and the Dedication of the Cathedral Church. S. R. C., 10 Apr. 1896. Therefore the rescript must be attended to, because several extensions can be made. And if the concession is had for the day of the Nativity, three Masses can be celebrated. S. R. C., 20 Jan. 1725. And indeed on these feast days, if they are of precept, with Thursday of Greater Week excepted, it is altogether forbidden to celebrate in oratories of this sort. Yet if the festivity is transferred to the following Sunday, celebration on the proper day is not prohibited. S. R. C., 6 Mar. 1896, n. 3890. No day is excepted when the oratory is conceded by the Pontiff because of illness. Cf. 260 bis, 262, 273; L. 318, l. 6, nn. 357, 359; La-Croix, l. 3, p. 1, n. 626 seqq.; Gattic., *de Orat. priv.*, c. 25, nn. 23, 24; E. M.

After the Motu Proprio of Pius X, *Supremi disciplinae*, 2 Jul. 1911, by which feast days were diminished, and also the Decree of S. R. C., *Urbis et Orbis*, 24 Jul. 1911, after the Motu Proprio had been promulgated, from the Decree of S. C. de Sacram., 5 Apr. 1913, Mass in private Oratories is not prohibited on the feast days of the solemn Commemoration of St. Joseph, the Annunciation of the Blessed Virgin Mary, the solemn Commemoration of the Most Holy Body of Our Lord Jesus Christ, and on the feast of the Patron of each place. Nor is it prohibited on the feast of the Most Holy Trinity, on the Sunday within the Octave of Corpus Christi, and on the Sunday on which the Nativity of St. John the Baptist is celebrated.

In private oratories in which Mass is celebrated, the Eucharist can also be distributed to communicants. Public oratories are to be consecrated or solemnly blessed. Private oratories are blessed only with the formula which is contained in the Ritual for a new house or place. S. R. C., 5 Jun. 1899, n. 4025. Private oratories, although blessed, are not judged to be polluted, and therefore do not need reconciliation. For obtaining the concession of a private Oratory, the Norms published concerning it by S. C. de Sacram., 7 Feb. 1909, are to be attended to. In Norms of this sort various extensions of the concession are had, as to those who can enjoy the Indult, as to the absence of the Indultaries, as to the number of Masses, as to days, and as to place.

645. What is the presence required? - For satisfying this precept moral presence of the body is required. This is proved: 1. from the common opinion of theologians; 2. because, without at least moral presence, the faithful are not judged, according to moral estimation, to assist the sacrificing priest and to hear Mass. Moral presence of the body is had when someone exists within the church, or outside it, yet in such a way that he can be said to be one of the number of those assisting and offering the sacrifice. And this is verified if he can follow the Mass as to its parts by hearing or seeing the principal parts, or by attending to the signs of others assisting, provided however that a great distance of place does not intervene between himself and the others assisting, if he is outside the church. L. 312.

646. You will resolve: He validly assists at Mass who, although he does not see the priest, nor hear the words, distinguishes the parts of the Mass by the sound of the little bell, the chant of the choir, or the movements of those assisting, to whom he is morally joined, although he is outside the church, in which the crowd cannot be contained. Likewise, he who stands behind the altar, behind a column, or behind a wall, or in the sacristy at the side of the altar or behind the altar, provided he can advert to the principal parts of the Mass.

Likewise, more probably, he who is in a nearby house, from which through a window or door he sees the altar or those assisting, or distinguishes the parts of the Mass, provided there is a small space between the church and the place in which he is. But otherwise if a great space or a street intervenes.

He does not assist at Mass who remains far away outside the church, even if he sees the temple, altar, and crowd, because in common usage he cannot be said to hear and be morally present. According to Lugo and others, the space of thirty paces from the crowd of those assisting does not seem so great as to impede someone from being present at Mass. L. 312.

647. What is the attention required? - For hearing Mass by reason of the precept under grave obligation, there is required and sufficient: 1. the will of hearing Mass, or the intention of worshiping God; 2. purely external attention. Attention: a twofold attention is distinguished, one internal, the other external. The former consists precisely in this, that someone adverts and applies his mind either to the words and actions of the priest, or to the mysteries of the sacrifice, or finally to God to be praised, adored, and worshiped by prayers or meditation. But the latter consists in this, that someone does not posit an external work incompatible with hearing Mass, although the mind internally, continuously, and voluntarily is distracted; provided, however, that he at the same time attends at least imperfectly to Mass in some way, or if in some way someone can give an account to himself at least of the more principal parts of the Mass. For he who would remain in the church during Mass, but thinking entirely of his own business affairs to be handled, so that he remembered nothing at all of the Mass heard, certainly would not hear Mass.

The first part is proved. Each is required; for if either is lacking, either a human act is not had, or a religious act exhibiting worship to God is not had, not even externally. The second part is proved. It suffices; for 1. many and grave theologians teach this, and those very theologians who teach the contrary hold this opinion as probable. L. 313; Struggl 37; Gur. 345. 2. Because internal attention is not required for the moral substance of external worship. For as Soto, Suarez, Sanchez, the Salmanticenses, Filliucci, etc., commonly teach, in this third precept only external worship is prescribed, both of abstaining from servile works and of hearing Mass. It is confirmed from S. Th. 2. 2, q. 122, a. 4, who teaches that we are not compelled to interior worship, but are moved by the Holy Spirit, "and therefore," he says, "in the third Precept exterior worship of God is prescribed." The Roman Catechism, n. 1, teaches the same: "by this precept of the law that external worship which is owed to God by us is prescribed rightly and in order." L. 264. It is confirmed again from S. C. Indulg., 13 Nov. 1893; E. M.

648. Note: According to the very opinion requiring internal attention, very little indeed is required for someone to satisfy the precept, so that no one ought to be anxious in this matter because of a scruple about attention not furnished. "According to this opinion," says St. Alphonsus, n. 313, "it suffices for satisfying, just as in the office, to have virtual attention, namely, that someone at the beginning have the intention of attending, and not change it; for if afterwards he is distracted, even advertently, but does not advert that he is being distracted from Mass or from the office, he also satisfies, because he, although he voluntarily distracts himself, nevertheless is not voluntarily distracted from Mass." St. Pius V, C. *Cum primum,* 6 Kal. Apr. 1566, §§ 4-6.

649. You will resolve: Those serving Mass satisfy the precept; for they attend sufficiently by exhibiting their ministry, by which they actually cooperate with the sacrifice, although they depart from the church for a brief time to take wine, incense, etc., or to ring the bells, because such departure is ordered to the sacrifice. The same must be said of sacristans, musicians, organists, drummers, etc., because their acts are referred to the worship of God and do not impede the necessary attention to those things which are performed at the altar. L. 309, 317. "But he who spends a great part of Mass in collecting alms is excused by many if he is in a small church, otherwise in a large one; thus Henriquez with others cited by the Salmanticenses, n. 52. But Lessius cited by Croix, n. 652, excuses them without distinction if they at the same time attend to Mass; and truly such distraction does not seem to be incompatible." L. 317.

He who during the time of Mass prepares himself for Confession certainly, speaking per se, hears Mass altogether sufficiently; for he can still sufficiently apply himself to those pious actions. But as to Confession which lasts for a notable interval of time, the more common and more probable opinion indeed denies that the precept is satisfied. But there are also several and grave theologians who affirm, if at the same time there is some attention to Mass in some way. "This opinion," says St. Alphonsus, n. 314, "does not seem altogether destitute of probability, and formerly I myself judged it probable; but because afterwards I observed that it was rejected by several grave doctors, now I do not dare to call it probable." Yet this opinion of his is not in reality destitute of probability. For several and grave more recent theologians approve it, either by tacitly reporting it and saying nothing to the contrary, or also by positively defending it. Gur. Baller. 346. Besides, those who defend the negative opinion, as La-Croix notes, l. 3, n. 655, bring forward diverse reasons; and St. Alphonsus himself adverts to this, which certainly is a sign that an altogether demonstrative reason for imposing the

obligation is desired. Moreover, the reason for exempting from the obligation seems sufficiently solid. For "he has the intention of hearing Mass, as is supposed; he is present bodily, because he confesses in the church; he assists morally, because he is present in a human and religious manner; finally he can also attend to Mass; and although perhaps he does not actually attend, nevertheless he is occupied with a pious occupation, and therefore he is still judged to exhibit worship to God with the sacrificing priest and those standing around." La-Croix, l. c. And if someone satisfies the precept of hearing Mass by examining his conscience, he also seems to satisfy by confessing, since Confession is no more incompatible than examination of conscience with at least some attention to Mass, especially if in that Confession there is an intention of participating in the sacrifice through Communion. Nor indeed is internal attention altogether necessary for someone to satisfy this precept. But if the matter concerns servants, who otherwise would not confess, Lessius and La-Croix say that they satisfy well; for then at least it is presumed that the Church consents. And even St. Alphonsus, n. 332, seems to admit this. Lessius, *Auctar. ad Comment. in 1. 2*, v. *Missa*, c. 2, nn. 8, 9; L. 309.

650. What are the causes excusing from Mass? - Any moderately grave cause excuses from hearing Mass, or one which involves a notable and at least moderate inconvenience or harm in the goods of soul or body, one's own or a neighbor's, private or public. This is clear from common interpretation and custom, which is the best interpreter of laws. Moderately grave: a graver cause is required in servile and forensic works, because that part of the precept of the observance of a feast is graver. L. 324.

651. You will resolve: Women are excused who do not have clothing decent according to their condition and state; as also those not having a maidservant or companion, without whom they would be suffused with great shame, are well excused from hearing Mass, provided they cannot be present at it either very early in the morning or in a remote church where the people by no means assemble. The same must be said about girls dishonorably pregnant, and about those who leave the church at the time when announcements for their marriages are made, if they would have to suffer great shame on account of this. Usage excuses, according to the custom of places, of not going out from the house for six weeks after childbirth, or for a month in the time of mourning on account of the death of a husband, and also of a sister or daughter. L. 330; H. A. 42.

Mothers and nurses are excused who have no one to whom they can leave little children, nor can they bring them to church without great disturbance of those standing by. If there are only two spouses, they will conveniently be able to be present at Mass by alternate turns. Those are excused who guard the flock or house, or who must prepare food, or perform similar necessary things; yet if several Masses are held, all, as far as can be done, must hear Mass successively. Travelers are excused for whom no place occurs where they may be present at Mass, or who cannot interrupt the journey because public coachmen, or companions on the road without whom the journey would not lack inconveniences or danger, refuse to stop. Servants are excused if they cannot omit their service without grave detriment to the master, or if they are prohibited by him. But when they are frequently and without just cause impeded from hearing Mass, they are bound to seek another master if they can do this without grave inconvenience. Struggl 53; L. 326-328.

The sick, the infirm, and convalescents are excused, whom it harms to go outside. Likewise he is excused who must guard a sick person who, being left by him, would suffer grave disturbance; and

this even if another assistant were present, but the sick person thought that his assistance was necessary to himself, and otherwise would suffer grave sadness. Likewise those are excused who otherwise cannot prevent blasphemies, quarrels, thefts, etc. Hence also a wife is excused who "from going to Church would fear the indignation of her husband, or grave jealousy of the husband." Struggl 50. Distance from a church, by the space of a whole hour, excuses, with account taken of persons and weather. Very grave doctors teach that a distance of three miles, or a pedestrian journey of an hour and a quarter, and also something less if it should rain or snow, absolutely and without distinction excuses all. A mile corresponds to about a kilometer and a half. Therefore three miles are about four and a half kilometers.

Notable extraordinary gain to be made excuses. L. 325-327, 329, 332; H. A. 41; Collectan. S. C. de P. F., n. 2039.

II. On the Prohibition of Servile Works

652. What works are prohibited on a feast day? - On a feast day all servile works, that is, labors, are prohibited. Thus the doctors commonly from C. 1, *de Feriis*.

A servile work is one which is chiefly exercised by bodily powers, immediately serves the convenience of the body, and regularly is usually done by servants. Therefore a servile work depends not only on the intrinsic nature of the work, but also and especially on the custom and estimation of men. A servile work is contradistinguished from a liberal work, which depends especially on the powers of the soul, immediately serves the convenience of the soul, and regularly is usually done by masters. But there is a middle work between servile and liberal, which can serve the convenience both of the soul and of the body, and is usually done both by servants and by masters. Of the first kind are plowing, sewing, and other mechanical works; of the second are studying, teaching, writing, singing, and other liberal works; but of the third kind are hunting, fishing, making a journey, and similar common works.

A work which of its own nature is liberal does not become servile because it is done for gain; nor does that which of its own nature is servile become liberal because it is done without pay. The same must be said whether the work is done with this or that pious, vain, or base intention. It is also irrelevant whether it is done with fatigue and labor or not; whether for a brief or long time, for contracted wages, or for the sake of recreation, etc., because none of these changes the nature of the work. Of its own nature; for since in fact in this matter the common opinion and estimation of men has very great force, as is drawn from the very definition of servile work, hence it happens that the extrinsic element of gratuity of the work, for example, can sometimes be present, at least so that there be some greater reason for excusing. And thus also to fish, for example, if it is done for the sake of recreation with a rod or light net, is usually held common and is permitted; although it is judged servile and is not licit if it is done for acquiring gain with great apparatus and labor. L. 272-274, 278; Struggl 7; S. Th. 2. 2, q. 122, a. 4 ad 3; E. M.

653. You will resolve: It is licit on a feast day not only to write, but also to transcribe, even if this is done for wages, and whether someone writes with a pen or with the American machine commonly in use. It is probably also licit on a feast day for printers to arrange type, because the work seems to pertain to the mind in the same way as the preceding writing, although it is done with greater bodily

fatigue. But if it is exercised in a public workshop by many, by reason of the base apparatus and common estimation, it is held as servile work. Moreover, scandal can easily also be present. But the printing of books is altogether illicit, as being a work altogether servile. L. 278, 279, 292; Struggl 8; Laymann 3.

It is sufficiently probable that it is licit on a feast day to paint, and much more to draw, yet excluding great apparatus and labor, for example, mixing colors, planing boards, etc. For if the action is not liberal, it certainly is a middle action, and common to servants and free persons, while we often commonly observe noble men not blushing to learn and exercise this art of painting. Hence girls are also excused who with a needle reproduce images on cloth; and likewise those exercising the photographic art, unless it is done with base apparatus. But to sculpt, says St. Alphonsus, is commonly, at least in the estimation of men, numbered among the mechanical arts. "Yet Sporer excepts when goldsmiths sculpt very delicate things in moderate matter, in which almost no labor of the body, but the whole labor of mind and skill, intervenes." Struggl 8; L. 280, 283; S. Th. 2. 2, q. 212, a. 4 ad 3. "It is licit on a feast day to hunt, to catch birds, and to fish, without great apparatus and for the sake of recreation. The reason is that similar things, with greater apparatus and labor set aside, are not servile works, but common to masters and servants. Indeed similar things, if they are done without great apparatus, are also licit from custom, even if they are done for the sake of gain. But if they are done with great apparatus and labor, they are servile and illicit." Struggl 8; L. 283.

It is licit on a feast day to make a journey on foot, by bicycle, horse, carriage, automobile, ship, litter, railway, airplane, dirigible, etc. The reason for this is that making a journey is not a servile work, but natural and common to all men. Thus the doctors commonly; and besides, universal custom so has it. Moreover, by this very fact that it is licit to make a journey on a feast day in the aforesaid ways, it is also licit to perform the works which are necessary and conducive to this, as for example, to prepare horses, to join a carriage, to carry a litter, and to draw oars in water. The reason is that the accessory follows the nature of its principal. Struggl 8; L. 275.

Sanchez grants that it is licit to grind on feasts "if it is a mill which is driven by water or wind; but not if it is driven by beasts, and in which great labor and occupation is required. From which doctrine Tamburini, n. 14, and La-Croix, n. 578, sufficiently probably infer that when the cooperation and application of man is moderate, it is not illicit, at least gravely, even to grind with beasts." L. 277. Likewise distillation is licit if, without base apparatus and not in a public workshop, it is done for physical experiment, or without fatigue of the body. L. 328.

654. What is grave matter in servile work? - For mortal sin labor less than two hours does not suffice. This is proved: 1. because even two hours are in reality a moderate part of the day, as being a twelfth. 2. Because theologians commonly think so. Struggl 12; L. 305.

655. What more determinately is grave matter in servile work performed on feast days? - If the works greatly fatigue the body and are very servile, such as cutting stones, digging earth, etc., according to the more probable and more common opinion, it is not a mortal sin unless someone labors much beyond two hours, say two and a half hours, or at least somewhat more than two hours, or certainly completes two hours, which limits of time St. Alphonsus, n. 305, H. A. 25, La-Croix 594, etc., generally establish as commonly received. Nor indeed are there lacking theologians who require three hours, speaking generally, for grave fault. "It seems hard," says Busembaum cited by St. Alphonsus, n. 305, "to condemn as mortal if someone spends two or three hours."

If the works are lighter and not very servile, for example, making artificial flowers, a greater space of time is required for grave matter than in laborious and very servile works, as St. Alphonsus, n. 282, hands down. If, in carrying out servile works, another excusing element enters in, for example, necessity in those laborious works, piety in other lighter works, by making scapulars, for example, or rosaries, then as a greater reason for permitting such works is present, so also there is a greater reason for permitting them for a greater space of time. L. 293; H. A. 25. But this must be noted as to these lighter works: that piety can favor them only when they are undertaken merely without pay and merely for fostering piety. For if they are done for wages, now those works are altogether servile, as being mercenary, nor does piety raise them to pious works. And this is confirmed by the common custom and sense of the faithful.

656. You will resolve: As to those who drive carts or loaded beasts on a feast day, "the more probable opinion, at least today, judges that it is altogether licit not only to continue a journey begun, but also to begin one. The reason is that in such labor muleteers do not spend a notable time; and, if sometimes it is notable, they are excused either on account of avoiding grave harm, or on account of public utility, or finally because universal custom is present, which Mazzotta deservedly asserts to be present. And he says the same about sailors." L. 276.

He who on a feast day commands six servants to labor for an hour, more probably does not per se sin gravely, because the works of the servants, whether they labor simultaneously or successively, do not coalesce into one in order to form grave matter. And indeed each one sins only venially, if no cause is present excusing them. L. 306.

657. Are other works also prohibited? - This precept, insofar as it is negative, prohibits not only all servile works, but also civil works, namely market-trade and public negotiation of merchandise, and three forensic things: namely suit, judgment unto death, and oath. Thus the common opinion of theologians from C. 1, 3, and ult., *de Feriis*. And St. Pius V, C. *Cum primum*, 6 Kal. Apr. 1566, § 7, commanded that all on feast days "abstain from every illicit and servile work, that markets not be held, and that profane negotiations and the noise of judgments be quieted." L. 284.

By market-trade is understood the public exercise of commerce, or a market, with noise, as are annual or weekly fairs, etc. Public sales of merchandise are prohibited by reason of scandal; "hence, as usage bears, goods can be sold behind closed doors," Scav., ed. 12, Mediol. 1874, l. 2, nn. 95, 239. But in this matter custom must be observed, both universal and also particular to places; for this can abrogate a human law in whole or in part, and here has already abrogated the law in great part. Hence, on account of generally received custom, fairs established for a certain day are excepted if they fall on a feast day. Benedict XIV so declared, C. *Ab eo tempore*, 5 Nov. 1745.

Likewise, from received custom, food, drink, shoes, candles, cloth for making clothes, and other things of this sort are licitly sold and bought in public shops. Yet merchants ought to close their shops, so that they may show that they distinguish Sunday from other days; but here also the custom of places and necessity, varied for various places, claims very much for itself. Public auctions are also tolerated in some places after the divine offices have been performed, because on other days there would be fewer attending, etc. Likewise it is tolerated that merchants of things of small moment carry, show, and sell goods from one place to another.

Houses, horses, oxen, and other merchandise are licitly sold and bought, whether present or absent, whether in small or great quantity, even if a notable time is spent in this, provided these things are done between private persons; both because the usage of the God-fearing so bears, and because the Church prohibited only sales in public shops, by reason of scandal. From the custom of the wise, all contracts are licit if they are made without instruments and the authority of a judge. Indeed St. Alphonsus notes that custom bears that they may be celebrated not only privately, but even through instruments, provided they do not require judicial noise, for example, testaments, instruments of betrothals, sales, etc.; "although," the holy Doctor adds, "notaries in some places are accustomed for this to ask general license from the Ordinary, which for the rest is commonly granted." L. 286, 289; Benedict XIV, *de Syn.*, l. 7, c. 3, nn. 2, 3.

658. By suit is understood a civil sentence or the hearing of civil causes in judgment. By judgment unto death is understood the citation of the accused to judgment, his examination, condemnation, and execution of the sentence. Now then, judicial processes are prohibited on feast days, and are void by the law itself from C. ult., *de Feriis*. Except, however, if a cause is present both of necessity and also of piety, as is clear from the same Cap. ult., *de Feriis*, and from the common authority of theologians.

Therefore it is licit on a feast day to excommunicate, dispense, inform a judge privately, consult an advocate, prepare counsels, etc., because these things are done outside judgment and consequently do not require judicial noise. It is said to be judicial noise where the cause is contentious and litigious, and where questions and disputes are handled; and indeed judicial noise consists in citation, from which the cause chiefly seems to begin, in the formation of process and the cognition of the cause, and in the pronouncement of sentence. Therefore acts of voluntary jurisdiction are not prohibited on a feast day, nor extrajudicial acts. Suarez, l. 2, c. 38; Cajetan, 2. 2, q. 122, a. 4; Schmalz., l. 2, t. 9, nn. 52, 53; Struggl 6; Bonacina, t. 2, d. 5, q. un., p. 2, n. 25; L. 284, 287, 294, 295. "Necessity ceasing, it is not licit to wage war on feast days." S. Th. 2. 2, q. 40, a. 4. For war is against the rest and sanctification of the feast day, which is ordered to being free for divine things. But if necessity is present, as other works become licit from necessity, so also to wage war. S. Th. 2. 2, q. 122, a. 4; C. *Treguas*, *de Tregua et pace*.

659. By oath finally is understood an oath before a judge, or a judicial oath. L. 284; S. Th. 2. 2, q. 89, a. 10.

660. Note: In these forensic and judicial works, the quantity of matter sufficient for grave sin is not taken from the quantity of time, but from the quality of the work. L. 307.

661. What are the causes excusing from prohibited works? - There are chiefly six excusing causes: dispensation, custom, piety, charity, necessity, utility, as is clear from the common opinion of theologians. L. 288.

Dispensation. In the precept of abstaining from servile work, as also of hearing Mass, the following can dispense: 1. The Pontiff, as supreme legislator and pastor, in all festivities and for the whole Church. 2. Bishops and vicars of the chapter, the See being vacant, in their dioceses. 3. Regular Prelates toward their own religious subjects and their domestics. 4. Parish priests, even when the Bishop is present, from custom now received. But Bishops, regular Prelates, and parish priests are able to dispense only in particular cases. L. 288.

Custom. Hence from general custom received almost everywhere these are excused: 1. Barbers, who besides are also excused from this, that otherwise they would be abandoned by very many to their grave detriment. 2. Those things which pertain to the neatness of the house, for example, making beds, washing vessels, and those things which regard the arrangement of the person, such as trimming the beard, cleaning dust from clothes, and the rest of the same kind. 3. Those things which are necessary for food: slaughtering cattle, baking bread, indeed even preparing finer foods. Struggl 23; Suarez, l. 2, c. 21, nn. 3, 4; L. 289, 298; Benedict XIV, Inst. 43.

Piety toward God. Through this works are licit which proximately, not remotely, regard the worship of God; such as laying floors for a festivity, sweeping and adorning the temple, altar, roads; but by no means building a church, repairing it, cultivating the fields of the church, etc., without actual necessity. And thus it is permitted to make necessary ornaments for a needy church. For the precept of worshiping God by abstaining from servile works is of a higher order than free works of piety. L. 291-293.

Charity toward the neighbor. Hence on a feast day it is licit: 1. To do what is necessary for relieving the sick. 2. To dig a grave for burying a dead person. 3. To labor for some determinate poor person, for whom by reason of grave necessity it would be licit to labor; yet, according to grave theologians, not for poor persons in general, unless the matter concerns making clothes or other things of this sort which must serve for the use of the poor, but not for gaining money to be distributed to the poor. L. 292, 294.

Necessity, whether one's own or another's, both of soul and of body. Hence these are excused: 1. Poor persons who otherwise cannot feed themselves and their own; shoemakers, tailors, and other workers who otherwise would be abandoned by buyers, provided they labor privately and scandal is excluded; servants compelled to labor, if they cannot easily and quickly find another master without great inconvenience; wives and children compelled by the father to labor, if however this is not in contempt of religion. Likewise all these are also excused if they mend their clothes, when on working days they do not have convenient time for this. Yet masters can from a grave cause impose upon servants that they do servile works and abstain from Mass; and each then is consequently licit for the servants. 2. All those whose works once begun cannot be interrupted without great harm, such as those pouring iron; those gathering fruits lest they be corrupted, or lest they be stolen; those baking lime, bricks, glass. 3. Tailors who make funeral or nuptial garments, or others necessary for honorable dress, which they are not able to finish before the feast either by themselves or through others. 4. Farmers who, on account of past or threatening rain, cut, turn, bind, or carry hay or grain. 5. Blacksmiths who shoe horses on the road or brought by rustics, or who restore plowshares necessary for farmers on the following day; and also those who repair carts broken by accident, bridges, or public roads, if the work cannot be deferred without loss of the public good. The reason of avoiding idleness does not excuse per se, except in the rare case in which temptation would press which could not otherwise be conquered except by laboring. L. 295-304; S. Th. 2. 2, q. 122, a. 4; Struggl 15.

Utility. Hence these are excused: 1. Those who labor for the public utility, when some necessity is urgent, for example, if the matter concerns celebrating a victory, preparing a feast for the arrival of a Prince, or for the sake of another public rejoicing. 2. Those also are probably excused, on account of

the circumstance of notable extraordinary gain, who sustain themselves by labors, because for these to omit such gain is the same as to suffer grave harm. L. 301, 304.

On the Fourth Precept of the Decalogue

I. Obligations of Children Toward Parents

662. What is the fourth precept of the Decalogue? - The fourth precept of the Decalogue is: *Honor your father and your mother*. Ex. 20:12. This precept primarily and directly regards the obligations of children toward parents, because "they are the particular principle of our being, just as God is the universal principle." S. Th. 2. 2, q. 122, a. 3. But secondarily and implicitly it regards both the obligations of parents toward children, and also the mutual obligations of other blood-relatives, and of other inferiors and superiors. Roman Catechism, p. 3, c. 6, nn. 2, 8. Therefore this precept concerns acts per se of the virtues of piety, observance, dulia, obedience, legal justice, and gratitude.

Piety is a certain special virtue, to which it pertains to exhibit worship toward parents and one's fatherland, from whom and in which we are born, because they are "a connatural principle producing in being and governing." For piety regards this "principle, insofar as it spends duty and worship upon parents and fatherland, and upon those things which are ordered to these." S. Th. 2. 2, q. 101, a. 3. Besides this, piety also exhibits worship toward other blood-relatives, not because they are the principle of our origin, but because in them, by communion of blood, parents are in some way represented; and likewise toward benefactors of the fatherland, because in them we behold the favor and help of the fatherland. S. Th. l. c., a. 1. "Through the fact that we are born from parents, both blood-relatives and fatherland pertain to us." S. Th. 2. 2, q. 122, a. 5. Hence piety is also between spouses and with respect to children, "because between spouses there is worship and duty toward each other, as coadjutors for the preservation of the blood-relationship of both, which each spouse has from his own parents; for by the propagation of children the blood of each parent is preserved. And we say the same about children, namely because they are regarded by the virtue of piety as preservers of the blood-relationship received from parents." Cajetan, on 2. 2, q. 101, a. 1.

Worship is an act by which someone professes his own subjection to another in testimony of the latter's excellence. Hence the worship owed to parents imports reverence, obedience, and duty. Obedience imports compliance. Duty imports obedience and assistance.

Observance is a virtue "through which worship and honor is exhibited to persons constituted in dignity." S. Th. 2. 2, q. 102, a. 1. Honor imports a certain testimony concerning someone's excellence, either by words or by deeds, such as inclinations, or also by exterior things, for example, the offering of gifts. It is distinguished from praise, because praise consists in words alone. It is distinguished from glory, which is the effect of honor and praise, because from the fact that we testify concerning someone's goodness, his goodness shines out in the knowledge of many, and this the name of glory imports, which is clear knowledge with praise. S. Th. 2. 2, q. 103, a. 1.

Observance also pertains reductively to this fourth precept; since, just as parents are for us a principle producing in being and governing, so persons constituted in dignity not only have a certain excellence in themselves, but also a certain power of governing with respect to some things, whence the nature of principle also belongs to them, as a Prince of a city is in civil matters, a leader of an army in military matters, a teacher in disciplines. Hence it is that all such persons are also called

fathers because of the likeness of care. S. Th. 2. 2, q. 63, a. 3; q. 102, aa. 1, 2; Quodl. 10, a. 12; Roman Catechism, n. 8.

Dulia is "a certain species of observance, because through observance we honor any persons whatever who excel in dignity; but through dulia, properly taken, servants venerate their masters. For dulia in Greek is called servitude." S. Th. 2. 2, q. 103, a. 3. They venerate, by furnishing due service to masters. A certain species of observance. For observance has diverse species according to the diverse nature of excellence. And thus in one way a servant reveres a master, a soldier a commander, a disciple a teacher. S. Th. l. c., a. 4; q. 104, a. 2 ad 4.

Obedience properly is "a special virtue; and its special object is a tacit or express precept" of a superior. "But if obedience is taken broadly for the execution of anything whatever which can fall under precept, and disobedience for omission of the same from any intention whatever, then obedience will be a general virtue and disobedience a general sin." S. Th. 2. 2, q. 104, a. 2. The former is usually called formal obedience; the latter, material obedience. "Obedience proceeds from reverence, which exhibits worship and honor to superiors. And as to this it is contained under diverse virtues, although considered in itself, insofar as it regards the nature of precept, it is one special virtue. Therefore insofar as it proceeds from reverence for Prelates it is contained in some way under observance; insofar as it proceeds from reverence for parents, under piety; but insofar as it proceeds from reverence for God, under religion, and it pertains to devotion, which is the principal act of religion." S. Th. 2. 2, q. 104, a. 3 ad 1. But insofar as it proceeds from procuring the common good, it is contained under legal justice, and pertains to it. Cf. 835.

Gratitude or thankfulness is a virtue which recompenses benefactors for some particular and private benefit received, by the action of thanks, and by spending something gratuitously. Ingratitude is opposed to gratitude, which according to the diversity of circumstances is sometimes a lethal, sometimes a venial sin. It is not grave unless the ingratitude was great. S. Th. 2. 2, q. 107.

Therefore gratitude is a certain virtue which comes after piety and observance, as deficient from them, since "not whatever we owe to a father or to a person excelling in dignity do we owe to some benefactor from whom we have received some particular benefit." S. Th. 2. 2, q. 106, aa. 1, 3, 6; q. 107. But honor and reverence are owed to a benefactor because he has the nature of a principle, and per accidens relief or support, if he is in need.

663. What about legitimate and illegitimate, natural and adoptive children? - Some children are legitimate and natural, others natural, others legitimate. Legitimate and natural children are those who are born from a man and his wife. Those are presumed by law legitimate and natural who are born from a mother joined in lawful marriage, unless it is juridically certain that their origin is from another than the husband of the mother. For he is held as father whom marriage points out. The mother indeed is certain; but the father is presumed. And this presumption also has force in the forum of conscience. C. B. 1591, 1717, 1720; C. L. 101 seqq.; C. He. 252.

The fetus is usually brought forth in the ninth month from the time it was conceived, sometimes at the beginning of the seventh, sometimes at the full tenth, namely not before 180 days, nor after 300 days. C. I. 161 seqq.; C. G. 315; C. H. 108; C. A. 138, 163; C. B. 1592, 1717; C. L. 101; C. He. 252, 254.

Hence, of him who is born either after the seventh month from the marriage entered, or before the tenth month from the marriage dissolved, he is the father whom marriage points out, unless something else is most evident. C. L. 103; C. He. 254, 255. Nor indeed does it at all stand in the way that the mother was adulterous, C. I. 165; C. G. 313; C. H. 109; C. A. 158, or that she herself has declared the son adulterine, C. A. 158, unless she brings forward such indications as would suffice in the external forum, Lugo, *de Iust.*, d. 12, n. 26, although she be most worthy of faith, and sworn, and assert this while dying; for no one deserves belief when alleging his own baseness. C. *Inter* 8, § ult., *de Donat.*; L. 654, 924.

A fetus brought forth before the seventh month from the marriage entered is held legitimate only if the husband either married the woman knowingly and willingly while she was pregnant, or, since he was present, did not altogether repudiate the child born. C. I. 161; C. G. 314; C. H. 110; C. L. 102. A fetus brought forth later after the tenth month from the dissolution of marriage is held as illegitimate, unless the health and morals of the mother and the circumstances of things suggest otherwise. C. I. 169; C. G. 315; C. H. 111; C. L. 102 seqq.

Natural or illegitimate children are those who are born outside marriage. These by canon law are irregular; by civil law they are distinguished from legitimate children chiefly as to succession to paternal inheritance. C. A. 155, 165; C. H. 114, 127, 134, 139. These natural children, if they were born from a man and woman between whom marriage could not have been entered, whether by natural law or by divine and canon law, by the same canon law are called spurious, or born from condemned intercourse. C. 3, 10, *Qui fil. sint legit.* And they are adulterine, sacrilegious, incestuous, and nefarious, if they were born from ascendants and descendants. But by civil law all are called illegitimate, and if they are adulterine or incestuous, they cannot be recognized. C. I. 180; C. G. 335; C. He. 304.

Other illegitimate children can be acknowledged and legitimated. C. I. 179, 195; C. G. 331, 334. They are acknowledged by the confession of parents, in civil law, authentic, C. I. 181; C. G. 334; C. H. 131; C. He. 503; in canon law, simple and bare, C. 10, *de Probat.*; and after they have been acknowledged they follow the condition of the one acknowledging, whether of the mother, or of the father, or of both. C. I. 185. But those acknowledged are legitimated by subsequent marriage by the law itself, C. I. 194; C. G. 331; C. H. 120, 121; C. He. 258 seqq.; C. A. 161; C. B. 1719; and they can also be acknowledged after the marriage has already been contracted. C. I. 197; C. H. 121; C. L. 119. Cf. C. G. 331.

By Canon Law, C. 1, 6, *Qui filii sint legitimi*, and C. H. 119, by marriage only children are legitimated from parents who freely could contract marriage between themselves. But whether those legitimated by dispensation of the Supreme Pontiff, as to canonical effects, are also legitimated as to civil effects, some affirm, others deny.

But from the time when they have been legitimated, they are held as if they had been born from lawful marriage. C. 6, *Qui fil. sint leg.*; C. I. 194; C. G. 333; C. H. 122; C. A. 161; C. He. 263. Cf. Benedict XIV, *de Syn.*, l. 13, c. 24, n. 16. But one merely acknowledged is understood as the child only of him who acknowledged him. C. I. 182; C. G. 336; C. H. 129, 134. From C. B. 1589, 1705, a natural child and father are not reputed blood-relatives; and on the contrary, in his relations with the mother and the mother's blood-relatives he has the juridical condition of a legitimate child. But the same code admits investigation of the natural father and obligations, arts. 1708, 1717. Almost the same is

had from C. He. 302 seqq., which also admits investigation of the natural father and obligations. C. H. 135 and C. L. 130 admit investigation of the father in a limited way, and the same codes admit investigation of the mother in the following articles. C. I. 189, 190, 193 admits investigation of maternity. But investigation of paternity is limited to the case of abduction and seduction. C. G. 340, 341, 342 likewise admits investigation of maternity, but investigation of paternity is restricted to the case of abduction. But by each Code and by C. L. 132, investigation of paternity and maternity is forbidden to adulterine and incestuous children whose recognition is prohibited; and by C. H. 141 investigation of paternity is prohibited to children in whom the legal condition of natural children does not concur. In doubt whether someone was born from legitimate marriage, he is to be presumed legitimate. C. I. 120; L. l. 3, n. 951.

Legitimate children are natural children legitimated, and adoptive children. C. I. 737. Adoption is an act by which one is taken into the place of a child who is not such by nature. From more recent laws, the adopted person is held as the legitimate and natural child only of him who adopted him, and he acquires the right of succession to him. C. I. 202, 204, 210, 737; C. G. 343, 344, 350; C. B. 1741, 1757; C. L. 124, 129; C. He. 268. But he is not withdrawn from the power of his natural father, nor does he pass into the power and family of the adopting father. C. I. 210, 212; C. G. 348, 349. But it is otherwise from C. A. 183; C. H. 177; C. B. 1765. This adoption is perpetual and is not dissolved even by mutual consent. C. I. 217. And so also the French Jurists. It is otherwise from C. A. 185; C. B. 1768; C. He. 269.

Legitimate and natural children, as to receiving donations and as to the right of succession, are held such from the time when they were truly conceived, provided they are afterwards born viable. C. I. 724; C. G. 725; C. A. 138. He is born viable who is born after the 180th day from conception, C. I. 160, 162; C. G. 312, 314; C. A. 138, and is perfectly born. In doubt, one who was brought forth alive is presumed to have been born viable. C. I. 724. Abortive children, if they do not survive, are held as born dead.

Natural children only, whether legitimated or acknowledged, acquire the right of succession from the marriage entered by the parents, or from that later time when they have been acknowledged. C. I. 197; C. H. 124. Merely legitimate children acquire the right of succession from the time when they were adopted, as if they had then first been conceived. C. I. 210, 217; C. B. 1754, 1757. From C. H. 177, an adopted person acquires no right of succession except from a testament, or from a previous agreement. From C. B. 1767, the right of succession can be excluded in the contract of adoption. To spurious, incestuous, and adulterine children the laws concede only support, namely when their filiation is duly established. C. L. 134, 135, 136; C. G. 762; C. I. 193, 752; C. H. 139, 140, 141.

664. What about infants; about those below puberty and pubescents; about minors and majors; about wards? - Those less than seven years old are called infants, as if not speaking, unable to speak. Unless they have already attained the use of reason, although they are not held by human laws, nevertheless they are held by the natural law.

From the seventh year to the fourteenth year, if male; to the twelfth, if female, they are called below puberty; but beyond the aforesaid age they are called pubescent, namely from the proximate power of generation attained at that age. Those below puberty, if they cease to be under the power of the father, by the death of the father or by the emancipation of the children, are called wards. L. 239, *de Verb. sign.* Having become pubescent, sons are called minors up to the twenty-fifth year of age from

Roman Law. L. 1, *de Minoribus*. By more recent Law, every other distinction having been removed, he or she who has not yet completed the twenty-first year of age is called a minor; after such an age has been completed, he or she is called a major. C. I. 323, 240; C. G. 388, 488; C. B. 2; C. L. 97, 311. From C. H. 320, majority is established when the twenty-third year has been completed; C. A. 21, 174, at the twenty-fourth year; C. He. 14, when the twentieth year has been completed and by marriage.

A cleric is major in benefice matters and other spiritual causes when he has completed the fourteenth year of age. C. *Si annum* 3, *de Iudic.*, in 6. At a minor age a son, unless he has been emancipated, is constituted under paternal power. C. I. 220; C. B. 1626. But a major regularly manages his own affairs. He can freely dispose of his person and goods. C. L. 311. He is called a son of the family who is still subject to paternal power.

665. What is the proper obligation of children? - Since children have existence from parents, therefore, besides love, they owe piety to them. For as the love of parents is for doing good, so the love of children is for honoring parents. S. Th. 2. 2, q. 31, a. 3 ad 3; q. 26, a. 9 ad 1, ad 3. But although love does not import honor, honor includes love, since him whom we honor from the soul we also love. Therefore when by the sin of children charity alone toward parents is injured, the only malice contained in it is that alone which is against filial piety. But if that sin has another malice against another virtue, then this new species is added to the former.

Piety per se demands two things, reverence and obedience, but per accidens help to be furnished if they need it. Hence it is that sin against piety can injure both love and reverence and obedience toward parents. For example, if a son conceives internal hatred against parents, or externally by words or in another way saddens them, he sins against love; if he curses parents, he sins against love and against reverence; if he contemns parents and the precept of parents, he sins against reverence and obedience. Another species can also be added to the species against piety, for example, if a son defames or strikes his father, he sins against piety and against justice. C. He. 273, 275.

Even at a greater age children owe love, honor, and reverence to parents, because they are always children, and the others always parents. S. Th. 2. 2, q. 26, aa. 9, 10; q. 101, a. 7; L. 333; C. I. 220; C. G. 371; C. H. 154; C. A. 144, 154. Reverence can be injured by words, gestures, and deeds, namely gravely, even in those things which as to others are light, provided they are not altogether light. Therefore children sin gravely: by words, by commonly addressing parents harshly, or even by showing them no sign of benevolence; by calling them with contumelious words in their presence; or by cursing them from the soul. By gestures, by looking at them with grim eyes, by laughing at them in their presence, by mocking them. By deeds, by deliberately raising hands against them as a sign of striking them, by accusing them of crimes, unless the matter concerns crimes pernicious to the commonwealth, such as heresy, treason, etc. L. 333, 334.

Likewise obedience is gravely injured by not obeying parents in those things which regard domestic governance and economy, or pertain to good morals, if however parents command seriously and in a grave matter; excepting the choice of state, of entering marriage, of entering religion, unless however parents contradict children in this matter from a just cause. Likewise a grave sin is committed by not recognizing them as parents, unless this is done from a just cause and only externally by hiding that one is their child. But they by no means sin by fulfilling duties of religion against the prohibition of parents. For as to all those things which pertain to salvation, "they are immediately subject to God,

by whom they are instructed through the natural or written law." S. Th. 2. 2, q. 104, a. 5 ad 2; L. 334, 335; S. Th., Quodl. 2, a. 9; 2. 2, q. 104, aa. 2, 5; C. A. 148; C. L. 142.

Children owe help to needy parents, and consequently must support them; and it is grave even to enter religion by abandoning them in need. Likewise it is grave under this heading not to take care that the sacraments be conferred upon them when sick; that the dead be handed over to burial; that some sacrifice be offered for their soul. S. Th. 2. 2, q. 101, a. 2, a. 4 ad 4; q. 102, a. 2; q. 123, a. 5 ad 3; L. 333, 335; C. I. 139; C. G. 205; C. A. 154; C. B. 1617; C. He. 271, 272.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty] (/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

666. Do children also owe their own goods to parents? - R. Negatively. Children owe piety to parents, not labors. Therefore if a son furnishes labors in the paternal house, for example, as a craftsman or shoemaker, what he gains from them is his own, after deducting the support which he receives from the father, since he is now able to be sustained by his own work and labor, and no longer needs paternal sustenance. But if he asks nothing, he seems to remit these things to the father from grateful mind and piety. The same must be said about goods acquired by the son by donation, testament, etc.; the son indeed makes them his own, but he is bound to refund the expenses of education to the father. C. A. 150, 154; C. B. 685, 1618. Nor is he bound to pay the father's debts from his own goods. These things are clear by natural law, and it is confirmed by positive law, which, determining the natural obligation, assigns to parents the usufruct of the goods of children. As to positive Law, dominion, or ownership of goods, usufruct, and administration must be distinguished. Likewise the various goods and various Laws must be distinguished: Common or Roman Law, and various More Recent Laws, which are in force in various regions.

Since the right of parents as to the goods of children constitutes part of those rights from which paternal power is had, we shall speak of it more particularly soon, while explaining paternal power. L. 488; C. B. 1627; C. He. 271, 272, 284, 293, 295.

667. What is paternal power? - Paternal power is the complex of rights of parents over children, and it arises from a twofold cause: 1. because children have had life from them; 2. because parents must educate them fittingly. C. A. 147; C. L. 137. It is from Natural and Positive Law at the same time, positive law defining and determining natural right. For the rights of parents over children flow from natural and civil law. By Natural Law, piety is owed to parents, whether legitimate or illegitimate, namely to father and mother, and it belongs to them equally and perpetually as to love and honor, but not however as to obedience after the son has become major, or has been emancipated. C. I. 220. Besides this, power belongs to parents as to those things which pertain to the spiritual salvation of children. And this also belongs equally to each, indeed also to grandfather and grandmother. But if they disagree among themselves, he prevails who consults the salvation of the child. And, when the father has died, if the mother as tutor and the paternal grandmother disagree, the latter will be stronger. Benedict XIV, Ep. *Probe te*, §§ 20, 21, 23; Ep. *Postremo mense*, §§ 16, 17; C. *Ex litteris* 2, *de Conv. infid.* - The natural power of parents in those things which pertain to the salvation of the soul ends when infancy has passed; in those things which pertain to the choice of state it ends at puberty, C. *Cum virum* 12, *de Regul.*; C. A. 148; in those things which pertain to domestic care and discipline it ends by emancipation. But in those things which regard the sustenance of the body and generation of

offspring, children are their own masters. And as to entering marriage, they commonly are bound only to seek the counsel of parents. L. 335.

But emancipation is naturally had when the son of the family has already grown sufficiently by age, so that he himself can now be father of a family, and by himself duly consider and oblige himself concerning those things which pertain to his own person and to his exterior goods. C. 11, 12, *de Regul.*; S. Th. 4 D. 27, q. 2, a. 2; D. 38, q. 1, a. 1, q. ult., sol. 3; 2. 2, q. 104, a. 5; S., q. 43, a. 2; q. 58, a. 5; St. Basil the Great, Epist. 276, Migne, vol. 32, col. 1011.

By Common Law paternal power belongs only to the father of the family, and it was per se perpetual. Inst. 1, l. 1, t. 9, §§ 2, 3; t. 12; lib. 1, tit. 6, ff., §§ 3-5, *de Patr. pot.*; l. 8, t. 46, C.; C. 2, *de Convers. infid.* But from the More Recent Laws it belongs also to the mother of the family. C. I. 220; C. G. 372; C. B. 1634, 1684, 1685; C. L. 138; C. He. 274. But the mother does not use it as long as the father uses it, to whom it principally belongs. C. I. 46, 220, 230, 331; C. G. 141, 373, 507; C. A. 144, 147; C. H. 154; C. B. 1634; C. L. 139, 155. Moreover it belongs over legitimate and natural children, over natural children acknowledged, over natural children acknowledged and legitimated, and at least in some way also over adoptive children. C. I. 66, 184, 194, 210, 211, 220; C. H. 154; C. A. 183; C. B. 1306, 1757, 1765; C. L. 166. Cf. here n. 663.

Paternal power is exercised by the father, and when he has died or is absent, by the mother with equal right. C. I. 46, 220, 231; C. H. 154; C. G. 141, 390; C. A. 144, 147; C. B. 1627, 1684; C. He. 274. Yet a father dying has the right to prescribe to the surviving mother the manner he wishes to be observed in the education of the children and the administration of goods. C. I. 235, 1059. Cf. C. G. 391; C. B. 1852 seqq. If the mother enters second nuptials, it will be in the power of the family Council or pupilary Judge to permit or remove guardianship from her. C. I. 237; C. G. 395; C. A. 255. When parents are lacking, and a tutor has not been named, guardianship by law belongs to the paternal grandfather; and, he being lacking, to the maternal grandfather. C. I. 244; C. B. 1776.

Moreover paternal power is exercised partly over the persons, partly over the things of children. C. B. 1627.

Paternal Power is exercised, 1. over persons by the faculty which the father has of retaining the son at home, C. He. 273, unless the son wishes voluntarily to give his name to military service. C. I. 221; C. G. 374; by the faculty which the father has of moderately correcting and punishing a disorderly son, C. He. 275; also of barring him from his own house, and even having recourse, where there is need, to the tribunal, and of placing him in another house of education or correction. C. I. 222; C. H. 155, 156; C. G. 375 seqq.; C. A. 145; C. B. 1631, 1632; C. L. 143; L. 3, *de Patr. pot.*, C. Moreover the son is prohibited without the consent of parents from giving himself into adoption, C. I. 208; C. G. 346; C. A. 181; C. B. 1747, and from entering marriage. C. I. 63; C. G. 148; C. A. 49, 153; C. H. 1305; C. L. 1058, 1061; C. He. 98. But when the mother dissents, the consent of the father suffices. C. I.; C. G., ll. cc.; C. He. 274. Finally the right of appointing a tutor belongs to the last surviving parent. C. I. 242; C. G. 397; C. B. 1777; C. He. 274.

Excepting marriage, which before puberty is null from canon law, as to other acts and contracts sons of a family who are minors are only naturally obligated; and if in due time they do not seek restitution in full, they can also be civilly obligated, and those who contract with them are naturally and civilly obligated. Therefore, if they have entered betrothals, if they have emitted a vow, they are

bound by the betrothals and by the vow. If they have donated anything, they transfer dominion to the recipient; and if they themselves receive something as a gift, they licitly acquire and retain dominion. C. I., *de Desp. impub.*; C. I. 1304; C. G. 1314; C. H. 160, 161; C. A. 244, 246; C. B. 106; C. L. 98, 99; Inst. 1, l. 3, t. 19, § 6; S. Th. 2. 2, q. 88, a. 8; 4 D. 27, q. 2, a. 2; L. l. 3, n. 918; Lugo, *de Iust.*, d. 22, nn. 228, 295, 300.

But although a minor validly contracts, from the More Recent Laws he does not contract firmly if various prescriptions of those laws are not observed, and then restitution in full is conceded to them, which also holds in the forum of conscience, since a law of this sort is definitive of right and just; since it is for protecting good morals, for the peace and good of families, and for the common good. C. G. 2012; C. I. 317, 319, 1899.

From C. I. a minor is restored because he is a minor, and an action of nullity is admitted: 1. If a non-emancipated minor performed an act by himself without the intervention of the father or his legitimate representative. 2. If an emancipated minor performed by himself an act for which the law requires the assistance of a curator. 3. When the formalities constituted for certain acts by special dispositions of law are not observed. But an action of nullity is not admitted: 1. If the minor by evil art and deceit concealed his condition as a minor. 2. If the matter concerns an obligation arising from delict or quasi-delict. 3. If it is proved that what was paid was turned to the convenience and utility of the minor. C. I. 1300, 1303, 1305, 1306, 1307, 1899.

From C. G. a minor is restored because he was harmed, and an action of nullity is admitted if the prescriptions of the law in contracts of minors were not observed. Rescission is not admitted: 1. If the harm happened from a chance event. 2. If a minor exercises commerce or some art, as to contracts entered by reason of his commerce or art. 3. If the matter concerns an obligation flowing from delict or quasi-delict. 4. If it is proved that what was paid went to their convenience and utility. C. G. 1304, 1305, 1306, 1308, 1310, 1312, 2012; L. l. 3, nn. 514, 918. Cf. Troplong, *della Vendita*, cap. 2, art. 1594, num. 166 seqq.

From C. H., the formalities of law not having been observed, the contract of a minor becomes liable to rescission. But he is not bound to restitution except insofar as he became richer by the thing received. C. H. 317, 420, 1163, 1304, 1764, 1765. From C. A., in general a minor indeed cannot be validly obligated without the consent of the father and the other prescriptions of the law. Yet he can freely dispose of things acquired by his own industry, and of others given to him for his own use after puberty has been attained. C. A. 151, 152, 244, 246, 248. From C. B., a minor needs the consent of his representative for any declaration of will whatever, unless this procures a juridical advantage for him, or unless the matter concerns things left to his free disposition. Without the aforesaid consent of the representative, the act can be rescinded. C. B. 108 seqq. From C. L. 297 seqq., the acts of a minor are null if they are made without due authority. But they themselves cannot use this nullity as to obligations upon things of their own art or profession, or if they use deceit so that they may be held as majors.

The power of the father is exercised, 2. over the things of children. From common Law the son was at first a thing of the father of the family; whatever he acquired belonged to the father. Afterwards peculium was recognized. Peculium is any good whatever proper to the son, separated from paternal goods. It is fourfold: 1. Castrense, acquired by military service or on the occasion of military service;

and this whole thing, in perfect dominion, belongs to the son. Yet one below puberty does not have its administration.

2. Quasi-castrense, acquired by the profession of sciences or liberal arts, or by some civil office, for example, of judge, advocate, physician, teacher, from an ecclesiastical office or benefice; and the perfect dominion of this also belongs to the son. Yet administration belongs to the father if he himself is below puberty.
3. Adventitious, which comes to the son from elsewhere than from paternal goods, and not by regard for the father, for example, what comes to the same son from the mother, from the maternal line, or by regard for the mother, or what is acquired by his own industry and labor, by the liberality of others, by chance and fortune. The dominion of ownership belongs to the son; the usufruct and administration of this peculium belongs to the father as long as he lives. Therefore by Roman Law the father has the usufruct of all these goods of the son; and this usufruct ends only by the death of the father, otherwise than is had by More Recent Law.
4. Profectitious, which either is acquired from paternal goods, or has been donated to the son by regard for the father. And this whole thing belongs to the father, in ownership, usufruct, and administration. Inst. 1, l. 2, t. 9, §§ 1, 2; l. 3, t. 29; Lugo, d. 5, n. 23 seqq. The father can dispose of adventitious goods if they are consumable, with the burden however of restitution. If the son trades outside the father's house from goods other than paternal goods, the gain is adventitious. If he labors in the paternal house and is fed by the father, or trades from the father's goods, it is profectitious. "If a son trades with the money of the father, either received as a loan or secretly stolen, at his own risk, so that he seriously determines to preserve the father unharmed in any event whatever, it is certain from the common opinion of all cited by Laymann, l. 3, tr. 4, c. 8, n. 12, that the whole gain pertains to the ownership of the son as adventitious peculium. Why is this? Because although he obtains the whole gain by the money of the father, he obtains it in such a way that the whole gain is derived not from the money of the father, sterile of its own nature, but from the industry of the son, which renders the money fruitful." Ithur., Cas. 3, n. 6; L. 488.

The father of the family and the son of the family are held as one person. Since therefore no one can contract with himself, if they contract, the pact is civilly void. Civilly, for naturally they are mutually obligated and obligate. Inst. 1, l. 3, t. 19, § 6. A son of the family, not even with the father consenting, can make a testament concerning adventitious or profectitious peculium; but he can, even against the father's will, concerning castrense or quasi-castrense peculium. Inst. 1, l. 2, t. 12.

From More Recent Laws, minors are held by law incapable of protecting themselves and their own goods. Hence as to each, he with whom paternal power is represents them. C. B. 1630; C. L. 98, 100; C. He. 279.

The administration of all goods of minor children is in the hands of the father or mother, or tutor, who must supply the incapacity or lack of skill of the children until they become majors or obtain emancipation. Exceptions must be made, from C. B. 1638; C. L. 147; C. He. 294; C. I. 224, of goods given to the son with exclusion from this administration of the father. Cf. C. L. 146, 147. Majors are altogether free in managing their own affairs, unless in some case the law specially forbids this to them, and therefore they have full administration of their own goods; but emancipated persons have

it only limited. C. I. 323, 310 seqq.; C. G. 488, 476 seqq.; C. A. 149, 187, 251. Cf. C. L. 305 seqq., 311.

Hence he who exercises paternal power manages the affairs of the son. C. I. 224, 242; C. G. 389; C. A. 149, 152. He, not the son, acts in judgment, enters upon inheritances coming to the son after an inventory has been made, accepts donations, C. I. 226, 1059; C. A. 205, 222 seqq., 243, and administers his goods, C. I. 224; C. G. 389; C. H. 159; C. A. 149. But goods, whether immovable or movable, excepting those which cannot be preserved by being preserved or become worse, he cannot alienate, bind by mortgage or pledge, nor likewise receive a loan in the name of the son, nor exercise other acts which exceed acts of simple administration, except from a cause of necessity or evident utility and by decree of the civil tribunal. C. I. 224, 225; C. H. 164; C. G. 389; C. B. 1640 seqq.; C. L. 150; C. He. 290, 299, 300.

The father, or mother exercising paternal power, has the usufruct of those things which come to the son by succession, donation, or another lucrative title. C. I. 228, 229, 231; C. G. 384, 386; C. H. 160; C. B. 1640, 1685; C. He. 294, unless the goods were left to the son by testament, or given by donation, on this condition, that the usufruct not pertain to the parents, C. I. 229; C. G. 387; C. B. 1651; or were left to the son by testament, or given by donation for undertaking some course of life, art, or profession, C. I. 229; or for his education and instruction, C. H. 162; or unless, against the will of the parents, the son accepted the donation or legacy, or entered upon the inheritance, C. I. 229. Likewise excluded from that usufruct are those things which the son acquired for himself by labor, profession, or separate industry, C. I. 229; C. G. 387; C. B. 1650, 1651, and the goods of the succession of a son as to which parents have been declared unworthy. C. I. 728; C. G. 730.

To this usufruct there inheres the obligation of feeding, sustaining, educating, and instructing the children. C. I. 230; C. G. 385; C. B. 1602, 1603, 1606, 1656; C. L. 148; C. He. 293. Neither father nor mother has the usufruct of the goods of natural children. They can only administer their goods, but with the burden of rendering an account also concerning the fruits. Gousset on a. 384, C. G.; C. I. 184. Cf. C. L. 166, 167.

From C. A. 149, 150, 151, 154, all goods, administration excepted, simply pertain to the son; yet the father can deduct the expenses of education from the revenues. From C. H. 161, goods acquired by children from the goods of the same parents simply pertain to the parents. From the same C. H. 160, the usufruct even of those goods which the son acquired by his own labor and industry pertains to the parent exercising paternal power. From C. L. 145, 146, 147, the usufruct of goods which a son of the family acquires by his labor, his industry, his means, or by any other gratuitous title whatever, pertains to the parents, unless they were given with exclusion of this usufruct, or the children acquire by arms, letters, liberal arts, or acquire by their own labor and industry, but live from themselves with the father's permission.

Usufruct of this sort ends by the emancipation of the son, or by death, or when minority or legitimate age has been completed; by the widowed father or mother passing to other nuptials; if the father abuses paternal power, either by not caring for the obligations imposed or by administering goods badly, with a sentence of the tribunal added; and likewise it ceases with respect to the spouse by whose fault divorce has legally been pronounced. C. I. 156, 228, 232, 233; C. G. 384, 386; C. H. 167, 172; C. B. 1666, 1673, 1679, 1680; C. He. 297 seqq. From C. B. 1661, 1662, usufruct also has an end by the marriage of the son, and by renunciation of the father. From C. G. 384, 386, usufruct is

conceded to the father, and after he has died to the mother remaining unmarried, up to the eighteenth year of the children, or their emancipation. Cf. C. L. 149; C. He. 274, 292.

But when the son has become a major, those things which have been done by the parents, if they were done according to law, remain ratified; but otherwise they can be made void by him. And if meanwhile a conflict arises as to goods between father and son under paternal power, the latter will be able to have recourse to the tribunal. C. I. 224, 227, 1304; C. G. 1314; C. H. 165; C. A. 271; C. B. 1667, 1668; C. L. 153; L. 488, 543, 544; Gousset 682; C. He. 283, 284, 297 seqq.

Paternal power is dissolved by the death of the father or son, C. H. 167; C. L. 170; C. He. 274; by adoption of the son, C. H. 167; C. B. 1757, 1765; C. A. 183; by emancipation of the son, C. I. 220, 311; C. G. 372, 476-479; C. L. 170; C. H. 167; C. A. 172, 252. But a son is emancipated by the law itself through marriage, C. I. 310; C. G. 476; C. L. 304; C. He. 14, otherwise from C. A. 175. Emancipation is a legitimate act by which a father dismisses his minor son from his power, so that he is made his own master. Emancipation cannot be made before the completed eighteenth year, C. I. 311; C. He. 15. It is dissolved besides by majority of age, C. I. 220;

C. G. 372; C. A. 172; C. L. 170. Cf. here 664. From C. B. 386, which does not admit emancipation, declaration of majority can be had in the eighteenth year of age. It is likewise dissolved if the father abuses paternal power, with a sentence for the crime added. C. I. Poen. 392; C. H. 171; C. B. 1666, 1680; C. A. 177, 178. Paternal power ought to consist in piety, not in atrocity. If the mother survives, she does not simply lose it, although she passes to other nuptials. Yet in this case, from C. I. 237, she can be removed from the administration of the son's goods. From C. B. 1697, a mother passing to other nuptials loses paternal power in part. Cf. C. L. 155 seqq.; C. He. 286. When parents are interdicted, insane, or mad, their paternal power remains suspended. C. I. 220, 229 seqq.; C. A. 179; C. B. 1676 seqq.

When paternal power has been dissolved, the son of the family becomes his own master. But whether he is his own master or is still subject to paternal power, the father of the family can usefully contract with him, and from the eighteenth year of age he can make a testament. C. I. 763, 1107; C. A. 271, 596; at the sixteenth year, but in a limited way, from C. G. 903, 904. Inst. 1, l. 1, t. 12.

668. Can a son of the family retain gains which come to him from his own labor, but not from separate industry, in the paternal house? - Several and grave theologians deny. The reason is that then the son of the family laboring is judged to act not in his own name, but as a member of the family, and thus every gain ought to fall to the good of the family. Besides, positive Law does not favor him, but altogether stands against him.

Several also and grave theologians affirm. The reason is that a son is not of worse condition than a servant; therefore at least the wage which would be owed to a servant or to an extraneous person laboring ought to fall to the son. That would certainly be owed to the son if by his condition he is not bound to labor, and he supplies for an extraneous person, or if he spends extraordinary and altogether undue labor in the paternal house. C. L. 144. Nor indeed in these two cases does positive Law seem to stand against him, since they are extraordinary, and, by legitimate epikeia, are not comprehended by positive Law, which regards cases commonly occurring. But then the expenses which the father made in feeding, sustaining, educating him, etc., must always be deducted. For he

was not bound to make these for a son able and willing to earn. C. He. 272; Inst. 1, l. 2, tit. 9; L. l. 3, nn. 488, 3; 544, 910; S. Th. 2. 2, q. 57, a. 4; Ithur., Cas. 3; Gousset 683, 684, 991.

669. Does a son have perfect dominion over movable goods given to him by parents or relatives? - R. Affirmatively, if they are consumable by first use, because they are given to him absolutely for use, unless perhaps some restriction has been added, as would be money for buying books, for paying a pension, etc. "If they are not consumable by first use, as books, clothes, etc., the son generally has only useful dominion, because parents almost do not intend to confer anything else upon him." Thus Gury, 546. But rather it seems that it must be said that, by this very fact that children can by continued use for their own utility consume and destroy these things, they have dominion over these things also directly, although perhaps restricted and not altogether absolute, insofar as, from the mind of the giver, the whole thing is to be turned only to their utility, as, for example, is seen in books, clothes, etc.

670. Is a son judged to renounce the usufruct to which he has a right, if, with him seeing and silent, the father receives this usufruct? - R. Negatively, at least speaking generally. The reason is that silence would be equivalent to renunciation only insofar as the son could easily protest. Now reverential fear for the most part stands in the way of his being able to do this easily. From C. I. 234, if, after usufruct has ceased, the parents still continue to receive it, with the son staying with them, and without the condition of rendering an account having been established, the parents or their heirs are bound only to the fruits existing from the day on which they are demanded.

II. Obligations of Parents Toward Children

671. What is the proper obligation of parents? - Parents are the principle of the existence of children; and children are something of the father. Therefore, besides love, parents owe providence to children, whether legitimate or illegitimate; namely, they must provide for children as to the body, as to the soul, and as to state. L. 336; S. Th. 1. 2, q. 100, a. 5 ad 4; 2. 2, q. 26, a. 9.

They owe providence as to the body; and therefore parents sin gravely if they expose children not yet brought into the light to the danger of abortion, or if they expose those already born in public places of mercy, unless they do this from a grave cause. Besides this, they must feed them, unless however they can feed themselves from another source and are not in need, whether they are legitimate or illegitimate, or spurious. C. *Cum haberet* 5, *de Eo qui dux.*; C. I. 752; C. G. 762; C. H. 139; C. A. 166; C. B. 1602, 1627, 1705, 1708. And if the matter concerns food necessary for life, they are bound to feed the son, although he has squandered the portion of goods given to him by the parents, because he is always a son. But father and mother together are bound to this from C. I.

138; C. G. 203; or the father first, as from Common Law, L. 9 C., *de Patr. potest.*, from Canon Law, C. 2, *de Convers. infid.*, C. A. 141, 143, 167; C. H. 155; C. B. 1627, 1634, 1709, 1739; C. L. 140. The adopting person also must feed the adoptive child, C. B. 1766, in case of necessity from C. I. 211.

But a mother is bound to nurse her offspring with her own milk. For the natural law itself demands this. Yet this obligation per se does not press under grave obligation, since otherwise grave disorder is not had. Necessity excuses from light fault, if, for example, the mother is weak; notable utility, if, for example, the mother would have to abandon another occupation by which she procures

sustenance for herself and her family; custom, prevailing among noble families. But then the mother is bound under grave sin to seek a good nurse. L. 336, 949, 951; C. A. 218; C. B. 1635.

They owe providence as to the soul; therefore under grave obligation parents must teach children those things which are necessary for eternal salvation, imbue them with good morals by words and examples, keep them away from proximate occasions of sinning, correct them with due moderation, lest having been provoked to anger they become worse, and coerce them when delinquent, even imploring the office of the judge if it is necessary. C. I. 222; C. G. 377; C. H. 155, 156; C. A. 145; C. B. 1631; C. L. 143. For this reason parents sin gravely who allow children freely to associate with bad companions, to read bad books and newspapers, to frequent bad workshops and schools, unless a most grave cause excusing them is present, and the dangers of these workshops and schools are removed. Leo XIII, Encyclical Letter *Sapientiae christianae*, 10 Jan. 1890, § *Locus admonet*; L. 339; C. He. 277.

The newly introduced so-called education of purity cannot be approved, which consists in this, that those things which regard venereal matters are manifested to children. For by this manifestation the danger is not averted, but is begotten and increased, since from knowledge of those hidden matters the very natural bad inclination to experience them evidently grows. S. C. Ind., 18 Jan. 1908, to the Bishop of Barcelona.

They owe providence as to state; whence parents must instruct children in some art or in letters, according to the custom of the region and condition of the family. They must take care that children who wish to enter marriage enter an honorable marriage; and if the chastity of daughters is therefore placed in danger, they must at least from charity give them a dowry. Indeed there is no lack of those who hold absolutely that a father is obligated to give a dowry to a daughter, which C. H. 1340, 1341 and C. A. 1220, 1222, 1231 prescribe, whether she contracts a worthy marriage or enters religion, and likewise that he is obligated to give patrimony to a son who wishes to receive the priesthood. L. l. 6, n. 819. The reason is that just as a father must procure for children an honorable and fitting placement, so he is bound to furnish them the means necessary for obtaining it. Yet from C. I. 147 and from C. G. 204, no action belongs to children against parents unwilling to subtract anything from their patrimony so that sons or daughters can enter marriage, or by another similar title. Cf. C. B. 1610, 1620, 1621.

If parents squander their goods and therefore leave children needy, they certainly are not free from grave sin. Nor can they be excused from sin if they do not apply at least moderate diligence to acquire goods by which the children may be fed and have an inheritance according to their state. But most especially they are bound to leave freedom to offspring as to the choice of state; and they sin gravely by compelling the unwilling to marriage or religion, or by turning them away from such a state. L. 336, 337, 339, 740; S. Th. 2. 2, q. 101, a. 2; Ferraris, v. *dos*, a. 2, nn. 1-5; Sanchez, *de Matr.*, d. 26, n. 7; C. I. 138, 230; C. G. 203, 385; C. A. 139, 148; C. H. 155; C. He. 275, 276; E. M.

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672. Can parents sometimes disinherit children? - R. Affirmatively; yet on account of a just and grave cause of a crime against the parents themselves, which merits such a penalty. This is clear first by natural law. For it is altogether equitable that parents be able to punish children who are gravely injurious to them by such a penalty, and to contain them in their own duty by fear of the same

penalty. It is clear besides by positive law. For Roman Law recognizes this power in parents and determines several cases in which parents can disinherit children. And by reason of the same crime, children can disinherit parents, and brothers disinherit brothers. Novella 115, cap. 3, 4; Novella 22, cap. 47. The same is had from Spanish Law 848 seqq.; from Lusitanian Law 1875 seqq.; and from Austrian Law 768 seqq.

From Swiss Law 477, by a disposition by reason of death, one can be deprived of a legitimate inheritance when he has committed a grave offense against the one disposing or against a person intimately joined to him; when he has gravely contracted against his obligations of family toward the one disposing or toward a person pertaining to the same family. From German Law 1938, 2333 seqq., 2339 seqq., someone can by testament exclude a blood-relative or spouse from succession without instituting an heir. Besides this, various causes of unworthiness for succession are assigned, which causes, after succession has devolved, anyone who has an interest in the exclusion of the unworthy person can oppose. And on account of certain graver crimes, especially crimes against piety, almost the same as those which constitute unworthiness from C. I. and from C. G., someone can by testament take away from his necessary heir the portion reserved to him by law. When some descendant has been prodigal, or gravely burdened by debt, the testator can reduce the portion reserved by law for that descendant, by attributing it to other legitimate heirs as fideicommissary substitutes. He can also commit the administration to a testamentary executor, and then the descendant has a right to the whole annual revenues.

From Italian Law 725, 1081, and from French Law 727, 955, 1046, 1047, disinheritance properly so called is indeed not had, but incapacity and unworthiness of succeeding are generally established by reason of crime, and revocability of a donation itself made by reason of ingratitude, on account of certain determined offenses; namely if 1. they plotted against the life of the testator; 2. if they were guilty toward him of another crime, cruelty, or grave injuries; 3. if they denied him support; 4. if they calumniously accused him of a grave crime from Italian Law, or of a capital crime from French Law; and 5. from Italian Law, if they compelled him to make or change a testament, or impeded him from making or revoking it. L. 340, 948, 949; Ferraris, v. *Exhaeredatio*.

673. Are parents bound in the forum of conscience to leave the legitimate portion to children according to the laws? - Parents, more truly and according to the common doctrine, must by civil law leave the legitimate portion after death to their children, whether male or female, natural and legitimate, indeed also natural children acknowledged and legitimated by law, and also legitimate or adoptive children, unless a grave cause is present. For the law is just, and indeed obliging in conscience. Parents by natural law owe providence to children as to the body and as to state. Therefore the positive law determining the legitimate portion in reality interprets and defines the natural law. But it does not exclude certain rarer cases of necessity, in which the good itself of the children and family may suggest that one must act otherwise; which is also confirmed by the practice of the God-fearing. L. 215, 740, 947, 950; H. A. 237; La Croix, p. 3, l. 2, n. 1173; Gousset 794.

But there is no doubt that parents can, with attention to civil laws, make manual gifts, especially remuneratory ones, to children; for if these are not prohibited for friends, neither are they prohibited for relatives or for pious causes. Besides this, they can also effect gifts of greater moment to the same persons, if they are made from mere revenues; because they are full and free masters of these, nor, by the civil laws themselves, are they bound to increase the patrimony by revenues. Finally, if a just and

proportionate grave cause is present, they can also, if the legitimate portion of the children is not injured, effect a donation from those things also which constitute the patrimony. The reason is that the law determining the legitimate portion gives this faculty to parents, that they may dispose freely of the remaining goods for others. Therefore if a father can leave these things to other extraneous persons, he can also donate them to the children themselves, if a reasonable cause of acting thus is present and the legitimate portion is not injured.

But that must be noted which Lugo has, d. 23, n. 147, namely "parents, if they have donated undutifully, that is, to the prejudice of the legitimate portion of children, their donations can be revoked by the children. Nevertheless the donation is not invalid, but can be voided." And this holds also in Italian and French Law; for in both these Laws it is not said that it is void, but that it will be void, namely to be voided by reduction. C. I. 821, 1091; C. G. 920; C. He. 522; C. A. 775; C. H. 654; C. L. 1492, 1789; L. 740, 950.

III. Obligations of Spouses

674. How many kinds of rights and obligations are there between spouses? - Marriage is the union of man and woman, containing an undivided sharing of life. Inst. 1, l. 1, t. 9, § 1; C. B. 1353; C. A. 44. Hence from marriage there flows a threefold kind of rights and obligations: as to persons, as to goods, as to the body. The rights and obligations of each spouse as to the body will have to be discussed in the treatise on Marriage. Therefore here we shall speak only of the others. C. A. 89.

Obligations as to persons: some are mutual, others of only one or the other. The mutual ones are mutual love, mutual help as to the body, as to the soul, as to the conjugal debt, and common habitation, common table and bed. To the husband belongs marital power over the wife, and the principal paternal power over the children. But he is bound to feed the wife according to her proper condition. To the wife as mother belongs the education of the offspring, although dependently upon the husband, and to have care of the family estate, likewise dependently upon the husband. C. He. 163; C. H. 62.

675. What are the rights and obligations of spouses as to persons? - The head of the wife is the husband, and therefore the wife is under the power of the husband in those things which pertain to marriage, that is, which pertain to the undivided sharing of life. Eph. 5:22 seqq.; C. A. 91. Therefore the wife, without the consent of the husband, cannot be obligated by vow, S. Th. 2. 2, q. 88, a. 8 ad 3; L. l. 3, n. 234; regularly she cannot be obligated by contract; she cannot make a pilgrimage without the consent of the husband, and regularly must follow the domicile of the husband. C. I. 131, 134, 135; C. G. 214, 217, 220, 221, 222; C. H. 58, 61; C. A. 91, 92; C. B. 1354; C. He. 160, 170; C. L. 1193, even if the husband changes domicile without cause, provided the wife can follow him without grave detriment either of soul or of body, and, from C. H. 58 and C. L. 1186, not into a foreign nation. By the same C. L. 1189, a wife can publish a writing without the consent of the husband. C. *Pervenit* 1, *de Coni. lepr.*; Sanch., *de Matr.*, l. 1, d. 41, nn. 2, 4; L. 351, l. 6, n. 977; S. Th. S., q. 64, a. 6 ad 1; Quodl. 4, a. 11. Cf. v. 2, n. 1052.

Without the consent of the husband, and except for cases excepted by law, the wife cannot act in judgment. C. I. 134; C. H. 60; C. L. 1192. From C. He. 168, whatever the regime of goods has been, a

wife can stand in judgment. But in cases with third parties, as to goods brought in, she is represented by the husband.

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

The husband in turn must love and protect the wife, Eph. 5:25; C. I. 132; C. H. 57; C. G. 213; C. L. 185; feed her, and dwell with her; and therefore it is not licit for him to be absent from her for a long time unless from a grave cause. Gen. 2:24; C. I, *de Coni. lepr.*; C. I. 130, 132; C. G. 212, 214; nor even to undertake a long pilgrimage with the woman unwilling. C. 8, *de Voto*. Yet the husband is not usually bound to take the wife with him at great inconvenience and expense, when it happens that he must travel around because of business. C. 9, § *In tanta*, *de Voto*. But the husband sins gravely if he affects the wife with contumelious or defamatory words; if he impedes her concerning the precepts of God or of the Church without just cause; if he gravely beats the wife; if he neglects the governance of the house and the family estate. Col. 3:18, 19; L. 356; Sanch., *de Matr.*, l. 9, d. 5, n. 17; S. Th. 2. 2, q. 26, a. 11.

In those things which pertain to mutual help of life, man and wife are of equal right, since marriage is entered for the sake of mutual help. Hence they mutually owe each other love, fidelity, assistance, and support. Eph. 5:25; Matt. 19:5; 1 Cor. 7:3 seqq.; C. I. 130; C. G. 212; C. H. 56; C. A. 90; C. L. 1184; and if anything adverse happens to one, the other must be a participant. Therefore a woman must follow a husband migrating elsewhere for the sake of health or as a punishment, and a man must follow a woman. L. 353, l. 6, nn. 957, 977. And one must furnish support to the other in need, even if driven into exile by his or her own fault, or shut in prison, indeed even when separated from the other, provided it is not by his or her own fault, if he or she has resources; and the husband must feed the wife even if he married her without dowry, or the dowry perished by chance. C. I. 132, 133, 142; C. G. 214; C. B. 1360, 1361; C. He. 159, 160, 161; Sanch., *de Matr.*, l. 9, d. 4, n. 20; d. 5, nn. 8, 14.

It is lawful for neither, with the other unwilling, to enter religion, C. un., Extr., *de Voto*; and he who passes to religion with the spouse unwilling can be recalled. C. 3, 12, *de Conv. coni.* Nor is it lawful for a man, with the wife unwilling, to receive orders, indeed not even tonsure, C. 4, *de Temp. ord.*, in 6, except if he has justly and by law separated from her as to habitation. L. l. 1, n. 969. Cf. 1 Tim. 2:8-15; 5:9-14; Eph. 5:22-33.

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676. Note: Children and a wife can receive support from one burdened by debts who is not solvent, since he is bound to feed them from strict piety, and also from legal justice; nor is he less bound to feed them than to pay other debts. Indeed they can do this even if the father of the family contracts other debts, provided however they do not have sustenance from elsewhere. Nor indeed after the death of the father is the son bound to pay those debts of the father, if the father left no goods to the

son, for that obligation was altogether personal to the father. "Yet the wife cannot use for the sustenance of the family money given by the husband for paying debts, except in the case in which the family would be gravely in need; for then the husband is bound to help this first, and therefore the wife then uses her own right. Thus Laymann, who adds that the wages of workers for the necessary uses of the debtor are to be preferred even to hypothecary creditors." L. 695, 354.

677. What are the rights and obligations of spouses concerning goods? - If Natural Law is considered, marital society does not prevent both husband and wife from retaining ownership, usufruct, and administration even of goods which they had before marriage, and which they acquire during marriage. Yet they must concur for expenses necessarily to be sustained on account of common burdens. Moreover, it is fitting that the husband either have the whole administration of goods, or certainly assist the wife as much as is necessary for supplying her weakness.

But if positive Law is considered, the husband's power in this matter is broader. Hence by positive Law various goods of the wife are distinguished. S. Th. 2. 2, q. 57, a. 4.

Some goods of the wife are dotal, whose fruits the husband enjoys for sustaining the burdens of marriage; others are paraphernal, namely beyond the dowry, which the wife has beyond the dowry, and which she specially reserves to herself; others are common, which by pacts of the spouses or by determination of law are brought into a certain society. Before entering marriage, spouses can determine under what conditions their goods are to be subjected, with certain statutes of the law observed. If they have omitted to do this, the law will supply.

From Roman Law: The wife has direct dominion of her dowry, but the husband has usufruct and administration. When the husband has died, she is preferred to all personal creditors of the husband, and even during life she can juridically seek the dowry again if she fears lest the husband become unable to restore it. If the dowry consists in money, or in other things consumable by use, or in appraised things handed over, full dominion of the dowry is indeed attributed to the husband, but with the obligation of restoring the value, dominion being transferred for the wife into all goods of the husband according to the rate or quota of her dowry. The wife has full dominion and administration of paraphernal goods, so that concerning these the husband, with her unwilling, can dispose of nothing. Hence as to these she in no way depends upon the husband.

The ownership and utility of common goods pertain to each spouse; but administration of the same pertains to the husband alone. But this community of goods can admit various conditions or restrictions, and therefore attention must be given to the various dispositions of places. Gury 549; Elbel 69; L. 489; Troplong, *della Prescrizione*, c. 3, n. 483 seqq.

From More Recent Law: In the first place we can distinguish goods of the wife, goods of the husband, and common goods. As to goods of the wife, these likewise are either dotal or extradotal, or paraphernal. Dowry is goods brought to the husband for sustaining the burdens of marriage. But any goods whatever of the wife not constituted as dowry are held as paraphernal. C. I. 1388, 1425; C. G. 1540, 1575; C. A. 1218.

That there be dowry it is necessary: 1. that it was expressly constituted by this name, C. I. 1388; C. H. 1336. Therefore those things which are donated to the woman by contract of marriage are not dotal, unless something else has expressly been provided. But it is otherwise from C. G. 1541. Moreover, dowry can comprehend all goods, even future goods. C. I. 1389; C. G. 1542; C. A. 1218,

1227; C. H. 1336, 1337. 2. That an instrument be drawn up by a notary, and, if the dowry is constituted by the spouses themselves, before marriage. C. I. 1382, 1391; C. G. 1394. For after marriage dowry can neither be constituted nor increased by them. C. I. 1341; C. H. 1338; and from C. G. 1543, not by others either. Cf. C. A. 1225; C. H. 1344. 3. That nuptials have been entered from Civil Law. L. 3, *de Iure dot.*; C. I. 93; C. G. 165; C. A. 44; C. H. 42.

He who constitutes a dowry must furnish it from his own goods, even if the woman does not lack her own goods. C. I. 1392, 1393, 1394, 1395; C. G. 1544, 1545, 1546; C. A. 1224. Cf. C. H. 1340, 1341; and he furnishes security against eviction. C. I. 1396; C. G. 1547. But the husband is not bound to surety for the dowry unless he is obligated to it by agreement made, or is driven to it by sentence of the judge, if the dowry is exposed to danger, and the dowry was constituted by him who, if it were lacking, would be compelled to furnish support to the dowered woman. C. I. 1400; C. G. 1550, 1563; C. A. 1245. Cf. C. H. 1345, 1349, 1358.

Of those things which are given by reason of dowry, some pass into the full dominion of the husband, others do not, and constitute a permanent dowry. Things which are consumed by use pass into the full dominion of the husband, C. A. 1227; things, whether movable or immovable, which are given to him in payment, C. I. 1403; C. G. 1553; movable things, if they were given appraised, C. I. 1401; C. G. 1551; not likewise immovable things, unless this was openly expressed. C. I. 1402; C. G. 1551; C. A. 1228. From C. H. 1346, if nothing is determined in the marriage contract, the wife preserves dominion of all her dotal goods. Cf. C. B. 1227, 1228.

Of those goods which constitute a permanent dowry, natural and direct dominion remains with the wife; civil and useful dominion passes to the husband. C. A. 1227, 1228, 1230. Therefore, by force of the natural and direct dominion of the wife, the increase or damage of the dowry will belong to the wife. By force of the civil and useful dominion of the husband, the husband has administration and usufruct of dotal goods; whence he administers dotal goods as his own, acts in judgment for them, C. I. 1339; C. G. 1549; C. H. 1357, 1360, and all things which are contained under the name of fruits are his from the marriage entered, C. I. 1399; C. G. 1549; C. A. 1227; and if counted money was promised, interest by the law itself is owed to him, although delay for payment had been stipulated. C. I. 1397; C. G. 1548. But the husband must furnish that diligence in administering dotal things which he furnishes in his own things, and he must fulfill all obligations of a usufructuary, C. I. 1408; C. G. 1562. But he is bound to use the fruits for feeding the family, for this is why the fruits are assigned to him, namely for bearing matrimonial burdens.

A woman can obtain separation of dotal goods by the office of the judge if the dowry is in danger, or the affairs of the husband are turning to evil, or she has been judicially separated from him. C. I. 1418; C. G. 1563. When this has been obtained, she herself, in place of the husband, administers the dotal goods, C. I. 1424; C. G. 1449; C. H. 225, 1365; but together with the husband she must provide for domestic necessities and for the instruction of the children. C. I. 1423; C. G. 1448. Cf. C. A. 1241, 1263. It can be established in the marriage contract: 1. that the wife receive each year a part of the fruits for small expenses, C. I. 1399; C. G. 1549; 2. that the surviving spouse receive some gain beyond the dowry, with the legitimate portion of the children preserved. C. I. 1398; L. l. 3, n. 539.

Dotal goods regularly, while marriage remains, cannot be alienated, and an alienation made can be revoked even by the husband himself who consented to the alienation. C. I. 1407; C. G. 1560. Dotal goods, namely all from C. I. 1405, but only immovables from C. G. 1554. Regularly; for they can be

alienated from a grave cause of necessity or utility, by decree of the tribunal and consent of each spouse, C. I. 1405; C. G. 1558; C. H. 1358 seqq.; or if alienation was permitted in the marriage contract itself. C. I. 1404; C. G. 1557. They cannot be alienated for any cause whatever from C. I. 1405, which distinguishes nothing, except the cause of placing some child from C. G. 1556. Alienation, moreover, also comprehends exchanges, servitudes, and mortgages. C. I. 1404, 1405; cf. C. G. 1554, 1559. While marriage remains; therefore also after separation from C. I. 1405; cf. C. G. 1449. But if, while marriage remains, a woman has legitimately contracted debt, or any obligation whatever, after the marriage has been dissolved even dotal goods are bound to creditors from C. I. 1407; but otherwise from C. G. 1558, 1560. Cf. C. A. 1260.

When the marriage has been dissolved, the dowry ceases and must be restored. The dowry must be restored to the wife, or to her heirs. C. A. 1229; C. H. 1365. Things whose civil and useful dominion only was in the hands of the husband must be restored immediately in their own species, as they then are. C. I. 1409, 1411, 1412; C. G. 1564, 1566, 1567; C. H. 1367; and if by the fault of the husband they have become worse, the loss is charged to him. C. I. 1408; C. G. 1562; C. H. 1360, 1375. But of things of which the husband had full dominion, only the price must be restored within a year. C. I. 1401, 1410; C. G. 1551, 1565; C. H. 1347, 1366, 1370. From these the woman can retain for herself linens and those things necessary for her ordinary use, with their actual price deducted, if, after an appraisal of the same had been made, they were first given. C. I. 1411; C. G. 1566. Cf. C. H. 1384.

Besides this, the fruits of the last year of marriage are to be restored, according to the proportion of time. The year is computed from the anniversary day of the marriage celebrated. But the widow can according to her judgment either demand these fruits, or support for the whole year of mourning. Besides, during this year housing and mourning clothes are owed to her. C. I. 1415, 1416; C. G. 1570, 1571; only mourning clothes, C. H. 1879. Cf. C. A. 1242, 1243. Finally, when the marriage has been dissolved, gains also or dotal increases are owed to the surviving spouse from the goods of the deceased, if a pact concerning them was present in the marriage contract. C. I. 1398.

Paraphernal or extradotal goods are those which the wife reserves to herself outside the dowry. C. H. 1381. These are the wife's by full right, and therefore she administers them and enjoys their usufruct. C. I. 1427; C. G. 1576; C. H. 1382. Yet she cannot alienate immovables, nor stand in judgment for them without the express consent of the husband, or, with the husband resisting, without sentence of the tribunal. C. I. 134, 136; C. G. 215, 217, 1576, 1538; C. H. 1387; cf. C. A. 91. The same must be said from C. G. 1536, if the wife is altogether separated in goods. But if the husband administers them from the express or tacit mandate of the wife and receives the fruits, he must restore only the fruits which then exist when the woman asks, or dies; but he must restore all the fruits which he received if the condition was added to the mandate that he render accounts of the fruits, or if the woman opposed herself at least by an extrajudicial act. C. I. 1427 seqq.; C. G. 1576 seqq. But from C. H. 1384, 1389 seqq., if paraphernal goods are handed over by the wife to the husband to be administered, they are then equated with dotal goods, whose dominion remains in the hands of the wife. From C. A. 1238, 1239, unless the wife opposes herself, by presumption of law the administration of the wife's free patrimony is judged to have been entrusted to the husband as legitimate procurator. But he is responsible only for the substance of the thing, or for the capital; he is not bound to give an account of the fruits received, unless this was expressly agreed.

To paraphernal goods belong, and they are the wife's, those goods which, during marriage, she acquires from her own goods, or from singular industry, or from her own extraordinary labor, especially if she exercises commerce in her own name, or also by subtracting something from what has been conceded to her for food, clothing, recreation, etc.; and also those things which were given to her with the express condition that they not fall to the husband. C. A. 1237; L. l. 3, n. 541.

As to the goods of the husband. The wife has no dominion over the goods of the husband. But since the wife is the companion of the husband, and the husband must feed the wife according to her condition, the wife can by her own right take for herself those things which are necessary to her for this reason. Lugo, *de Iust. et Iur.*, d. 16, n. 72; Lessius, *de Iust. et Iur.*, l. 2, c. 12, n. 85. And if by received custom of the region it is accepted that the wife spend something from the goods of the husband, she can also do this. Lugo, l. c. Therefore the wife can take not only those things which are necessary for the body, but also those things which pertain to relieving the mind and to the decency of her state. Lugo, l. c., nn. 68, 70. Nor indeed can she do this for herself only, but also for the children received from that marriage, for the utility of the family, or for removing some harm to it, and this even against the will of the husband. Therefore she can withdraw things from a prodigal husband in order to reserve them for the family in the future, or from an avaricious husband for making moderate alms. Lugo, l. c., n. 65; Lessius, l. c., n. 85. From the very nature of conjugal society the wife has administration of domestic things, the pantry, furniture, etc. C. He. 163; Lugo, l. c., n. 65; Lessius, l. c., n. 85. From C. I. 1432, if the wife administered the goods of the husband, she is subject to the same law to which he himself is subject in the administration of the wife's paraphernal goods.

But when the husband is absent or insane, the wife administers his goods, and she can spend them, according to the strength of the patrimony, for the sustenance and preservation of the dignity of the family, although perhaps the husband, if he were present or in control of himself, would not have spent them. From C. H. 1442, 1444, the wife administering all the goods of the marriage has the same faculties and obligations as when the husband administers them. Yet she cannot alienate or burden immovables. Lugo, l. c., nn. 16, 70; Lessius, nn. 12, 86; L. 541.

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

From C. H., when a contract concerning goods is lacking, by which they can also establish separation of goods between themselves, the marriage is judged to have been entered under the regime of legal society of gains, 1315, 1432. But if this society is excluded, without the rules by which the goods are

governed being expressed, then the dotal regime is observed, and nevertheless the husband receives all the fruits of the society of gains just as if it existed, 1364.

Now by society of gains husband and wife make their own, by half, when the marriage has been dissolved, the gains and benefits indistinctly obtained by either spouse during marriage, 1392. By the law itself the proper goods of each spouse and the common gains are determined, 1396 seqq., 1401 seqq., and also the burdens and obligations of this society, 1408 seqq. The husband administers the society according to the established laws, 1412 seqq.; he can make moderate donations for the sake of piety and beneficence, but cannot reserve usufruct for himself, 1415.

The society is dissolved by dissolution of marriage, by the absence of either spouse, by separation of persons or goods, 1417, 1433. When the society has been dissolved, after an inventory has been made, and dotal and paraphernal goods have been restored, and the other burdens of the society have been satisfied, what remains is divided equally between husband and wife, or their respective heirs, 1418 seqq. Cf. ibid. 1435, 1436.

From C. G. 1393, even if spouses do not establish that certain goods will be common, nevertheless if any other pact is lacking, legal Community has place by force of law. For the pacts which can be entered by spouses before marriage constitute three classes, or a threefold regime, namely the dotal regime, concerning which we have already spoken, the regime of community, and the regime excluding community. Moreover, Community is either legal or conventional, according as it is constituted by law or by a special pact of the contracting parties. 1391, 1400 seqq., 1497 seqq., 1540 seqq. Legal Community coalesces: 1. from all movable goods which the spouses possessed on the very day of the marriage entered, or which afterwards come to them by title of succession or donation; 2. from all fruits and any revenues whatever of immovable goods possessed by the spouses before marriage, or coming to them during marriage; 3. from all immovable goods which were acquired from common goods during the time of marriage. Conventional Community consists in other pacts of the spouses, by which legal statutes can be restricted or relaxed. When these are lacking, the community is governed by the disposition of the law alone.

Under the regime of community the husband alone has administration of common goods. Indeed he can sell them, exchange them, and hand them over into mortgage, even without the consent of the wife. Yet he cannot donate immovables by gratuitous title, nor movables by universal title, or as to their universality or quota, that is, a half, third, or fourth part. He can dispose of some movable thing by gratuitous title, provided he does not reserve usufruct for himself. But when the community has been dissolved, goods and burdens are divided into two parts, unless the wife or her heirs prefer to renounce the goods, and thus to exempt themselves from the burdens. Debts are to be paid by each spouse, or by their heirs. The husband also has administration of the proper or personal goods of the wife. 1400, 1401, 1409, 1422, 1428, 1441, 1453, 1467 seqq., 1497 seqq.

A regime excluding community can be constituted by the spouses in two ways, namely: 1. by declaring that they enter marriage without community; 2. by establishing that each will be altogether separate as to goods. In the former case the man receives all revenues of the wife's goods and alone administers all things. But if they are consumed by use, he is bound to return their value. But in the latter case the woman has administration and usufruct of all her own goods. Each spouse concurs for the burdens of marriage by special pact; but if no agreement exists, the wife must concur up to a third part of her revenues. Therefore in this third regime, as also in the second, some dowry must be

contributed by the wife, by which she may in part aid the burdens of marriage; but a dowry of this sort can be alienated by the husband. 1530 seqq., 1536 seqq. Cf. here 868, 1237.

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

From C. B. the regime of goods is twofold, legal and conventional. Legal matrimonial regime of goods. By the marriage contract the goods of the wife, even those which she herself acquires during marriage, are administered by the husband, who has their usufruct, but must sustain the expenses of marriage. The goods reserved to the wife are excepted, whether by law, namely clothes, precious gems, and instruments of labor, and goods acquired by labor or the personal exercise of a gainful profession; or by contract, namely those which were declared such by the marriage contract; by succession, legacy, or donation made with that reservation. The wife has administration and usufruct of these reserved goods. When administration and usufruct of the husband have ceased, the husband is bound to restore the goods to the wife and also to render an account of administration. But the wife can demand this cessation if her goods are placed in danger. C. B. 1363 seqq.

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

Besides these things, which are constituted by various laws, all those pacts must be observed both by the husband and by the wife which in the marriage contract either were tacitly entered, according to the proper laws of the region, or expressly constituted by private will, provided however that these agreed pacts do not oppose good morals or the laws. C. I. 1378; C. A. 1217; C. G. 1387; C. H. 1315.

From C. L. It is licit for spouses before marriage to make a contract concerning goods, within the limits of the law, 1096. Agreements of this sort will not be valid unless they have been made by public writing, 1097. If no agreement is made, the marriage is judged to have been contracted according to the custom of the kingdom, 1098. A woman can reserve to herself the right of receiving part of the fruits of her goods, provided it does not exceed a third part, 1104. An agreement can be made of marriage according to the custom of the kingdom, of community of acquisitions, of separation of goods, of the dotal regime, 1099 seqq. Agreement according to the custom of the kingdom imports community of all present and future goods not excepted by law, 1108 seqq. Dominion and possession of these goods is with each spouse; administration is in the hands of the husband, 1117 seqq. When the Community has ended, its goods are divided between the spouses and their heirs, due equality being observed. But satisfaction must be made first to the woman, then to the man, 1123, 1124. Agreement of community of acquisitions does not comprehend goods which are had at the time of marriage, or which afterwards are had by succession or another gratuitous title,

1130 seqq. Agreement of separation of goods does not exclude from community goods acquired without express declaration, 1125. Each spouse preserves dominion of his or her own goods, and their free disposition, with however that restriction for the woman which is made by law, 1127, 1128. Under the dotal regime the husband can alienate movable goods, but is bound concerning their value, 1148. Immovable goods are inalienable except for cases permitted by law, 1149 seqq., nor can they be prescribed during marriage, 1152. When the marriage has been dissolved, dotal goods must be restored to the woman and her heirs, 1156 seqq.

C. He. has the regime of union of goods, communion of goods, and separation of goods. Unless otherwise disposed, spouses are subject to the regime of union, 178. By union of goods all goods which the spouses possess at the moment of the celebration of marriage, or acquire during marriage, are joined into one sole conjugal substance, 194. The part of this conjugal substance brought by the wife remains her property. The husband is owner of the goods which he himself brought, and of any conjugal substance which was not brought by the wife. The wife's revenues and natural fruits of goods brought by her are the property of the husband from the moment when they are owed or separated, 195. The husband administers the conjugal substance, uses and enjoys it as a usufructuary, 200, 201. When the wife has died, the goods brought by her pass to her heirs. When the husband has died, the wife recovers the goods brought by her. If, after separation has been made, an increase is had, two thirds of this pertain to the wife and her descendants, the third part to the husband and his heirs. If on the contrary diminution is had, it is to be sustained by the husband and his heirs unless it is proved to have been caused by the wife. And, if on account of debts made by the husband the wife would obtain less than half of the goods brought by her, her credit for completing this half part is privileged. The cession of this privilege in favor of individual creditors is null, 211 seqq.

By communion of goods all goods and revenues of husband and wife are joined into one undivided substance, which pertains to each. The husband administers it. By the death of either spouse, half part of the common substance pertains to the surviving spouse, the other half part to the heirs of the deceased. Increase is divided into two equal parts between the spouses or their heirs. Diminution must be sustained by the husband or by his heirs, unless it is proved to have been caused by the wife. 215, 216, 225, 240.

Separation of goods regards the whole substance of each spouse. Each preserves ownership, administration, and usufruct of his or her own substance. But the wife is bound to contribute, in an equitable portion, to the burdens of marriage, even with reserved goods. 192, 241, 242, 246. Goods are reserved either by matrimonial contract, or by the liberality of third parties, or by law. Reserved by law are those things which personally and exclusively pertain to either spouse; goods of the wife which serve her for the exercise of her profession or art; and the gain which the wife receives by laboring in her own name. Reserved goods of the wife are not comprehended in the union of goods. 190, 191, 194.

678. What can a wife do as to entering various contracts? - The wife cannot, without the consent and authority of the husband, donate, alienate, or subject to mortgage her immovable things, contract a loan, cede or demand capitals, stand surety, make a settlement, or act in judgment concerning these acts. C. I. 134; cf. C. G. 215, 217; C. A. 91. Nor can she undertake to manage another's affairs without authorization of the husband. C. I. 1743; cf. C. G. 1990. But a woman needs no consent or authority of the husband or of another when the husband is a minor, interdicted, absent, or expiating a penalty

longer than a year, or absent, or when she is juridically separated by the fault of the husband, or when she exercises commerce. C. I. 135; C. G. 220. From C. He. 161, 163, the wife is the one who directs domestic economy and represents it. And from art. 167, the wife has the faculty of exercising a certain profession or art with the express or tacit consent of the husband.

He who contracts with a wife, without the consent and authority of the husband, when this is needed, is obligated to the wife both civilly and naturally; and the wife is likewise obligated to him. But restitution in full is given to the wife and her heirs, and also to the husband while marriage remains, and to those having cause, unless it is proved that what was paid to the wife went to her convenience and utility. C. I. 134, 137, 1157, 1300; C. G. 217, 225, 1304, 1312. From C. H. 1304, the wife is not bound to restore a thing received by contract, when it has been rescinded, unless she became richer by it. Cf. also art. 1163. From C. B. 1365-1371, 1395-1400, 1405-1407, the wife can freely dispose of goods reserved to her; but as to goods subject to the administration and usufruct of the husband, she needs the approval of the husband.

679. Can a wife sometimes stand surety for the husband? - R. Affirmatively, namely so that she may provide for domestic necessities. But otherwise negatively. Thus commonly. The reason is that the former is sometimes required by the good itself of the family, but the latter is excluded by this same good. Hence it follows that a wife is bound to pay debts legitimately contracted by the husband in the name of the wife, with her knowing and consenting, for the good and convenience of the family itself. L. 454. From C. I. 1405; C. G. 1558, the authority of the judge is required, or from C. He. 177, the consent of tutelary authority.

680. What is the law if a man and woman contracted an invalid marriage? - If each was aware of the nullity, there is indeed no marriage, and no right from positive law can be claimed from it, whether as to the dowry of the wife, or as to the legitimacy and hereditary succession of the children. C. 10, *Qui fil. sint legit*.; C. I. 116; C. G. 202; C. A. 160. Yet the son can, during his life, demand support from the father just as if he were legitimate. C. B. 1703. If each was unaware of the nullity, the marriage is just as if it were truly valid, whence rights flow from it as from a true marriage. C. 2, 8, 14, *Qui fil.*, etc.; C. I. 116; C. G. 201; C. A. 160; C. B. 1699; L. l. 7, n. 425.

If one was aware and the other unaware of the nullity, civil rights are established for the spouse alone who contracted in good faith; but the children are legitimate as to each. C. 14, *Qui fil.*; C. ult., § *Si quis* 1, *de Cland. desp*.; C. I. 116; C. G. 202; C. A. 160; cf. arts. 1265, 1266; C. B. 1701, 1702; Schmalz., l. 4, t. 17, nn. 13, 18, 57; Lugo, d. 24, n. 8; L. l. 7, nn. 425, 432. Cf. here 223.

680bis. Can a woman be emancipated from the man, and obtain equality with him? - Emancipation of this sort of woman from the man in the family and in society, whether civil or religious, as also absolute equality in the same order of family and society, is against every law, natural and positive, divine, canonical, and civil, as is clear of itself. Yet from this it does not follow that the condition of the woman is vile, or that she is altogether to be depressed. The nobility of the woman appears from her first production, from her destination by universal nature for propagating the human race together with the man. Whence she is the man's companion. Gen. 2:18 seqq. Yet in this domestic society, the woman is under the power of the man. But this subjection of the woman is in no way servile, but economic. 1 Pet. 3; S. Th. 1 p., q. 92, a. 1; q. 94, a. 4. But if the discourse is about civil society, man by nature itself is destined for exercising rule and for undertaking the greater offices.

Woman can exercise arts and lesser offices for which she has aptitude, and which, if she is a mother of a family, do not impede the duties of a mother of a family.

Ulpian, L. 2, *de Diversis Regulis Iuris antiqui*, lib. 50, tit. 17. Finally, in the Church of Jesus Christ, man and woman are of equal condition in order to faith, to grace, and to obtaining eternal glory. Gal. 3:28. But, since woman is altogether excluded from Order, the sacrament, as to the ecclesiastical hierarchy she is in an inferior condition with respect to man. Yet nothing prevents a woman also from exercising in the Church certain works of religion and charity for promoting the salvation of souls and the glory of God. 1 Cor. 14:34; Rom. 16:1 seqq. Therefore the emancipation of woman from man, or absolute equality between man and woman, cannot be admitted. Yet a woman can well be admitted to undertaking easier and secondary offices which seem more proper to woman, and for which she herself also has greater aptitude, outside domestic society. Consequently women can also be admitted to a certain broader education and instruction beyond domestic matters. But in that exercise of offices, and in this greater education, due precautions must be observed, lest public honesty suffer detriment, and the religion and good morals of women be exposed to danger of perversion.

The print's appendix has more on this paragraph: [On Feminism](/manuals/bucceroni/on-feminism). (ed.)

IV. Obligations of Relatives and Tutors

681. What are the obligations of other relatives? - As to other relatives, ascendants and descendants, the obligations are generally the same, with due proportion, as those of parents with respect to children, and vice versa. For all these, by reason of generation, of some from others, are mutually bound by a strict bond of piety, especially if, when parents are lacking, ascendants take up the care of grandchildren. But theologians commonly teach that they ought to take up this care, in defect of parents and tutors, as long as they are minors, and as much as they conveniently can. Other things being equal, the paternal grandfather is bound to take up that care before the maternal grandfather, as the doctors commonly teach.

As to brothers and sisters, these ought to pursue one another with mutual love, not only by common affection, as other men, but by particular affection on account of the close bond of blood. They also ought to help each other mutually as to the necessities of life, not only in extreme necessity, but also in grave necessity. L. 340.

The remaining blood-relatives and collaterals are likewise bound mutually to furnish love and help in necessity, according to the order of the degrees of consanguinity. The reason is that conjunction of blood and descent from the same stock and principle of life induces this special obligation of piety. Hence, in defect of parents, or quasi-parents, and ascendants, collateral blood-relatives also succeed to the obligation of furnishing support to one in need in ordinary necessity and beggary, if they can, or unless others are present who wish liberally to relieve a similar necessity. Struggl 20. "It must be said that someone from what is proper to him must satisfy parents more, or those from whom he has received greater benefits." S. Th. 2. 2, q. 62, a. 5 ad 4.

Since conjunction with other blood-relatives is not so great as with parents and children, in order that piety be gravely injured against them, a certain greater harm inflicted upon them is required,

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

682. What about support to be furnished, as to various blood-relatives and in-laws? - By the right of piety some ought to exhibit or feed others if they are in necessity. But to furnish support, in the first place a spouse is obligated; second, descendants; third, ascendants; fourth, son-in-law and daughter-in-law; fifth, father-in-law and mother-in-law; finally, brothers and sisters, which obligation indeed is reciprocal. C. I. 132, 138-142; C. G. 203, 205, 207, 212; C. L. 172; C. H. 143 seqq.; C. B. 1601 seqq.; C. He. 228 seqq. Ascendants are bound in the order of proximity. C. I. 138; C. H. 144; C. L. 173. But descendants are bound in that order by which they would be called to the legitimate succession of the person in need. C. I. 142; C. H. 144. Support is owed to brothers and sisters if they are in very grave necessity. C. I. 141; C. H. 143; and C. L. 174, in defect of parents and other ascendants; from C. He. 329, when they are sufficiently rich. In those places in which civil law does not obligate brothers and sisters to furnish support to brothers and sisters, nevertheless natural charity and piety press gravely if brothers or sisters have been constituted in grave necessity.

But as to other more remote blood-relatives, besides brothers, if they are in grave necessity, the obligation is still present, although light, "since toward them also there is some obligation of piety, although not so strict." L. 339, l. 3, n. 946; Lugo, *de Iust. et Iur.*, d. 24, n. 176. Yet the obligation of piety is present more strictly toward other blood-relatives of the direct line. Mother-in-law and daughter-in-law lose support if they pass to other nuptials, or if the spouse from whom the affinity arose has died leaving no descendants. C. I. 140; C. G. 206.

Parents cannot deny support to children because, against their will, they contracted nuptials with unworthy persons. L. l. 3, nn. 337, 949. "Sanchez, etc., say that a father is bound to furnish support not only to the son, but also to his wife, although he married her without dowry and against the will of the father himself. Besides, Azor, etc., hold that a father must feed the son even if the son has viciously consumed the portion already previously handed over to him." L. 336, 337. "But it is certain that parents are bound to furnish support to children, even spurious children, and even those born from condemned intercourse, if they cannot be sustained from elsewhere." L. 951.

Nor indeed generally is it licit to deny support because he who asks it came to poverty by his own fault, except to brothers and sisters from C. I. 141; and from C. B. 1611 only strict sustenance is owed. From the same C. B. 1963, 1969, if, an inheritance having devolved, an heir to be born must be awaited, the mother who cannot provide for her own sustenance can demand support fitting to her social condition from the inheritance itself up to the birth. Likewise the heir is bound to furnish support to the members of the family of the deceased for a month from the inheritance devolved.

But how much must be furnished is to be estimated from the necessity of the one asking and from the resources of the one giving. C. I. 143; C. G. 208; C. H. 146; C. L. 178, 179. Support comprehends food, clothing, habitation, and other things necessary for life, and, according to circumstances, instruction fitting for the person. C. I. 846; C. H. 142; C. B. 1610; C. L. 171. But an option is given either of receiving the needy person at home, or of furnishing him a pension, unless the judge has established otherwise. C. I. 145; C. G. 210; C. H. 149. But because this obligation of furnishing support is from charity and piety, not from justice, he who does not furnish it is not bound to restitution, nor is he obligated toward the heirs of the deceased who had the right to it. C. I. 144, 146; C. G. 209; C. H. 148, 150, 151. Cf. C. A. 171; C. L. 176; L. 339, 356, 946, 949, 951.

The obligation of furnishing support can vary according as the conditions of him who furnishes it, or who needs it, have varied. C. I. 144; C. G. 209. It ceases altogether when he who needed support has died, although it was owed to him from sentence of the judge, C. I. 146, or from donation or legacy, because these things are personal. Therefore if by legacy it was owed for ten years, if the one to whom support was left dies before that, the right of support does not pass to his heirs.

683. What about repairing harms? - The question is generally raised: Is a superior bound to repair harm inflicted by his subjects?

R. Affirmatively in the external forum, according to the various laws in force in various regions. Generally this obligation of repairing harm on account of the deed of another is either from negligence in custody and vigilance to be used, or from the choice of persons whom we deputize to do something. Cf. C. I. 1153; C. G. 1384; C. H. 1903, in which express mention is made: 1. Of the father, and, when he has died, from C. G., or is lacking from C. I., of the mother in relation to minor children dwelling with them; and in C. I. and in C. H. of tutors in relation to those whose administrators they are, likewise dwelling with them. 2. Of the master and of the one commanding in relation to servants and mandatary persons in the exercise of functions to which they themselves destined them. 3. Of the teacher and craftsman in relation to students during the time in which they are under their vigilance. But nothing is established about the husband in relation to the wife.

Moreover, an obligation of this sort, whether in parents or in tutors, whether in masters and those commanding, whether in teachers and craftsmen, ceases, from each Law, Italian and French, whenever they prove that they could not have impeded the deed concerning which otherwise they would have to respond; or, from C. H., that they used due diligence. C. G. 1424. From C. B. 828 seqq., children before the completed seventh year by no means answer for harm inflicted. After the seventh year and before the eighteenth year, they answer for it if necessary discretion was not lacking. But those who ought to watch over them must repair the harm if they omitted to use due diligence. The same is established about one commanding another some business, if this other inflicts harm on another in the execution of that business, unless the one commanding used ordinary diligence. From C. He. 333, the head of the family, or of domestic communion, answers for harm inflicted by a member of it who is a minor, interdicted, or of infirm mind, unless he demonstrates that ordinary diligence required by the circumstances was used.

R. Negatively, speaking generally, in the internal forum. The reason is that the quality of superior brings only the burden of governing subjects rightly, but by no means the obligation from a debt of justice of impeding harms of his own subjects, and much less of others who are not subjects, unless he ought to impede them either from a special contract or from a special office. Hence a private schoolmaster who does not correct students stealing or detracting from others, although he ought to imbue them with good morals and receives payment for this, nevertheless is by no means bound to restitution to those from whom the students steal or whom they detract, since nothing was done with them.

Speaking generally; for they who preside over others are bound concerning harm if they do not prohibit it in that thing or office in which they ought to be over them, for example, if the apprentice of a pharmacist gave poison instead of medicine, provided they do not lack grave fault. The same altogether holds if from your animal, or from your thing, with your fault harm happened to another, if, for example, your dog, untied, bit one entering, or your house, collapsed from age, killed several.

Inst. 1, l. 1, t. 7; l. 4, tt. 5, 8; Dig. 1. 47, t. 5; C. A. 1308, 1309, 1314-1316; C. L. 2394 seqq.; Gousset 963 seqq.

684. What are tutor and curator; and to whom are they given? - To those who cannot protect themselves and their own, if they are not under paternal power, a tutor or curator is given. C. A. 187; C. B. 1773. Tutor and curator differ from each other: 1. because a tutor is given principally to the person, secondarily to things. But a curator is given either only to things, or principally to things, and only secondarily to the person, at least regularly speaking. C. A. 188, 209; C. B. 1793, 1794, 1909.

2. They differ because a tutor cannot be given for a certain thing and cause. But a curator can be given for certain things and determined causes. And thus C. I. 980; C. B. 1961, a curator is assigned to an unclaimed inheritance; C. A. 274, 690; C. L. 157; C. B. 1912, a curator is given to the inheritance of future offspring to be born, and to an inheritance when legacies burden it whole and the heir refuses to administer it. C. B. 1911; C. L. 55 seqq., a curator is given to the goods of one absent. C. B. 1913, 1914, a curator is given to the goods of an unknown owner, and to goods coming from public collections when their administrators are lacking.

3. He who is under tutelage can do absolutely nothing. He who is under care, if he is an emancipated minor, can with the assistance of the curator demand principal sums and pursue judgments, C. I. 318; C. G. 482; if he is a major declared incapable, or deaf-mute or blind from birth, he can do all things with the assistance of the curator. C. I. 339, 340; C. G. 513; C. A. 269, 270.

4. They differ from Common Law, because a tutor is regularly given to a ward or one below puberty, and to him who is compared to one below puberty. But a curator is given to a minor or pubescent up to the twenty-fifth year of age. Inst. 1, l. 1, tt. 13, 23; Ferraris, v. *Tutela*, 10 seqq. From More Recent Law, a tutor is given to a non-emancipated minor and to one interdicted from the administration of goods. But a curator is given to a son soon to be born; to a minor called to an inheritance; to an emancipated minor; to a major declared incapable because of infirmity of mind or prodigality; to an absent person; to a deaf-mute, or one blind from birth. C. I. 236, 241, 245, 247, 277, 314, 315, 329, 339, 340; C. G. 389, 393, 405, 450, 482, 505, 509, 513; C. B. 1773, 1893, 1901, 1909-1914; C. L. 55, 65, 317, 337, 349, 356. From C. H. 199, 200 no distinction is had between tutor and curator as to name; but as to the thing it is preserved. For a tutor is given both to the person and goods, and only to goods. Subject to tutelage are non-emancipated minors, the insane, deaf-mutes, prodigals, and the interdicted. Almost the same is had in C. A. 187, 188, 269, 270, 275.

But in any tutelage a protutor must also be chosen, whose role it is to supply the place of the tutor and protect the minor if the minor's good is opposed to the good of the tutor. C. I. 265; C. G. 420; C. H. 201, 234; C. L. 205. Cf. C. A. 211, 215; C. B. 1791, 1799; L. 917; C. L. 187 seqq.

685. Who designates a tutor; who can be tutors? - R. To the first: The following can give a tutor: The parent who dies last, either by testament or by public instrument, C. I. 242; cf. C. A. 196, 197; C. H. 206; the family Council, if the parent did not designate and those whom the law designates are lacking, C. I. 245; cf. C. A. 198, 199; C. H. 204, 211, 212, 231; the council of tutelage and the judge in certain cases, C. I. 248, 261, 262; C. A. 189, 190, 199, 204. The family Council is constituted for

legitimate children; the Council of tutelage for acknowledged illegitimate children. C. I. 249, 261; C. B. 1774 seqq., 1852 seqq., 1858 seqq.; C. L. 203.

R. To the second: Since the tutelage of minors is a public office, filled with many cares, not all can assume it, nor can all reject it or ought they to; but only persons capable by law and designated by law. C. I. 268 seqq.; C. G. 427 seqq.; C. H. 202, 203, 237 seqq., 244 seqq.; C. A. 191 seqq., 201; C. L. 186 seqq. Tutelage and care by law belongs to the spouse, father, mother, paternal grandfather, maternal grandfather, C. I. 315, 330; C. G. 402 seqq.; C. B. 1776, and, these being lacking, to the nearer blood-relatives. C. A. 198. Cf. C. L. 200, 201, 227 seqq.; Inst. 1, l. 1, tt. 14-20, 25, 26; C. B. 1776 seqq.; C. L. 200.

686. What are the duties of tutor and curator? - A tutor has care of the person of the minor and of his education, especially religious education, and represents him in civil acts, and merely administers his goods. C. I. 277, 296, 318; C. G. 450, 457, 481; C. H. 261 seqq.; C. A. 188, 205, 216, 243; C. B. 1793, 1801 seqq.; C. L. 243 seqq., 258 seqq. Hence he cannot exceed the limits of administration. C. I. 296 seqq., 301; C. G. 456 seqq., 482; C. A. 233, 484; C. H. 269, 275; C. B. 1804, 1831. A curator furnishes assistance and authority to him who is under his care. C. I. 318, 339, 432. Therefore the power of tutor and curator is confined within certain limits, and in any matter whatever of graver moment is dependent upon the family Council and even upon the homologation, or confirmation, of the tribunal. C. I. 296, 297, 301; C. G. 457, 467; C. H. 269 seqq., 293 seqq.; C. A. 216, 233; C. B. 1803 seqq.; C. L. 74 seqq., 263 seqq.

Therefore both tutor and curator are bound to use great fidelity in their own office, as a good father of a family, and if he gravely fails in fulfilling it, he sins gravely, even against justice, by force of a quasi-contract, and they are bound to compensation of harms. C. I. 277, 302; C. G. 450, 469; C. A. 202, 204, 228, 264, 265; C. B. 1805, 1833, 1848; C. L. 220 seqq.; L. 341, 917, 918.

A tutor, unless he is the paternal or maternal grandfather, must give surety, from which however the family council can dispense him. C. I. 292. Cf. C. B. 1844; C. H. 252 seqq. From C. A. 237, a tutor is not obligated to surety. Besides this, from the beginning of tutelage he must make a statement and inventory of the goods of the minor. C. I. 281; C. G. 451; C. A. 222, 223, 224; C. H. 264; C. B. 1802.

Each year, while tutelage lasts, unless he is the paternal or maternal grandfather, he must render an account of his administration to the family Council, C. I. 303; or to the substituted tutor, C. G. 470; or to the pupilary judge, C. A. 238, 239. Cf. C. H. 279 seqq.; C. B. 1837 seqq.; C. L. 249 seqq.

When tutelage has been completed, he is likewise bound to render an account of his administration, C. I. 302; C. G. 469; C. H. 281; C. B. 1890, and he is bound concerning less diligent administration, unless he is freed by legitimate prescription. C. I. 309; C. G. 475; C. H. 287; C. B. 1833; Inst. 1, l. 1, t. 21. Acts of the family council and tutor need the homologation of the tribunal when the matter concerns alienation of the goods of the minor, receiving money by loan, and other graver matters. Homologation is ratification, confirmation.

687. Note: The tutor or protutor cannot buy or hire the goods of the minor, nor can he accept the cession of the rights of the minor. No agreement can be made between tutor and minor, nor can any testamentary disposition useful to them be made before the account of tutelage has been rendered and approved. Yet he has the right to compensation for expenses made by reason of tutelage, and to

fitting remuneration for his office. C. I. 300, 307, 769, 1457; C. G. 156, 450, 472, 907; C. H. 269, 270, 275, 276, 285, 753; C. A. 266, 271; C. B. 1795, 1796, 1805, 1834-1836; C. L. 73, 243 seqq.; L. 917.

688. You will resolve: A tutor or curator cannot make donations or gratuitous remissions from the goods of the ward; he is constituted not for destroying, but for protecting. Except a remuneratory donation; for thus he can, for example, add something by liberal donation to a stipend owed for liberal service. Lugo, d. 23, s. 10; L. 341; C. H. 275; C. B. 1804.

689. What are the obligations of a minor? - A tutor is in the place of a father. Hence the duties of a minor toward him are similar to those which would be owed to the father himself. But the obligation of a minor toward a curator is lesser; yet as to administration of goods he must both be subject to him and bear a grateful mind. Yet a minor is not bound, whether toward curator or toward tutor, as strictly to love, reverence, and obedience as toward parents. For his dependence upon them is far less than upon parents. C. I. 280; C. H. 263; C. A. 217.

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

691. How do tutelage and care end? - They end on the part of the tutor or curator by his legitimate excuse, removal, death, or by the affairs committed to him now completed. On the part of him whose tutor or curator he is, by his majority of age, or when the cause of interdiction or inhabilitation has ceased, or by his death. C. H. 278; C. A. 249, 251, 253, 283; C. B. 1882 seqq.; C. I. 388, 342; C. G. 512, 514.

V. Obligations of Inferiors and Superiors

692. What is the distinction between slaves and servants? - Servants are distinguished from slaves. Slaves are those who, by the law of nations and civil law against natural liberty, are subject to another master, so that they can be possessed, alienated, and sold after the manner of patrimony. Schmalz., l. 4, t. 9, n. 1 seqq. "The appellation of slaves flowed from this, that our commanders are accustomed to sell captives, and by this to preserve them and not kill them." L. 239, *de Verb. sign.* But servants are not slaves, but free persons who freely enter contracts of service, by hiring their works for a certain or uncertain time in the service of a master and his family. Hence servants are of the family, and therefore are also called familiars or domestics. Servants are under the governance of the master, and masters have rights and obligations toward servants. Although by servants and those of the family is not properly understood one who furnishes the duties of service only for one or another hour of the day, nevertheless those are sufficiently understood as familiars who have a stable seat for the whole day in the house of the master and serve him, but sleep at night in their own house. S. Th. 2. 2, q. 102, a. 1.

Therefore servants are also distinguished from workers. For these hire their works to some master for a certain time and labor, but are not received into his house and family, nor are they properly subject to his governance. From the contract of works there arises an obligation of commutative

justice, for the servant to furnish his works to the master, and for the master to pay the agreed wage. But from the fact that he is taken into part of the master's family, the master has the right and office also of ruling and governing the servant for the common good of the family; but the obligation of observance and obedience falls upon the servant in those things which pertain to domestic order. And thus S. Th. 2. 2, q. 65, a. 2, not from some pact or from commutative justice, but from the order of society, although imperfect, recognizes in the master, besides dominion of ownership over the works of the servant, dominion of jurisdiction or power extending itself over the person even to moderate correction of him.

693. What are the obligations of masters? - Masters are bound toward their servants: 1. To treat them kindly, that is, by addressing and commanding them decently and humanely, by furnishing good and sufficient food, by not burdening them with too many works, by not exposing them to harmful and dangerous works without due precautions, and by conveniently caring for the sick. And generally they are bound to fulfill the offices of charity toward their own servants more than toward others, because servants labor for them, and as it were live for them, and are of the family. This is clear from natural law, and from Sacred Scripture. Ecclus. 33:31: *If you have a faithful servant, let him be to you as your soul; treat him as a brother*. Eph. 6:9: *And you, masters, do the same things to them* (servants), *forbearing threats; knowing that both their Lord and yours is in heaven, and there is no respect of persons with him*. C. He. 331, 332.

2. To govern them conveniently, having due regard for the goods of religion and salvation, to instruct and correct them conveniently; for the master is head of the servant, just as of the whole family; but it belongs to the head to direct, where there is need. It seems also clear from the words of Paul, 1 Tim. 5:8: *But if anyone does not have care for his own, and especially for those of his household, he has denied the faith, and is worse than an unbeliever*. But the servant is reckoned among domestics. C. He. 332; Elbel n. 950.
3. To pay a just price; for the matter concerns an obligation of justice and natural equity; and defrauding such a wage is numbered among the sins crying to heaven. 1 Tim. 5:18; 1 Kings 30:13; L. 342; S. Th. 2. 2, q. 102, a. 1.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

694. You will resolve: Masters can sin, and indeed even gravely: If they do not concede time to servants for learning the rudiments of the Christian faith, or do not send them to catechism and sermon; if they do not take care that at the due time they assist at Mass, confess, and communicate. If they hire or retain in the house servants addicted to illicit sects, irreligious, impious, blaspheming, speaking base things; if they do not warn and correct those sinning gravely, or do not dismiss those unwilling to promise amendment, unless perhaps they especially need their works and cannot find others. If they do not watch, as far as lies in them, that servants abstain from sins; if they permit an occasion of sinning to them; if they lead or entice them into sin by bad example or solicitations.

If they do not pay the promised or just stipend, or delay it too much; if they do not care for sick servants, and immediately expel them, or dismiss them before the fixed time without just cause. Catholic Epistle of Blessed James 5:4; C. B. 618; C. He. 331, 332; L. 342. For understanding the gravity of sin as to the aforesaid omitted warning, correction, and vigilance, and the scandal that

followed, it is often necessary to open the condition of the master. For as to extraneous persons grave fault is often absent. Almost the same are the obligations of other masters toward workers who labor in their factories.

695. What are the obligations of servants? - Servants are bound to furnish to masters: 1. Reverence; for thus the Apostle, 1 Tim. 6:1: *Let servants judge their masters worthy of all honor*. From this, those can sin even gravely who mock masters, spurn them, or manifest their hidden defects. 2. Obedience and compliance in all those things to which they have obligated themselves by force of contract and by force of positive laws, C. A. 1172; C. B. 616, 617, and in those things which regard good morals. For by force of service there arises a relation of superiority and subjection between master and servant. Therefore, if the right of governance belongs to the master, the obligation of obeying corresponds to the servant. Thus Eph. 6:5: *Servants, obey your carnal masters with fear and trembling in the simplicity of your heart, as Christ*. And 1 Pet. 2:18: *Servants, be subject in all fear to masters, not only to the good and modest, but also to the difficult*. Hence they sin more or less, by reason of matter, who, when something is prescribed to them, grumble, answer insolently, waste time uselessly, neglect to perform the prescribed labor, or labor for themselves with damage to the master; and in one word, all those who do not furnish the service which ordinarily is usually required and furnished by such persons. 3. Fidelity; according to the words of Paul to Titus 2:9: *Servants are to be subject to their masters... not defrauding, but showing good faith in all things*. Hence they sin, and often gravely against justice, who do not have care for things entrusted to them, who by their fault allow them to become worse, who steal expensive foodstuffs, or those not usually given to them, whether for eating, or for giving or selling to outsiders, who manifest secrets of the family, especially if harm follows from this. Leo XIII, Enc. *Quod Apostolici*, 28 Dec. 1878; S. Th. 2. 2, q. 103; L. 343.

For understanding the gravity of the sin, by reason of irreverence, disobedience against observance and dulia, and infidelity against justice, the condition of service must be manifested in confession. Otherwise the grave malice which is had is either not declared, or is not sufficiently expressed in its lowest species. Almost the same are the obligations of workers toward their own patrons.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

696. Note: "Wages are owed to servants sick for a brief time, for example, for a few days, because the time of the year for which they are hired is to be taken morally, or no attention is to be given to a defect for a brief time; for a small time with respect to the whole year is to be reputed as nothing. But otherwise, if the servant is sick for several months, because wages are by no means owed for an office not furnished. L. 346. Nor is the master bound to expenses to be made for care, or for remedies and the work of a physician. All agree on this if the expenses are notable; indeed St. Liguori, n. 864, after Lugo, admits this, at least as probable, if the expenses are light. But no wages are owed to workers, even those sick for a brief time, because they are hired by the day... therefore they must be paid only for individual days, indeed for half a day, if they fail for half a day." Gury, Cas. 972; C. B. 616, 617.

A master cannot dismiss a servant before the established time without grave cause. The reason is that a contract of hiring is truly onerous, obligating each party according to the measure of the matter. Therefore, just as a servant cannot desert the master without grave cause if the latter, by defect of the servant, would have to undergo grave harm, so likewise neither can a master without grave cause cast off a servant hired for a year. A master dismissing a servant before the time without

sufficient cause is bound to repair the harm arising from this. But if a servant departs before the established time, per se he has a right to salary almost according to the proportion of time served, though somewhat less; but if the master suffers grave detriment from the departure of the servant, he can retain a proportionate part of the stipend. L. 342, 345; C. H. 1584; C. B. 620 seqq.

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

697. Are servants bound to restitution when they culpably do not impede harms which are inflicted upon the master? - Either servants are hired to guard and defend the family estate, and to watch and impede lest any harm be inflicted upon it, as administrators, guards, etc., who are usually called by this name rather than by the name of servants; or they are hired for mere labor and furnishing their work in necessary things of the family, who are commonly called servants properly. In the first case they are bound to restitution and compensation of harms. For they are bound to impede the harm of masters from office and contract, and therefore from strict commutative justice.

In the other case, some say that even servants are bound to compensation of harms, whether they are inflicted by outsiders or by other servants. Their reason is that by force of the service itself, the master commits his things into custody to each servant. Others more commonly and more probably say that they are bound if theft and harm is committed by outsiders; but that they are not bound if it is committed by other servants or domestics. The reason is that by the very fact that they are admitted into the family, they are indeed judged to undertake the obligation of defending it against outsiders, but by no means also against other familiars. Finally, others say that servants are not bound to restitution or compensation of harm. For although they are obligated from charity to impede that harm, nevertheless they are not obligated from justice. For they are indeed hired to furnish labor and their work in necessary things of the family, but by no means also to guard and defend the goods of the family. Special servants and ministers are placed over custody and vigilance above domestic things or the family, and specifically over care and custody of the pantry; and to these the keys for guarding things are handed over. Therefore then servants are bound to restitution or compensation of harm, when that care and custody of the family estate has been committed to them by special duty, either explicitly or implicitly, for example, when a key is given to them for taking something from some place, because for then the custody of that place is entrusted to them. Given this variety of opinions, the confessor ought prudently to abstain from urging the obligation of restitution. Lugo, d. 19, nn. 105, 106; L. l. 3, nn. 344, 573.

698. Can servants, judging that the salary is below the work furnished by them, use hidden compensation? - R. Affirmatively, if masters do not pay the stipend established by agreement, or diminish it. For then they openly injure commutative justice. Ithur., Cas. 1, n. 2.

R. Negatively, at least speaking generally, outside the aforesaid case. This is proved: 1. from prop. 37 condemned by Innocent XI. 2. For although they have agreed about a lower price, nevertheless the contract, as being just in conscience, must be stood by. At least speaking generally, because several except: 1. If the servant is compelled by force or fear to consent to an unequal price. 2. If, compelled

by necessity, he consented to it, provided however that the master would not already have justly found other servants at the same low price, or did not receive this one asking from mercy. Indeed, if a servant serves with no wage established, from mere charity of the master, so that he may be fed by him, he can claim none, "just as happens with boys whom nobles or Bishops are asked to admit into their family; for then it suffices if the masters give them food, clothing, and habitation, since such is the custom." L. 348. 3. If he is unwillingly burdened with undue works. 4. If he increases the works from the will of the master, whether express or tacit; for the worker is worthy of his wage; but otherwise if he himself altogether spontaneously increases the works, because then he is judged to remit the works in order to conciliate to himself the favor of the master. L. 522, 523; E. M. 1473.

699. Note: What has been said of servants is to be said likewise of other workers, and of merchants. What the just compensation is can also be left to the judgment of the servant, if he is prudent and of a timid conscience. But in practice the matter often is not without danger of illusion. The practical danger must also be guarded against, lest, if he is discovered to have taken the master's money secretly, he be denounced as a thief and condemned to prison. L. 524.

700. What are the obligations of teachers and pupils? Between teachers and pupils there are, in a certain way, the same obligations as between parents and children. The reason is that parents, whose right and obligation properly concerns the education and instruction of children, substitute teachers for themselves, who therefore hold their place in this matter toward the children. Therefore masters and preceptors owe to pupils love, good example, right education, correction, and true doctrine. Hence they are bound to perfect themselves in the science which they teach, in order to instruct others duly; to promote the progress of pupils in letters, as much as lies in them; to turn them away as much as they can from others who are defiled by depraved morals, whom they ought in no way to admit into their schools. They can also sin gravely when they neglect the instruction of pupils, or punish them unjustly or indiscreetly; but especially if they seduce them, by driving them toward sins; if they do not teach good morals; if deliberately they teach false things as true, or things harmful to salvation; if they retain pupils imbued with bad morals, who are pernicious to others, etc.

They can sin gravely, however, both by reason of office and by reason of the stipend which they receive. If the teacher has assumed from quasi-contract a special care for the education of his pupils, by contrary sins, for example of scandal, not only charity but also justice is violated. Hence the condition of teacher is to be explained in those sins. Pupils are bound to show teachers love, reverence, and obedience, because of their superiority and care, while they are instructed by them in good morals and arts. The reason is clear: for this is what the reciprocal obligation of pupils to teachers imports; teachers would plainly be obligated in vain to instruct them, or to imbue them with good morals, unless pupils likewise were obligated to follow the admonitions and precepts of the teachers. Pupils sin, however, gravely or lightly according to the gravity or lightness of the matter itself, and its various circumstances, if they do not obey teachers in things pertaining to studies and good morals; if they do not show honor and reverence to teachers; namely if, far from studying diligently, they waste time in idleness, play, or other follies against the will of their teachers; if they detract from teachers, or ridicule them, jeer at them, afflict them with curses, calumnies, annoyances, etc. C. 1. ult. de Magistr. etc.; Clem. 2. e. t.; L. 361; S. Th. Quodl. 3, a. 9; E. M. The condition of pupil is to be explained in grave sins against due reverence and obedience. Otherwise the grave malice against observance is not declared.

700bis. Schools: By her native right the Church has true authority over schools, whether private or public, in order to her own end. And the Church has in fact always applied care lest schools, even lower schools, be lacking, and for the sake of the poor, as may be seen in the Decrees, title de Magistris, and lest anything be demanded for the license to teach. Parents sending their children to heretical, schismatic, neutral schools generally sin gravely. They can be excused from the gravest necessity, scandal being removed, and the proximate danger of all perversion against faith and morals being removed, and suitable means being used for the right, Christian, and Catholic education of the children. E. M.

Studies: The teaching of Sacred Scripture is to be imparted in each Seminary, according to the prescription made on this matter by Pius X, Litt. *Quoniam in re biblica*, 27 Mar. 1906.

In the plan of studies, moreover, those things are to be observed which are contained in the Encyclical Letter of Pius X, *Pascendi dominici gregis*, section I, "Primo igitur," and following, and are repeated in the Motu Proprio *Sacrorum Antistitum*.

Therefore scholastic Philosophy is to be handed on, especially that which was handed on by Saint Thomas, concerning which whatever was sanctioned by Leo XIII remains in force. Scholastic Theology also is to be handed on. But account is also to be taken of positive theology, and indeed more than before, yet with due moderation. The science of philosophical matters cannot decline from divine and ecclesiastical authority. Profane disciplines also are to be cultivated, especially those of natural things, yet with no harm to sacred studies. As to the directors and teachers to be chosen for Seminaries or Catholic Universities and religious houses of studies, whoever, in any way, shall have been imbued with modernism are to be barred both from the office of governing and from the office of teaching. All books, periodicals, and any reviews which have the savor of modernism are to be permitted neither to adolescents in Seminaries nor to hearers in Universities. Besides this it is prescribed that individual teachers, before beginning lectures at the start of the year, show to their Ordinary the text which each has proposed to himself in teaching, or the questions or theses to be treated; then that during the year itself the method of each one's teaching be examined; and if it should appear to depart from sound doctrine, this will be the reason why the teacher is immediately to be removed. Finally, besides the profession of faith, they are to give an oath to their Ordinary, according to the established formula, and with their name subscribed.

The same thing must be furnished each year to their moderators by teachers or lecturers in religious orders before they begin lectures; namely they are bound also to show to them the text of lectures, and the questions or theses to be treated, and at the beginning of the year to give the oath. For the effect of sacred ordination, years of studies cannot be said to be completed by the feast of Pentecost or of the Most Holy Trinity; rather it is required that the scholastic course of nine months be completed, with the final examination successfully passed. E. M. Ordering of studies: In the Seminaries of Italy the ordering of discipline, and of schools and studies, is to be observed which is contained in the Circular Letter of the S. C. Consist., 16 Jul. 1912, A. A. S. vol. 4, p. 491 seqq. The S. C. Consist., Circular Letters 16 Jul. 1912 and 17 Oct. 1913 to the Ordinaries of Italy, recommends that in the Seminaries of Italy scholastic texts more apt and of safer doctrine be used, with others excluded, which can be dangerous for the formation of clerics. Hence in particular in the aforesaid letters are excluded: *Il primo passo alla filosofia* of Aloysius Ambrosi, the manual works of ecclesiastical

history by F. S. Funk and F. S. Kraus, the manual work of Patrology by Rauschen, works of consultation and erudition, Delehaye's *Leggende agiografiche*, and similar things. E. M.

Academic Degrees: Regulars can have the habitual faculty from the S. C. to obtain academic degrees from the Biblical Commission. Degrees regularly are necessary for various dignities and ecclesiastical offices, for the Episcopate, for the Archdiaconate, for the penitentiary, theological, and scholastic Canonry, for the office of capitular vicar, Advocate before the Roman Congregations. Assistants in Rome must be distinguished by the laurea of doctor in sacred theology and in canon law. C. *Sapienti Consilio*, Ord. serv. in R. C., Normae pecul. c. 6, n. 5. E. M. Doctorate: Let no one hereafter be given the laurea of Theology and Canon Law who has not previously completed the established curriculum in scholastic philosophy. But if he should be given it, let him be given it in vain. The precept that no one is to be given the laurea of Theology unless he first has obtained the laurea in philosophical disciplines, or at least has furnished certain testimony concerning the completed curriculum in Scholastic Philosophy, is strictly to be observed. If anyone is enrolled in the same year in the Faculty of Theology and of Canon Law at the same time, even if in different Institutes, let him be deprived of every right to receive degrees. But if he is given some degree, let him be given it in vain. No one can be admitted to the school of the canonical text unless he proves by written document that he has studied for a year in some Institute in the Institutions of Canon Law. Those to be promoted to the doctorate are bound to make the profession of faith, according to the formula prescribed by Pius IV, with the addition prescribed by Pius IX. Academic degrees obtained in Rome or elsewhere at Catholic Universities or Pontifical Institutes are to be judged altogether valid in other places, without new confirmation, or new taxes to be exacted. The laurea of Doctor in Theology or in Canon Law, which is granted through the S. Congregation of Studies, without any examination made, but because of excellent merits, has all the rights and privileges of any other doctoral laurea. The manner of testing the doctrine of candidates for academic degrees in Sacred Scripture is found in *Acta Apostolicae Sedis*, vol. 3, p. 47 seqq., p. 296 seqq. Teachers, at the beginning of the year in Seminaries, and teachers or lecturers in religious orders, after the profession of faith has been made, are likewise bound to emit the oath, according to the formula prescribed by Pius X, M. P. *Sacrorum antistitum*. Before anyone is admitted by the superiors of some school, lyceum, or university to academic degrees, it must be evident by document that he was not enrolled in another institute. E. M.

The print's appendix has more on this paragraph: [On the Study of the Doctrine of St. Thomas](/manuals/bucceroni/on-the-study-of-the-doctrine-of-st-thomas). (ed.)

701. What are the obligations of inferiors as regards ecclesiastical Superiors? Subjects are bound to show to their spiritual Superiors love, honor, and obedience in those things which pertain to their jurisdiction and care; likewise necessary support. Proof: 1. This is clear from many places of Sacred Scripture, 1 Tim. 5:17, 18; Heb. 13:17, etc. 2. As to love, reverence, and obedience, because they are superiors, having true jurisdiction; as to support, because the laborer is worthy of his wage. As to those who serve the common utility, that is, Princes, soldiers, and others of this sort, the stipends of livelihood are owed by the people; so also to those who minister to worship for the salvation of the whole people, the people owe stipends of sustenance. Trid. s. 25, C. 17 de R.; Leo XIII, Enc. *Sapientiae christianae*, 10 Jan. 1880; S. Th. Quodl. 6, a. 10; Quodl. 10, a. 12; E. M.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

702. You will resolve: Therefore all Christians are bound under grave fault to obey the Supreme Pontiff in matters pertaining to faith, to morals, and to Christian discipline; for in these he is the Vicar of Christ on earth. In the same way, diocesan subjects are bound to obey Bishops, according to the nature of the matter, in those things which pertain to their jurisdiction. They must also depend on the Supreme Pontiff and on the Bishops as regards Catholic social action. For the Supreme Pontiff and the Bishops have the right of directing it. Pius X, 1 Mar. 1905, Ep. to Card. Svampa.

703. What are the obligations of ecclesiastical superiors? Spiritual Superiors in turn are bound to show to subjects love, care, doctrine, and good example. Proof: 1. This is clear from many places of Sacred Scripture. Cf. Epp. to Timoth. and to Tit., and from Trid. s. 23, C. 1 de R. 2. This is evinced from their very office. Hence neglect of souls as to care and administration of the sacraments, as to doctrine and correction in ecclesiastical superiors, is not only against charity, but also against justice, and for the most part a mortal sin, according to that saying of Ezech. 34:2, 4: *Woe to the shepherds of Israel ... that which was weak you have not strengthened, and that which was sick you have not healed*, etc. L. 357 seqq.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

704. What are the obligations of subjects toward civil authority?

Subjects are also bound to show love, reverence, and obedience to secular superiors. For in the civil order they are true superiors, bearing toward us in the temporal order the place of God Himself. This is confirmed from Sacred Scripture, Rom. 13:1 seqq.; 1 Pet. 2:13, 17. For this reason the Catechism of the Council of Trent compares and joins an obligation of this sort with that by which we are bound toward paternal and ecclesiastical authority. For, p. 3, on the 4th Commandment, section 15, after it has taught that parents and ecclesiastical superiors are to be honored with due honor, it adds: "The same must be said of Kings, Princes, Magistrates, and the rest, to whose power we are subject. For if we pay them any honor, it is referred to God; for an eminent degree of dignity has the veneration of men, because it is a likeness of divine power; in this also we venerate the providence of God, who has attributed the administration of public office to them, and uses them as ministers of His power." Hence it is clear that reverence is to be shown not only to Princes, but also to their officials according to their office and dignity.

Leo XIII, Enc. Letter *Quella lunga*, 29 Jun. 1881; S. Th. 2. 2, q. 104, a. 5, 6; Quodl. 8, a. 7; Quodl. 10, a. 12; E. M. Therefore it is not fitting to speak rashly about those who perform public office, nor maliciously to carp at their deeds; although it is permitted to scrutinize them and to speak and write publicly about them, insofar as the laws permit this, so that right judgment may be made concerning them and public utility may be provided for. Therefore they sin against charity and justice who announce in newspapers the hidden offenses of certain persons, which do not harm others, or publish them in conversations and speeches, so that they may repel them from some office. Those wound the observance due to them who inflict insults upon them, whether by words or writings, and who deny them the signs of honor due to them. Kenrick tr. 8, nn. 164, 165.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

705. What are the obligations of civil superiors? These are bound to show to subjects love, good example as to morals and religion, the administration of justice, and to provide for public happiness by just and suitable means. This is most plainly clear from the very nature of their office. For the end of civil government is the safety of the commonwealth. The Fathers of the Seventh Council of Toledo, chap. 10, explaining the office of kings, present them as "not looking to the rights of their own advantage, but consulting the fatherland." Hence secular superiors sin gravely by negligence, connivance, and omissions, for example if they do not protect subjects from enemies and unjust vexations, and most of all by positive injuries, oppressions, and excessive exactions, or by persecution of the Christian religion; which injustices God certainly will not leave unavenged. For, as is said in Wis. 6:6, 7, *a most severe judgment shall be made upon those who preside: for mercy is granted to the little, but the powerful shall powerfully suffer torments*. Struggl 28. They likewise sin if, as far as they can, they do not turn away from society crimes which tend to the common harm, if likewise they do not remove from it the sects of Freemasons, socialists, anarchists, etc., if they put over the commonwealth men ignorant and inexperienced. This grave precept of choosing good men, in due proportion, in a Constitutional and Republican Government, also urges all electors of Deputies, from legal justice, and, other circumstances being excluded, not only do those sin who give a vote to bad men, but also those who by not taking part are the cause that bad men are elected by others; for each one, when he can and no legitimate excuse is present, is bound to turn evil away from the commonwealth. Therefore the obligation per se is both to take part in the election and to choose a suitable deputy. No one is ignorant how many evils come from impious deputies both to religion and to civil society, since the sum of all matters has been entrusted to them, and they not only give counsel, but with others make the laws themselves. Make an exception unless somewhere and at some time, because of special reasons, it is better to act otherwise, and a special prescription is had for acting otherwise. Cf. here, on Particular Obligations of Clerics, n. 195.

Leo XIII, Enc. *Immortale Dei*, 1 Nov. 1885; Trid. s. 25, C. 20 de R.; Suarez, de Leg. l. 1, c. 7, n. 5; E. M. Deputies, however, legitimately elected, and truly suitable, by reason of the common good, from legal justice, are bound to accept the office conferred upon them, unless they are excused by a grave and just cause. Likewise Deputies and Senators, since some part of public government has in fact been committed to them, not only must not consent by passing wicked laws to the harm of religion and to the harm of the public good, but they are also bound to impede them by their presence and by their vote. Therefore it is not lawful for them to vote for wicked laws of this sort, nor is it lawful for them to be absent. And if by culpable absence they themselves are the cause why wicked laws are made to public harm, they are guilty both of violated legal justice, by which they are bound, by special reason of their office, to promote the public good, and of violated commutative justice, from a quasi-pact with their electors. As regards the election of Deputies, those things serve the matter which S. Thomas has from S. Augustine, 1. 2, q. 97, a. 1: "If the people is well moderated and serious, and a most diligent guardian of the common utility, a law is rightly made by which it is lawful for such a people to create for itself magistrates through whom the commonwealth is administered. But if little by little the same people, depraved, has a vote for sale, and commits government to disgraceful and wicked men, rightly is taken away from the people such a power of giving honors." Cf. also 1. 2, q. 105, a. 1. "For the work of Catholic men ... to embrace the very highest affairs of the commonwealth is generally useful and honorable... Generally, to be unwilling to touch any part of public affairs would be as much a fault as to contribute no zeal, no work, to the common utility; and all the more

because Catholic men are impelled, by the admonition of the doctrine which they profess, to manage the matter honestly and from faith. On the contrary, if they are idle, those will easily receive the reins whose opinions offer, indeed, no great hope of salvation. And this would also be joined with the ruin of the Christian name, for those who would be ill-disposed toward the Church can do very much, and those who are well-disposed, very little. For this reason it is clear that there is a just cause for Catholics to approach public affairs; for they do not approach, nor ought they approach, for this reason, that they approve what at this time in the ordering of public affairs is not honorable, but so that they may turn these very arrangements, as far as can be done, to the public good, having a sincere and true intention to introduce the wisdom and virtue of the Catholic religion, like most wholesome juice and blood, into all the veins of the commonwealth." Leo XIII, Enc. Letter *Immortale Dei*, 1 Nov. 1885.

705bis. Note: Ordinary power is that which belongs to someone by force of his dignity or office. Delegated power is that which belongs to someone from the concession of him who has ordinary power. Power of Jurisdiction properly is the power of declaring the law from a public office, and such is the power of ruling subjects and declaring the law in a Society, whether civil or ecclesiastical. One furnished with this power can make laws.

Economic power properly is that which looks to the external order to be preserved in some Community, according to the nature and end of that Community. Such is, for example, the power of a Superiorissa of the Novitiate over Novices. One furnished with this power can make statutes. Power of jurisdiction can be exercised in the internal forum for private utility, and in the external forum for public utility. It is contentious if it is exercised in judgment as regards litigants; voluntary if it is exercised outside judgment concerning affairs in themselves not contentious. Lastly, dominative power properly is that which is exercised over a person as though over something of one's own, as may be seen in a master in relation to a slave, in a father in relation to a son, in a husband in relation to a wife, in a regular Prelate in relation to his subject. Cf. 600; S. Th. 2. 2, q. 57, a. 4; q. 88, aa. 8, 9; q. 189, a. 5.

The print's appendix has more on this paragraph: [On Moral Theology and on Liberty](/manuals/bucceroni/on-moral-theology-and-on-liberty). (ed.)

706. Is it ever lawful not to obey temporal authority? Is it ever lawful to rebel? Is it ever lawful to kill a Prince? R. To the 1st: As was already said above, n. 171, 4. Laws unjust through contrariety to human good do not oblige in the forum of conscience. Laws unjust through contrariety to divine good are in no way lawful to observe. S. Th. 1. 2, q. 96, a. 4. But in those things which are lawful, and which pertain to civil power, obedience must be given to civil Princes, even to the difficult, and also to those who abuse their authority. From these most pure sources, namely Scripture and Tradition, says Gregory XVI in Br. 9 Jun. 1832, we are most plainly taught that the obedience which men are bound to furnish to powers constituted by God is an absolute precept, which no one can oppose. Pius VI, Br. *Pastoralis*, 5 Jul. 1796; S. Th. 2. 2, q. 69, a. 4; q. 102, a. 1; q. 104, aa. 5, 6.

R. To the 2nd: It is never altogether lawful to rebel. "In this matter," says St. Liguori, "the principle of John Gerson was exceedingly pernicious, who dared to assert that a monarch can lawfully be judged by the whole nation if he rules the kingdom unjustly... a principle, I say, not only false, but most pernicious." The reason is that subjects, by the very fact that they are subjects, cannot arrogate to themselves power above the Prince, by judging and punishing him. L. H. A. Tr. 8, n. 13; S. Th. 2. 2, q.

42, a. 2; q. 60, a. 6; q. 64, a. 3; q. 69, a. 4. But it is one thing to make rebellion, or to bring violence against a legitimate prince in order to depose him; another thing to resist unjust laws and their execution. Rebellion is a kind of aggression, not defense. But if a force plainly unjust is brought, resistance is then made not to authority, but to unjust force. "And therefore, just as it is lawful to resist robbers, so it is lawful in such a case to resist bad Princes, unless perhaps because of scandal, when from this some grave disturbance would be feared," S. Th. 2. 2, q. 69, a. 4; q. 42, a. 2, or there were no hope of a good outcome, and greater public evils were to be feared. Cf. also the Letters of Leo XIII, *Sapientiae christianae*, 10 Jan. 1890, who, speaking of laws openly disagreeing with divine right, injurious to the Church and contrary to Religion, then says, "to resist is a duty, to obey a crime." Therefore it is lawful to oppose passive resistance to unjust laws. For one must obey God rather than men, Acts 5:29. "For this reason to cast off obedience, and by the force of the multitude to call the matter to sedition, is the crime of treason, not only against human majesty, but also against divine." Leo XIII, Enc. Letter *Immortale Dei*, 1 Nov. 1895, section *Non est magni* toward the end. For "whoever have the right of commanding do not receive it from elsewhere, but from that supreme Prince of all, God. There is no power except from God, Rom. 13:1... Nature itself testifies that whatever power there is anywhere proceeds from God." When this is known and persuaded, "those things are understood altogether to pertain to justice: to revere the majesty of Princes, to be subject constantly and faithfully to public power, to do nothing seditiously, to preserve the holy discipline of the city."

Leo XIII, l. c., sections *Talis*, *Eiusmodi*; Pius X, Ep. *Notre charge*, 25 Aug. 1910.

R. To the 3rd: It is never lawful for anyone to kill a Prince, neither for a private man nor for the multitude; for the reason is the same for him and for this. The contrary opinion of the ancients is called by St. Alphonsus, l. c., improbable, false, most false. "I ask," says the Holy Doctor, "is he a man like others? And if he is a man, he cannot be deprived of life or goods by those who do not have the right to expel him from life or goods. The doctrine of the holy Fathers is common, that it is never lawful for any private person to kill a man, however private, and however iniquitous he may be, unless he has public authority, or unless this is necessary for protecting his own life." And the very same holds whether the Prince is good or bad; whether legitimate, or an usurper of the kingdom. Prop. condemned by the Council of Constance, Sess. 15, d. 6 Jul. 1414; S. Th. 2. 2, q. 12, a. 2; q. 42, a. 2; q. 64, a. 3; q. 101, aa. 1, 3; q. 102, aa. 1, 2; q. 104, aa. 1, 2, 5; Aertnys 178; E. M.

707. Are the more worthy to be chosen for civil offices? - R. Affirmatively, if there is a competition; for then there is an implicit contract about choosing the more worthy. But negatively, if there is no competition. For there is no proof of such an obligation. In order that the public good be sufficiently provided for, it suffices that the unworthy be excluded and removed, and that worthy men be chosen. And not only the supreme Prince himself is held by this obligation, but also all those who, by power received from him, can choose. For they do not receive power except for choosing in the mode in which the Prince ought to choose. Therefore also in the election of deputies, no one indeed is bound to choose the more worthy, but he is bound to choose a worthy man, with the unworthy man excluded, from whom grave harm is foreseen. Sometimes, however, it is lawful even to choose an unworthy man in order to exclude another worse man, or if that unworthy man will be more helpful than harmful, or unless otherwise someone would be exposed to undergoing a most grave evil; for his cooperation in evil is only material. Lugo de Iust. et Iur. d. 33; L. 342; S. Th. 2. 2, q. 63.

707bis. Offices: Civil offices strictly are those which look to the necessities and utilities of citizens. Political offices are those which look to protecting the government itself of the whole nation.

On the Fifth Precept of the Decalogue

I. On the Killing of Oneself

708. What is the order of the precepts among themselves? - "After the three precepts pertaining to religion, by which the debt is rendered to God, and after the fourth precept, which belongs to piety, by which the debt is rendered to parents, in which is included every debt which by some special reason is owed, it was necessary that consequently some precepts be placed pertaining to justice properly so called, which renders the debt indifferently to all." S. Th. 2. 2, q. 122, a. 6.

Therefore the six precepts of the Decalogue which follow, as the same Angelic Doctor teaches, l. c. a. 1, are "about the acts of justice commonly so called, which is considered between equals." In these six precepts are prohibited homicide, adultery, theft, and false testimony. "But all other harms which are inflicted on neighbors can be reduced to these, which are prohibited by these precepts, as to certain more common and principal things. For all harms which are inflicted on the person of a neighbor are understood to be prohibited in homicide, as in the more principal thing. But those which are inflicted on a connected person, and especially by way of lust, are understood to be prohibited together with adultery. Those, however, which pertain to damages inflicted in things, are understood to be prohibited together with theft. But those which pertain to speech, such as detractions, blasphemies, and any such things, are understood to be prohibited in false testimony, which is more directly contrary to justice." S. Th. l. c. a. 6 ad 2.

709. What is the fifth precept of the Decalogue? - The fifth precept is: You shall not kill, Ex. 20:13. Now this fifth precept, insofar as it is negative, primarily indeed prohibits homicide, that is, the unjust killing of a man; secondarily, however, and consequently, unjust anger, or the inordinate appetite of vengeance, Matth. 5:21, 22, and every other unjust injury, wounding, or mutilation of the body, whether one's own or another's, which is reduced to homicide as the principal bodily injury. But insofar as it is virtually positive, it commands the conservation of life. Those things, however, which will be established here concerning killing, whether lawful or unlawful, will be applied, with due proportion preserved, to mutilation or any injury of the body.

Struggl 3, 5; L. 363.

710. Is suicide lawful? Without divine authority it is wicked directly to kill oneself. Someone is said directly to kill himself or another when truly, per se and directly, by doing something, he intends to take life from himself or another; but indirectly, when he does not positively intend this, yet voluntarily does something from which he foresees the death of himself or another will follow. Proof: For 1. this is openly prohibited by Sacred Scripture, Ex. 20:13; Deut. 52:39; Wis. 16:13. 2. It is contrary to charity toward oneself, and is injurious both to God, who alone is the direct and absolute master of human life, and to society and the commonwealth, which is unjustly deprived through suicide of its part or citizen. S. Th. 2. 2, q. 64, a. 5. Hence suicide is deservedly punished by both laws. For by Common Civil Law both suicides and those who attempt this crime, even if death has not followed, are punished with the penalty of infamy. By ecclesiastical law, however, suicides are deprived of sacred burial and the suffrages of the Church, as is established in C. 12, c. 23, q. 4, and as

may be seen in the Roman Ritual; this penalty nevertheless does not include those who, by madness, insanity, or imagination disturbed through most grave sadness of soul, have taken life from themselves, or those who repented of the crime before death. Struggl 7; Ithur. Cas. 40, n. 3 seqq.; L. 366, 375.

711. You will resolve: It is not lawful for a virgin directly to kill herself even to preserve chastity, which is esteemed a very great good. Nor is it lawful to kill oneself, although the least space of life remains. Struggl 8; Ithur. l. c.; S. Th. 2. 2, q. 64, a. 5 ad 3, 5; L. 366.

712. Is it lawful by a positive act to concur in one's own death? Never, without divine authority, is it lawful to posit an external act tending per se immediately to one's own destruction, unless that act has another good and immediate effect, which alone is intended, and a grave reason urges the obtaining of that good effect. The reason is that, where the physical act, even though per se indifferent, has no other effect than suicide, it already becomes evil, since no reason is present by which the precept of conserving life and of avoiding the danger of death ceases, and the killing of oneself would be directly intended, at least implicitly. Hence in whatever case it is prohibited. S. Th. 2. 2, q. 64, a. 5 ad 4; L. 366. Cf. here 717.

713. You will resolve: It is wicked to throw oneself into a river, with certain danger of death, in order to baptize a child. For this would be directly to take life from oneself; namely because first one posits a means which directly and immediately tends to the killing of oneself, so that afterward, once that is posited, he may be able to administer baptism. Likewise it is wicked to do or omit something with the design that death be accelerated. But it is lawful to serve those infected with plague, to go to dangerous places of missions, and to undertake a dangerous journey from a grave and proportionate cause, as Christopher Columbus and others did. L. 366.

714. Is mutilation of oneself lawful? It is not lawful to mutilate oneself, or even to mutilate another, unless this is necessary for the conservation of the whole body, and with the consent of him whose member it is, or of him "to whom it pertains to care for the safety of him who has a member corruptive" of the other members. S. Th. 2. 2, q. 65, a. 1. But otherwise to mutilate someone in a member is altogether unlawful; and this even if it is done to preserve chastity and avoid temptations. The reason is that God is the absolute and direct master of human life; but man has only useful or indirect dominion over his own body. Unless this is necessary for the conservation of the whole body; for since the part is ordered to preserving the whole body, under the pressure of such necessity, some member certainly can be cut off, for example, to cut off for oneself a hand bound by a chain in order to avoid death impending from a beast, or a tyrant, or fire. S. Th. 2. 2, q. 64, a. 2; q. 65, a. 1; Lugo de Iust. d. 10, n. 22; La-Croix 786. Even if it is done, etc., because this remedy is neither absolutely necessary, nor in fact does it exempt from carnal temptations, although someone becomes impotent for generating. S. Th. 2. 2, q. 65, a. 1. Hence, a fortiori, it is more probably not lawful to castrate boys in order to preserve the voice in them, L. 374. "And indeed the reason is most valid... For man is not so the master of the members of his body that he is able to assent to the cutting off of any one of them, except if the safety and conservation of the whole body cannot otherwise be obtained." Benedict XIV, de Syn. l. 11, c. 7, n. 4; Lugo d. 10, n. 23; S. Th. l. c. The discipline of the Church, moreover, brands with the mark of irregularity a eunuch who, outside the necessity of saving life, has given assent to his own mutilation. Benedict XIV, l. c. n. 5. 1. Nor indeed is it lawful for someone to cut off his own fingers in order to avoid military service. Struggl 9, 10; L. l. 7, nn. 416-418.

714bis. Note: The Porro operation, so called from the Italian physician Porro, consists in the extraction of the uterus with the ovaries and other annexed parts. It is a true mutilation and utero-ovarian castration of the woman. Therefore it is not lawful unless for the conservation of one's own life. Just as mutilation and castration, whether in a man or in a woman, is unlawful, so also unlawful is atrophization or cutting of the canals conducting spermatozoa "or nemaspermata in a man." This atrophization or cutting is equivalently a grave mutilation, and a grave sin, unless it is done to save life itself. Nor indeed can public authority introduce this vasectomy, as it is called, lest degenerate men be procreated from degenerate parents, whether as the punishment of some crime, or as a necessary means because of the common good. For the power of procreating offspring pertains to personal dignity itself, and to the species, or to the propagation of the human race, over which public authority has no power. Nor can it be a punishment of crime, since it would render them still more criminal and unbridled in lust, and against the order of nature; nor can it of itself be a necessary and useful means because of the common good, for which wholly other, quite different means are necessary and useful, especially moral ones.

715. What is the obligation of conserving life? - Each one, from charity toward himself and from justice toward God and toward society, is bound to ordinary means for conserving life. The reason is that it is the same thing not to preserve life for oneself as to take it away from oneself. By ordinary means; for one is not bound to extraordinary means, unless his life is altogether necessary for the common good. And indeed extraordinary means are placed outside common powers. Therefore the law cannot commonly command them. But the labor of those who are occupied with the necessity of supporting life, such as workers, is not an extraordinary means, but an ordinary one, since it is a means given by nature itself for the necessities of life. L. 372.

716. You will resolve: A sick man in danger of death, when there is hope of safety, cannot reject ordinary medicines prescribed for him. One is not bound to make immense expenses for conserving life for oneself, or to use choice remedies which cause immense pains for him, for example, the amputation of a leg, incision of the abdomen for extracting a stone, etc. A virgin is not bound to suffer an operation by the hands of a physician, even if life is endangered, when because of modesty it happens to be most grave for her, and brings upon her a greater horror than death itself.

It is also lawful for a virgin to suffer death rather than permit her own violation, because of the very great good of virginity. It is lawful, for probably she is not bound, at least speaking speculatively, provided that she resists with a positive will, and the proximate danger of consent is absent. The reason is that this permission is not formal cooperation in the sin of another, but only material, and a just cause of permission is present, namely the danger of death. Likewise it is lawful for a virgin, in order to preserve chastity, to expose herself to the danger of death, at least if death is not certainly going to follow, and this both because of love of chastity and because of the danger of sin, which is often present in such an occasion. Indeed, more probably it must still be affirmed, even if death is certainly going to follow and there is no proximate danger of consent; because even bodily integrity alone is esteemed very highly. L. 366, 368, 372, 430, 433; H. A. l. 2; S. Th. 2. 2, q. 65, a. 1; Struggl 6; tr. 6 de Iust. et Iure q. 5, a. 1, nn. 5, 10; La-Croix l. 3, p. 1, n. 916; Lugo d. 10, nn. 197, 198.

717. Is it lawful to concur indirectly in one's own death? It is lawful, from a grave cause, to concur indirectly in the killing of oneself, or to posit an action from which, besides the intention, one's own death certainly follows, provided that from that action there follows at least equally immediately

some good, and this alone is intended. The reason is that then death, if it follows, is not willed, but merely permitted, from a proportionate cause. Cf. 36. Struggl 7; L. 366.

718. You will resolve: It is lawful for an accused man not to flee, indeed even voluntarily to present himself before the judge, although he certainly must be punished with death; because that action is per se indifferent, indeed even honorable. For in the case to will to die is the same as to will the order of justice; and just as for a just cause it is lawful to desire death for another, and also to procure it in a legitimate way, so also for oneself. L. 369; H. A. 2. Artisans do not sin who ascend upon the roofs of buildings, and expose themselves, where there is need, to various dangers; nor blacksmiths, who daily diminish life for themselves by handling fire; the reason is that they do this from a reasonable cause.

On the contrary, bold men sin gravely who by rash wagering, from vainglory, or merely by reason of gain, throw themselves into grave dangers, by ascending on high, letting themselves down, bearing heavier burdens, etc. Hence dangerous bullfights also are prohibited, unless the danger is sufficiently removed by art and skill. L. 365, 369; l. 7, n. 209. It is never lawful to macerate the body in order to shorten life, nor also, that end being excluded, by immoderate and wholly indiscreet penances gravely to ruin health. Yet it is lawful, from virtue, to use penances ordinarily grave, with a certain abbreviation of life, because for the sake of merit and the mortification of depraved nature, some loss of longer life can be contemned.

They are very useful to the spiritual life, as the practice of the Saints and the unanimous opinion of doctors show well. L. 370, 371; H. A. 2; Lugo de Iust. et Iur. d. 10, nn. 32, 36; S. Th. Quodl. 5, a. 18; Denifle, *Lutero*, l. 1, s. 2. But these things concern the ordinary way; for God often inspired altogether extraordinary penances in the Saints, whose health was often the more robust the less they spared themselves. Cf. Benedict XIV, de Canoniz. SS. l. 3, c. 29, n. 6; L. Prax. 25, 26.

It is lawful, at least more probably, to set fire to a ship or a tower, so that enemies may suffer grave damage, although with the certain loss of one's own life, because it is expedient that public damage be avoided, or that the common good be procured, even with the most certain damage of private persons. L. 367. Consequently it is also lawful for a soldier, with certain danger of life, to occupy a station, or to rush into the midst of enemies. Likewise someone can leap through a window from a burning house, or throw himself into the sea from a burning ship, not indeed to seek death, but to avoid a harder one. The same must be said of a virgin who casts herself headlong from a very high window, in order to be snatched from the hands of an impure violator. Elbel 13; Struggl 8; Gur. Cas. 377, 379, 384.

II. On the Killing of the Guilty

719. Is it lawful by public authority to kill the guilty? - It is lawful by public authority either to imprison, or to beat, or to mutilate in some member, or even to kill malefactors, according to the various gravity of offenses. The reason is that this is a necessary means for procuring the common good of the whole society. Indeed, for preserving society itself; which indeed cannot be obtained except by these penalties, and often not except by the death of wicked men. Therefore God must be said to have conferred the power without which society could not stand. "Every singular person is compared to the whole community as a part to the whole. And therefore, if some man is dangerous

to the community and corruptive of it because of some sin, he is laudably and wholesomely killed, so that the common good may be preserved... he is deprived of a member because of some lesser faults." S. Th. 2. 2, q. 64, a. 2; q. 65, a. 1. And by the same reason it is lawful to beat him and imprison him because of the abuse of the free use of his members to the harm of the community. S. Th. 2, q. 65, aa. 2, 3. This is also clear from the practice of every legislation, from Sacred Scripture, and from the universal consent of all. Lugo d. 10, n. 64; Struggl 34; Ithur. Cas. 40, nn. 11-12; S. Th. 2. 2, q. 64, aa. 2, 3; q. 65, aa. 1, 3; q. 66, a. 6 ad 2, a. 8; q. 67, a. 3; q. 108, aa. 3, 4; L. 375; E. M.

720. In what manner are the guilty to be punished with death by public authority? - "To kill a malefactor is lawful insofar as it is ordered to the safety of the whole community, and therefore it belongs only to him to whom care of preserving the community is committed... But care of the common good has been committed to Princes having public authority; and therefore it is lawful for them alone to kill malefactors, but not for private persons." S. Th. 2. 2, q. 64, a. 3. But the Prince or magistrate sins, regularly speaking, who orders the guilty to be killed without public judgment, not cited, or not heard, or not condemned, even if by private knowledge it is evident that they are guilty. Without judgment; for judgment is necessary so that the malefactor may be discerned from the innocent, and what must be subtracted from the part for the safety of the whole. Public; for public judgment is necessary so that it may be discerned whether the malefactor is to be killed because of common safety. Besides, from the law of nature, a public act ought to be done from public knowledge and authority. Make exception: 1. If the crime is altogether certain and notorious. 2. If there would be danger of sedition in the delay, if one were to proceed juridically. L. 377; S. Th. 2. 2, q. 64, a. 3 ad 2, ad 3; Struggl 35, 36.

721. Note: The judge is bound under grave obligation to grant to the guilty man sufficient time for Confession. He is also bound to grant time for the reception of Communion, since the guilty man is then in the article of death, in which the precept of Communion obliges by divine law, and then also the guilty man, even not fasting, can communicate on the same day of death, provided that Communion precede the execution by an hour. If the guilty man is unwilling to confess sins, after exhortation he can lawfully be killed by the executioner, because then his damnation is attributed to his own fault. L. 379; l. 6, nn. 233-285, par. Hic autem, 247.

722. Is it lawful to kill the guilty even by private authority? - It is not lawful to kill malefactors by private authority. Proof: because it is not lawful to kill malefactors except for the common good, just as it is not lawful to amputate a member except for the safety of the whole body. But the administration of the common good pertains to public power, which is in the Prince or in the commonwealth, not to private persons. Therefore. Besides, if it were lawful for anyone by private authority to kill malefactors, and anyone in his own cause could be judge, all things would be full of unjust homicides. Therefore God, as author and conserver of nature, did not give private men the power of killing malefactors. C. 7, c. 33, q. 2; Pr. 19 condemned by Alex. VII; S. Aug. de Civ. Dei l. 1, c. 26; S. Th. 4, d. 37, q. 2, a. 1; 2. 2, q. 64, a. 3; q. 66, a. 8; L. 376; E. M.

723. Note: Any secular person, speaking per se, can lawfully kill within the territory of the proscriber a highwayman and malefactor publicly proscribed. The reason is that through the proscribing sentence by public authority anyone is constituted minister of justice. Any secular person, for in C. *Sententiam Ne cler. vel mon.* it is gravely prohibited to a cleric that he involve himself in causes of blood, even just ones. Speaking per se; for a son cannot lawfully kill a father banned or proscribed, nor a

parent a son, or a wife a husband, because this is gravely contrary to charity and natural piety. Nevertheless make exception unless the common good demands it. Within the territory of the proscriber; for one banned cannot justly be killed in another's territory, unless with the tacit, or reasonably presumed, consent of the other Prince. Struggl 36, 37; L. 376, 378, 380; S. Th. 2. 2, q. 64, a. 4.

724. You will resolve: A guilty man condemned to death cannot by himself execute the sentence of death, by inflicting death on himself. Whether, however, he can do this at least in the case in which he is constituted by the judge a public minister of justice in order to his own killing, many affirm. Struggl 8; but many also deny, and St. Alphonsus calls this opinion the more common, 369. Yet the Holy Doctor calls both probable, l. 4, n. 284; Cf. ib. n. 281.

Soldiers ordered to seize and guard a malefactor cannot kill him when he flees, even if he has already been condemned to death, because by force of their office and, a special mandate of the Prince being excluded, attendants can only restrain the guilty man. L. 380; H. A. 9; Cf. Struggl 36.

It is not lawful for a father to mutilate or kill his own children, nor for a master his own servants, for the sake of correction. The reason is that to punish by mutilation and killing, which bring irreparable damage, certainly requires a perfect power, which neither father nor master has. S. Th. 2. 2, q. 65, aa. 1, 2.

725. Is it lawful at least, by private authority, to beat or imprison someone? - It is lawful for no one to beat someone not subject to his power, unless there be added at least the tacit consent of him who has power, for example of a father over a son, of a husband over a wife, of a master over a servant; for beating is punishment, and this supposes governing power. Since, however, this beating is done for the sake of discipline, it must be moderated. Hence per se teachers can moderately beat pupils, because they hold the place of parents. On the contrary, an elder brother cannot per se beat younger brothers, unless this has been commanded him by the father, or unless, the father being dead or absent, he himself governs the family, because primogeniture does not confer such a right upon him. S. Th. 2. 2, q. 65, a. 2.

Likewise "to imprison someone, or in any way to detain him, is unlawful unless it is done according to the order of justice, either as punishment, or as a precaution for avoiding some evil," S. Th. 2. 2, q. 65, a. 3. Cf. here 422.

III. On the Killing of an Unjust Aggressor

726. Is it lawful to kill an aggressor against one's life? - Anyone can kill an unjust aggressor against his life, with the moderation of blameless defense. Thus S. Thomas, and he confirms his thesis from the fact that in Exod. 22:2 it is lawful to kill a nocturnal thief. Therefore much more, he says, is it lawful to defend one's own life. Then, all laws and all rights proclaim that force may be repelled by force. Finally, nature itself teaches that there is in man a true right of defending his own life if it is unjustly attacked, and of preferring it to the life of the unjust aggressor, who from his own malice has cast himself into such danger. And this holds not only for secular persons, but also for clerics themselves and religious; for the right of defense is implanted in each one by nature. If it were otherwise, weapons would be supplied to injustice, to the slaughter of the good, and to the overthrow of commonwealths. Hence the Roman Catechism, n. 8, attributes this right to all without

distinction. C. *Significasti* 18 de Homic. vol.; C. *Si vero* de Sent. exc.; C. L. 2367; S. Th. 1. 2, q. 64, a. 7; L. 380.

727. Note: Can; for no one is bound to kill an aggressor. It is a dreadful means for conserving one's own life; but lawfully and praiseworthily someone can permit his own killing, lest another be deprived of temporal and eternal life. Make exception: 1. When the life of the one attacked would be necessary and very useful to the common good. 2. When he himself would be in mortal sin, because then he would be altogether bound to defend himself. L. 380.

With the moderation of blameless defense, which is situated in these three conditions: 1. That the killing of the aggressor not be done for vengeance, since this does not belong to private persons; nor from hatred, since this would be opposed to charity; but only for repelling injury and force, or for defense of oneself. 2. That one who suffers aggression not use greater violence than is necessary for avoiding death; and therefore, if he can free himself from the unjust aggressor by fleeing or only by wounding, he cannot kill; otherwise he would kill unjustly, and would be bound to restitution proportionate to the excess, since he would exceed the right granted by nature. By fleeing; otherwise charity is injured, though not justice. For is there any right in the unjust invader that the other should flee? By fleeing; provided this can be done without danger, and, if the matter concerns a noble man or a soldier, perhaps also without grave harm. 3. That the unjust aggression actually, morally speaking, be brought, that is, be so impending that one cannot repel it except by using force. For if by striking or killing he forestalls an aggression scarcely probable, he himself becomes the aggressor of another's life, not the defender of his own. Impending: yet it is not to be awaited until the other already begins to harm. Otherwise defense would already be ineffectual. C. *Significasti* 18 de Homic. vol.; C. L. 2367, 2370; Struggl 17, 20, 30; Ithur. Cas. 40, nn. 9-10; Lugo d. 10, n. 161; L. 380, 381, 387, 388.

728. Is the same lawful for preserving the integrity of life? - It is lawful with the same moderation to kill an unjust aggressor also for the defense of members. Proof: 1. from the common opinion of theologians. 2. Because each one has the right of preserving a good most necessary to life for himself, even with danger to the life of another, to which danger the other from his own malice exposes himself, provided another means is lacking and the death of the aggressor is not intended. C. L. 2367; L. 380, 398.

729. Is the same lawful for defending chastity? - It is lawful for a woman to defend herself by killing the invader of her modesty. Proof: 1. from the common opinion of theologians. 2. Because the woman uses her own natural right, by which it is lawful to repel force by force, and she is more bound to provide for herself than for the life of another; for she exposes herself to the danger of consenting to the act of sin by permitting herself to be oppressed. Besides, if it is lawful to kill an invader of goods, how much more an invader of modesty, since it is a good of a superior order? Hence, although a girl is not bound to kill the invader, but can conduct herself passively, because chastity is not lost unwillingly, nevertheless she is not obligated to do this, both because even material bodily integrity itself is a very great good, and because there is present the danger of shame, which is more grave than death for good women. C. L. 2367; L. 368, 386.

730. Note: Here theologians rightly observe that it is lawful for a girl not only to repel the aggression in the act in which she suffers it, but also afterward she can strike the aggressor with slaps, fists, a rod, staff, and similar blows minimally dangerous, so that thus she may show her displeasure and

constancy, and the aggressor may more easily depart and not return. Moreover this, provided it is done immediately after the injury received and never for vengeance, is not only to be permitted, but also altogether to be counseled to women. Struggl 28; L. 386; Lugo d. 10, n. 196.

731. Is the same lawful for defending goods of fortune? - It is lawful to defend goods of fortune of great importance with the killing of a thief, if they cannot otherwise be retained. Proof from the common opinion of theologians, which S. Th. 2. 2, q. 64, a. 7 supposes. Besides, because the precept of charity does not oblige one to prefer the goods of a neighbor of a higher order, unless when he is in extreme necessity, but not when he himself of himself, voluntarily and from his own malice, meets the danger of death, as happens in the case. C. L. 2367 seqq.; C. B. 227 seqq., 904; L. 380, 382; Struggl 23; E. M.

732. Note: Of great importance; for it is not lawful to kill a thief taking away a thing of lesser importance, because charity then prohibits us from inflicting a most grave damage on our neighbor for our own light damage, although he voluntarily exposes himself to its danger. And indeed our damage is only light, whether the thing taken away is considered, which is of lesser importance, as is supposed, or the injury which is had in that taking away is considered, and consequently the contempt and dishonoring which follows that injury. For who is thought to be gravely dishonored because a thief has violently snatched some thing from him?

Nevertheless, even in this case, if precisely the force which is brought against the owner guarding his own thing, although of lesser importance, is considered, it will always be lawful for him to repel force by force, but with the moderation of blameless defense. The reason is that "when someone thus defends his own things, regularly he defends at the same time his own person, which he exposes to danger for the defense of his things." Molina tom. 4, tr. 3, disp. 16, n. 4. Besides, the public good itself demands this. Otherwise the impunity of crimes would render the wicked more audacious for doing harm. C. L. 2367; Laymann l. 3, tr. 3, c. 3, p. 3, n. 4.

Generally speaking, however, those goods are judged to be of great importance, which, if taken away, would leave someone without sustenance for himself and his own; theologians of grave note, among whom is Card. de Lugo, teach that even those things can be given this name whose loss would bring a notable harm to the owner according to the quality of the person. Although it must not be denied either that some gravity of damage must be admitted, absolutely grave with respect to all, and far greater than that which suffices for mortal theft. Therefore, absolutely speaking, the sum of 4 or 5 gold coins certainly does not suffice; today, 40 or 50 lire. But the sum of 40 or 50 gold coins seems to suffice; today, 400 or 500 lire. L. 382, 383, 384, 385; Struggl 23, 24; E. M.

733. Is the same also lawful for defending honor? - It is not lawful indeed to kill an invader of honor if honor is attacked by words only. For, since the injury can, must, and usually is then repelled otherwise, a striking and killing has the nature not of defense, but of private vengeance. Likewise it is not lawful to kill an invader of honor if honor is attacked by deeds after the deed itself. For even an injury to the aggressor after the deed does not have the nature of defense, but of private vengeance. But it is lawful, with due moderation, to defend oneself against an invader even of honor, if it is attacked by deeds, for example, by a slap or kicks, or a staff, before the deed itself. The reason is that all laws permit force to be repelled by force. Therefore he is not to be reproved who wishes to use that right which all laws permit for guarding a good great in the estimation of men, which is better than a thousand precious and great treasures, Ecclus. 41:15, and who defends himself with fists and

also with kicks and a staff. C. L. 2367; Lugo d. 10, n. 166; La-Croix 803; Struggl 25, 26, 31; L. 380, 381, 382, 391; S. Th. 2. 2, q. 41, a. 1; E. M.

734. Is the aforesaid defense lawful, if it concerns others? - Some private person can defend the life, goods, and modesty of a neighbor, even by the killing of an unjust aggressor. Proof: 1. from the common opinion of theologians. 2. "Because just as the innocent neighbor himself can defend himself by killing the aggressor, so it is lawful to cooperate with him in a lawful thing which he himself can do, and to help him." Lugo de Iust. d. 10, n. 201; C. L. 2368; Struggl 29; L. 389, 391; S. Th. 2. 2, q. 60, a. 6 ad 2.

735. Note: Some private person; for it is certain that Princes, magistrates, and soldiers, who have been specially hired for the defense of citizens, are bound to this. C. L. 2371. These are bound even with danger of their own life, where the matter concerns turning away a public evil from citizens; but where the matter concerns only the life of some private person, they are not bound to protect it with so great an inconvenience. Can; for it is more probable, at least speaking generally, that he is by no means obligated to such defense of an innocent man with the killing of the unjust aggressor; and this both because the precept of charity does not seem to oblige in that case, since it is rather better to avoid the eternal death of the aggressor himself; and because in the killing of another, a grave inconvenience can never be avoided, for example, because of fear of enmities, or of public justice, or even because of the horror conceived in staining one's own hands with human blood. At least speaking generally; for make exception: 1. If the one invaded would be necessary for the public good, which each one is bound under grave obligation to care for. 2. If he is father, son, wife, or brother, whom piety itself obliges one altogether to protect.

If the matter concerns an invader of another's modesty, understand this provided that the woman does not furnish her consent to the invader, but positively resists him; otherwise to kill the invader would not be to repel force by force, since there is no injury where there is consent. Lessius, Sporer, and others make exception if the one attacked is very closely related to you; then, they say, before the deed you can still kill the invader, although the one attacked consents; for in that case you repel the injury which redounds upon you. L. 389-392.

IV. On the Killing of the Innocent

736. Is it ever lawful to kill an innocent person? - It is never lawful directly to kill an innocent person, whether by private or public authority, even for procuring the public good. For it is an intrinsically evil action, and expressly prohibited by divine law, against charity and against justice, inflicting injury upon God, Society, and neighbor. Exod. 23:7: *The innocent and the just you shall not kill*. S. Th. 2. 2, q. 64, a. 2 ad 3, a. 6; L. 393; Struggl 11, 32; Lugo d. 10, n. 104.

737. You will resolve: It is not lawful to kill those lethally wounded, nor any others whatever who are dying, lest they suffer longer; nor the rabid, lest they harm others, provided they can otherwise be restrained from doing harm. The reason is that, according to the well-known maxim, evils are not to be done in order to obtain good. It is not lawful to kill an innocent person in order to satisfy a tyrant demanding his death, even under penalty of the city being overthrown, and even if he should consent to his own death, because he does not have dominion over his own life. More probably, however, he could be compelled to hand himself over to the tyrant for the public good, and probably, if he were

unwilling, even be handed over. For he has this obligation for the public good, to expose himself to a danger of this sort. L. 393; Struggl 11. But it would be otherwise if the tyrant should demand a girl to be violated, or sacred books to be burned. For each is intrinsically evil. In the former case the girl would be exposed to the proximate danger of sinning; in the latter there would be contempt of God. Cf. Lugo d. 10, nn. 114-116.

It is not lawful to kill legates or hostages, even if the enemies who sent them have not kept the faith given, and have unjustly killed the hostages or legates sent to them, because they are innocent. L. ib.

738. Is it lawful at least indirectly to concur in the death of an innocent person?

It is lawful, because of a grave cause, to posit an action good in itself, from which, besides the intention, the death of an innocent person follows. The reason is that then from a proportionate cause the death of the innocent person is merely permitted.

739. You will resolve: It is lawful in war to direct artillery against the stations of enemies, although from this also some innocent persons are going to suffer death, because their death follows besides the intention. L. 393. If, when an enemy is pursuing, you cannot flee death except through a narrow way, in which someone sitting there would be crushed, nevertheless it is lawful to flee with his danger and destruction, besides your intention, provided however that, if he is an infant, he has been baptized. The same must be said if the aggressor, by placing the body of an infant before himself, protects himself. For if the death of the innocent person follows, it will be imputed to the aggressor. Lugo d. 10, nn. 124-127; Struggl 13; L. 393, 599.

740. Note: He is not guilty of homicide who, even without cause, but with diligence used, posits an action, even otherwise illicit, which does not of itself bring death, although it is dangerous, but from which death rarely occurs. For then the homicide is altogether fortuitous and involuntary; for example, if a cleric, engaging in prohibited hunting, by chance kills a man, provided he used due diligence that this not happen. But it is otherwise if he posits an action which, although it does not of itself bring death, is nevertheless commonly dangerous, even if diligence is used for guarding against harm. For it is voluntary in its cause, provided however that he foresees it at least confusedly; for example, if someone, for instance, hurls stones with a sling into a public road. Inst. l. 4, t. 3, sections 3, 4, 5; S. Th. 2. 2, q. 64, a. 8; L. 398. By the name of voluntary homicide, where the matter concerns reservation, is understood not homicide culpable in any way whatever, but homicide sought on purpose and procured by design. Otherwise that added word would be altogether useless. Cf. Ithur. Cas. 40, n. 19 seqq.

741. Is it lawful to kill a drunken or insane aggressor? R. Affirmatively, more probably, unless it is evident to you that he is in the state of mortal sin. The reason is that although a drunken or insane man is not your formally unjust aggressor, nevertheless he is materially unjust, and you preserve your right of repelling force by force. The right of defense arises from the right to one's own life, not from the injustice of the other. But if you know certainly, which is rare, that he is in the state of lethal sin, and there is hope that he will do penance after the frenzy or drunkenness, but on the contrary you morally believe that you are in the state of grace, since he is in extreme necessity, charity requires that you prefer his eternal salvation to the preservation of your temporal life. Yet nothing prevents you from striking or wounding him in such a way that, with his life preserved, you take away from him the power of harming. Lugo d. 10, n. 143.

V. On the Procurement of Abortion

742. What is abortion? Abortion is commonly defined: the ejection of an immature fetus. Immature, that is, not yet fit for vital birth, in such circumstances of the time of gestation that the fetus, although still living when it comes forth into the light, nevertheless must necessarily die soon. Therefore abortion is not really the same thing as mere acceleration of birth. In acceleration of birth the fetus is not immature, and although it comes forth into the light before the completed time of gestation, nevertheless it can naturally live. Abortion properly has place in the first seven months of gestation; in the remaining two months it is mere acceleration of birth, commonly speaking and according to the general rule. The ejection of the fetus; hence abortion is properly distinguished from any action which is not per se primarily ejective of the fetus, but injurious to that same fetus, such as that surgical operation which is called craniotomy and embryotomy, because it is the cutting of the cranium of the infant, or fetus, in order to extract him from the mother's womb.

E. M. According to the general rule. Absolutely speaking, the fetus can live outside the womb after six months, six and a half months, and even before this term, if extraordinary means for nourishing the fetus are present. But in order that the moral danger of the death of the fetus be excluded, the term of seven months must be awaited. Cf. here 663.

The print's appendix has more on this paragraph: [On the Procurement of Abortion](/manuals/bucceroni/on-the-procurement-of-abortion) and [On the Response of the Holy Office Concerning Craniotomy](/manuals/bucceroni/on-the-response-of-the-holy-office-concerning-craniotomy). (ed.)

743. How many kinds of abortion are there? - The ejection of the fetus can be procured in two ways: 1. Directly and per se. 2. Indirectly and per accidens. Direct procurement of abortion or of the ejection of the fetus is had by applying a means or medicine per se efficacious and per se primarily ordered to expelling the fetus, as are those local causes which have an action on the womb for ejecting the fetus; such is the perforation of the secundina, or of that leathery membrane in which the fetus is enclosed and swims in fluid, which, when removed, he can no longer live there, but is necessarily ejected. Therefore direct procurement of abortion here is understood not only by direct intention, insofar as someone intends the ejection of the fetus, but also by direct exterior action, insofar as this per se primarily tends efficaciously to expelling the fetus.

Indirect procurement of abortion is had by applying a means or medicine per se primarily ordered to conferring health on the mother, from which, however, the expulsion of the fetus also follows, or also by using a means or medicine from which equally the health of the mother and the expulsion of the fetus are had. Of the former kind are certain irritating and violent drugs, which per se primarily tend, by their own efficacy, to correcting bad humors and bad dispositions of disease, but consequently also procure abortion. Of the latter kind are those remedies which cause relaxation of the fibers, such as a bath, flow and emission of blood; whence at the same time that health is being provided for, abortion is produced, by one and the same cause. This indirect procurement of abortion is indirect both in action and at the same time in intention. But someone can, with a direct intention for procuring abortion, use a means indifferent in itself and per se ordered to another honorable end. Antonelli, *Medicina Pastoralis*, ed. 2, vol. 2, p. 193, n. 396.

744. Is indirect procurement of abortion lawful? - It is sometimes lawful indirectly to procure abortion, or rather to permit it, namely by supplying to a mother laboring under grave disease

remedies per se suitable for curing the disease, even if consequently abortion can follow, or remedies equally per se suitable for curing the disease and harmful to the fetus.

This is proved first from the common doctrine of theologians. L. l. 3, n. 394; Struggl tr. 7, q. 3, n. 15; Sanchez de Matr. l. 9, d. 20, n. 13 seqq.; Diana tr. 6, de Abortu, r. 38 seqq. Besides, when some remedy, by itself and with one and the same efficacy, can produce both effects at once, namely of healing the mother and killing the offspring, whether primarily the health of the mother and consequently abortion follows, or whether these effects are parallel to each other, one is not necessarily assumed in reality or intention as a means for procuring the other. Therefore there is then the case of a good or indifferent action, from which a double effect follows, one good and the other evil, which it is lawful to posit, if the end of the agent is honorable, namely if he does not intend the evil effect, and if there is a proportionately grave cause. It is lawful sometimes; namely if the matter concerns a lethal disease of the mother, whose life to be preserved is a proportionately grave cause with respect to the temporal life of the offspring. "It is certain," says St. Alphonsus, l. c., "among all, that it is lawful to give a remedy to a pregnant woman directly for curing her, even with danger of abortion, if the disease is mortal, but otherwise if it were not such." And below: "If the remedy tends directly to preserving the life of the mother, as would be purging of the body, cutting of a vein, a bath, etc., these are certainly lawful, when otherwise it is judged morally certain that the mother will die with the offspring," namely if the remedy is not used; or when the danger of abortion would be equal, whether the remedy is used or not; or when it is morally certain that the fetus is not yet animated, as at least for the first days of conception can be held. 1 Kings 1:19, 20. The reason is that then the safety of the mother is provided for without a greater danger to the offspring; and because, in equal necessity, the mother can provide more for herself than for the offspring. And the necessity is equal, for there is no hope of procuring baptism for the offspring in the first and third case; but that hope in the second case is equal. Antonelli, *Medicina Pastoralis*, ed. 2, vol. 1, p. 1, c. 19, p. 2, c. 4.

On the contrary, the necessity is not equal when the death of the mother is indeed certain if she does not take the medicine; but, if she takes it, the death of the offspring is certain not only temporal, but also eternal, because baptism will not be able to be administered to him, which certainly could be administered to him if the mother abstained from the medicine, because the offspring of the certainly dead mother will survive her; and then "the mother is certainly bound from the order of charity to abstain from the medicine, and to prefer the spiritual life of the offspring to her own bodily life." L. l. c. And "so also from the same charity she is bound to abstain, when there is doubt concerning the safety of the mother and the offspring." L. l. c.; namely when there is doubt whether, the medicine being neglected, the mother can be healed; and whether, the mother perishing, the offspring can survive and be baptized. "And even if the death of the mother were morally certain, if she does not take the remedy, not even then would I dare to permit her the medicine, if some reasonable hope shone forth that, the mother having died, the offspring might survive and be baptized; because it is lawful for no one, for protecting his own temporal life, positively to expose a neighbor constituted in necessity to the danger of eternal death. But otherwise I think one must say, if there were no reasonable hope concerning the life of the offspring after the death of the mother, so that he could be led to the grace of baptism, because then charity does not seem to oblige the mother placed in extreme necessity to neglect her own life by abstaining from remedies, because of a slight and very remote hope of the life of the offspring." L. l. c. And here, as regards practice, the Holy Doctor, l. c., observes that "physicians, as to drugs to be supplied to mothers, are not to be troubled scrupulously,

because it is most probable that the case is exceedingly rare, and morally impossible, so that it is almost a miracle, that, the mother perishing, the offspring survive so that he can receive baptism." Nevertheless this matter is not to be so neglected; because it has happened more than once that, because of the skill of surgeons, as soon as the mother breathed out her spirit, the mother's womb was opened, and the offspring was extracted alive and baptized. Consequently mere acceleration of birth is lawful, namely when the fetus will be able to live outside the womb from ordinarily occurring things, and provided that seriously and suitably, as much as can be done, provision is made for the lives of the fetus and of the mother, and that there is grave necessity for that acceleration, whether this is on the part of the life of the mother, or on the part of the life of the offspring itself. E. M. 742, 745.

745. Is direct procurement of abortion lawful? - In no case ever, or for any cause, is it lawful directly to procure abortion, even if the fetus were supposed still unanimated. Proof: For if the discussion is about direct procurement of abortion improperly so called, namely through means or medicines by which one tends directly to injuring and killing the fetus or infant, as, for example, when physicians with the help of forceps crush the cranium of the little infant in the mother's very womb, in order afterward violently to extract the dead fetus, there is had a very true homicide, directly intended and directly exercised, which is never lawful.

If the discussion is about direct procurement of abortion through means or medicines which directly cause only premature acceleration of birth, from which the offspring, necessarily, by the very laws of nature, must succumb to death, "after animation this would be directly to kill the infant, which is never lawful"; for by a positive action to eject an immature infant outside the womb is positively to withdraw from him the means instituted by nature itself for the conservation of his life, which is directly to kill someone. "But before animation it is not lawful directly to procure this either, just as it is not lawful to procure the emission of seed even to save life, in which case Tertullian seems to speak in Apol. cap. 3; for he gives a universal reason: he who will be a man is a man, he says, for the fruit is in the seed." Lugo de Iust. et Iure d. 10, n. 130. Therefore, since even the non-animated fetus is ordered to forming a man, its ejection is anticipated homicide. Hence Ithur. Cas. 21, n. 5 says, "it is most certainly always infected with grave malice, direct procurement of abortion."

There are indeed grave and many doctors, whom Sanchez de Matr. l. 9, d. 20, n. 9 and Struggl tr. 7, q. 3, n. 16 follow and report, who judge that directly procured abortion, where nevertheless the matter concerns only the mere premature ejection of a non-animated fetus, is not so intrinsically unlawful that at least in the case of preserving the life of the mother, extremely endangered from present disease, it is not lawful. Indeed doctors are not lacking who defend the direct procurement of abortion even of an animated fetus in the aforesaid case, "which opinion once the illustrious D'Annibale judged not improbable," p. 2, n. 284, ed. 4. But this opinion is altogether excluded by the Decrees of the Holy Office concerning the unlawfulness of craniotomy. Indeed, between the killing which is had through craniotomy and abortion of this sort there is in fact no difference. For who would deny that he equally kills a man who pierces him through, and who casts him down from a tower, and who drowns him in the sea? Besides, that opinion is rejected by the Decree of the Holy Office, 24 Jul. 1895, by which the unlawfulness of abortion itself is expressly declared. E. M.

Hence it is clear that laparotomy also is unlawful for extracting from the bosom of the mother ectopic or extrauterine fetuses, still immature. On the contrary, necessity compelling, laparotomy is lawful

for extracting from the bosom of the mother ectopic conceptions, provided that the lives both of the mother and of the fetus are seriously and suitably cared for, as much as can be done. Since they cannot be born, they often carry death with them also for the mother. E. M.

VI. On Duel

746. What is a duel? A duel strictly so called, and as it is prohibited by canon law with grave penalties, is a fight between two or a few, undertaken by private authority and by agreement, with danger of killing, mutilation, or grave wound.

Between two or a few, namely in equal number; and thus it is distinguished from war, which is of many against many. By private authority, for by public authority, such as that of David with the giant Goliath, and of the Horatii with the Curiatii, it is lawful, since a fight of a few is no less lawful than of many, if each is undertaken by public authority for the common good. By agreement, namely an agreement which by common consent indicates place and time, and thus it is distinguished from a brawl, which supposes no preceding pact. The weapons also must be designated for the penalties to be incurred. For this is the ordinary custom of duels, that weapons also be designated. Therefore the Roman Pontiffs, prohibiting duel and establishing penalties against duellists, are to be judged to be speaking of such a fight, a detestable practice, although they make mention only of agreement, a fixed time, and an appointed place. Gregory XIII, C. *Ad tollendum*, a. 1582. With danger, etc., so that all those fights unsuited to inflicting grave injury are excluded from the notion of duel strictly such, such as those which are done with light rods or other instruments not ordered to killing or gravely wounding, although in such a fight one is injured per accidens. Hence it is clear that one acts unlawfully indeed and sins mortally, but nevertheless it is not a duel strictly so called, and consequently not subject to the penalties of law, when two men, burning suddenly with anger because of an injury, and provoking each other to a fight, suddenly engage, although from the same impulse of anger and vengeance they immediately go together to some suitable place for this. The reason is that thus the provocation and fight are not morally two actions, but only one, and therefore it is not properly a fight from a previous agreement or designation of time and place. Struggl 55 seqq.; Sanch. in Decal. l. 2, c. 39, aa. 13, 14; La-Croix l. 3, p. 1, n. 843 seqq.; L. 399, 401.

747. Is a duel lawful? - Duel is intrinsically evil and mortal. Proof: 1. For it is contrary to natural law knowingly and by private authority to expose oneself and another to the proximate danger of killing, mutilation, or wound; for the right of God is usurped, who alone is Lord of life. 2. Trent, s. 25, C. 19 de R., teaches "that the detestable practice of duels was introduced by the devil's contrivance, so that from the bloody death of bodies he may also gain the ruin of souls." Leo XIII, Letter *Pastoralis officii*, 12 Sept. 1891; C. 1, 2 de Cler. pug. in duel.; L. 399, 400, 401; E. M.

748. You will resolve: It is not lawful to accept a duel lest someone incur a mark of timidity and disgrace among others. Indeed neither is it lawful to accept it although he would be deprived of office and sustenance. For what is intrinsically evil can never be lawful. But if it is unlawful to accept a duel in cases of this sort, much more is it unlawful to offer it. C. 1, 2 de Torneam.; Extr. un. de Torneam. Cf. prop. 2 condemned by Alexander VII, and props. condemned by Benedict XIV, C. *Detestabilem*, a. 1752; L. 400, 401; E. M.

749. Is a duel unlawful also if the condition is added that it be ended after the first blows have been inflicted; or if someone only simulates it, although he knows certainly that the fight will not follow? R. Affirmatively; for as to the first, even in that case there is present the greatest danger of a lethal wound, as experience itself establishes. Besides, Clement VIII in Bull *Illius vices*, a. 1592, has this: "By Apostolic authority and by the tenor of the present letters we decree and declare... that those between whom agreements have been entered concerning ending the contest as soon as either has been wounded, or has shed blood, or a certain number of blows has been inflicted on each side, are held by the same penalties" of the other Pontiffs. Besides, that kind of duel creates scandal and gives occasion to fatal duels. As to the other, because then someone sins by furnishing at least to the other scandal and an occasion of sin. Besides, he sins by furnishing also to others scandal and occasion of sin; for those who undertake a duel in the designated place can rightly be believed by others to be combatants in a duel. Besides, the laws of the Church not only prohibit killings, but also intend to exterminate the detestable practice of duels; but even fictitious duels are contrary to this end. Reuter p. 3, n. 380.

If a duel is commanded to two guilty men condemned to death, with pardon of life promised to the victor, this indeed on the part of the magistrate would be altogether unlawful, by reason of scandal and by reason of the dishonorable end, which can scarcely be absent. But on the part of the duellists it would be lawful to them; for by reason of vindicative justice they are lawfully killed and kill. La-Croix l. 4, n. 1497.

750. Can a duel at least sometimes be lawful? - A duel indeed is lawful in all those cases in which the matter concerns defense of oneself against an aggressor; for then in reality it is not to make a duel, but to repel force by force, which all laws concede. Hence Struggl n. 65 says that "a duel can become lawful if a duel necessarily had to be undertaken against an unjust aggressor for the defense of life, or of immense goods; as if someone should actually threaten you with certain death, the plundering of goods, or the burning of a house, unless you actually enter into duel with him.

For it is lawful to defend oneself against an unjust aggressor of life and of immense goods, which are irrecoverable by another way." And where the matter is not about defending life itself and goods, but about defending honor itself, the same theologian had previously handed down these things, n. 61: "If therefore one provoked to a duel is a noble man, knight, or soldier, to whom flight from the provoker and actual aggressor would be very disgraceful, it is lawful for him to say to the one provoking, even while grasping a sword in hand: I will defend myself with this sword, wherever you have sought me, which I will also furnish here if you have attacked me; but to go out to an agreed place is not the act of a Christian man, as being against the law of nature, of God, and of the Church. The reason is that such a man is not bound from charity to flee with so grave an inconvenience of honor and mark of timidity; and therefore he can lawfully stand and defend himself by standing. For thus before an actual duel he would conduct himself merely defensively. Yet if from flight there would not threaten to some other man danger of wounding from behind, or grave disgrace, he would be bound to flee; as La-Croix 841 teaches with others."

VII. On War

751. What is war? War is a fight of a multitude against an external multitude, undertaken by the legitimate authority of Princes, for defending the good of the commonwealth or for vindicating an

injury inflicted upon it. War differs from a brawl because a brawl is a fight between private persons, of a few or of individuals against a few or individuals. It differs from sedition, because sedition is the attack of a multitude against a multitude in the same commonwealth or society. A brawl proceeds from an inordinate will. And therefore a brawl always imports sin. And in him indeed who unjustly attacks another, it is per se mortal sin; for to inflict harm on a neighbor, even by natural work, is not without mortal sin. But because sedition has a special good to which it is opposed, namely the unity and peace of the multitude, it is a special sin. It is opposed to justice and to the common good, insofar as it inflicts harm on the commonwealth and its citizens. "And therefore from its genus it is mortal sin, and so much the more grave as the common good which is attacked through sedition is greater than private good.... But those who defend the common good by resisting them are not to be called seditious, just as neither are those who defend themselves called brawlers." S. Th. 2. 2, q. 42, a. 2. S. Th. 2. 2, q. 40, a. 1; q. 41, a. 1; q. 42, a. 1.

752. How many kinds of war are there? One war is defensive, another offensive. Offensive war pertains to vindicative justice, and cannot be instituted except by the authority of the supreme Prince. But defensive war looks only to this, that force brought by another commonwealth be repelled by force. "Moreover, since all laws permit force unjustly brought to be repelled by force, hence defensive war can be undertaken not only by public authority, but also by private authority of those invaded by the enemy, as is found in L. 3 ff. de Iust. et iur. Meanwhile, however, between war undertaken by private and public authority there is this distinction: that those fighting in defensive war by private authority are bound to the moderation of blameless defense, stopping in only necessary and sufficient defense; on the contrary, those fighting in defensive war undertaken by public authority can justly proceed further offensively to vengeance for the injury inflicted." Struggl 40; L. 402; S. Th. 2. 2, q. 40, a. 1.

753. Is war lawful? - The lawfulness of defensive war is clear from this, that if it is lawful for a private man to repel force by force, the same certainly will be lawful for the whole society.

But the lawfulness of offensive war, if the due conditions concur, is clear both from the common authority of Catholics and because by natural law it is lawful not only to ward off an injury while it is being inflicted unjustly on someone, but also to vindicate and remove it by public authority after it has been inflicted, lest it be inflicted again thereafter. Therefore supreme Princes, who on earth do not have a higher judge, can vindicate injuries inflicted on them by another Prince; and this cannot be done except through offensive war. Therefore. C. *Iustum* 1, c. 23, q. 2; C. *Dominus* 2 ib.; Struggl 41; Ithur. Cas. 40, n. 13; L. 402; S. Th. 2. 2, q. 40, a. 1; E. M. Consequently war is lawful for bringing help to another people which is waging a lawful war. E. M. 757.

754. What are the conditions for beginning, continuing, and ending war lawfully and justly? - R. To the 1st: 1. Public authority, that is, supreme authority, recognizing no other superior in civil matters. The reason is that where a greater authority is had, this must judge concerning the dispute. 2. A just and grave cause, which is preponderant over the inconveniences going to follow from war, for example, a kingdom or province to be recovered, or a grave injury to the commonwealth to be warded off, or a rebellion of subjects to be repressed, etc. For since from war so many evils come to the body and soul of many, it is not to be attempted except in extremes. 3. Morally certain right. The reason is: 1. because a possessor in good faith cannot be despoiled of the thing possessed, unless it is established that he unjustly retains it. 2. Because for positing the cause of most grave evils, both of

private persons and of society itself, such as killings, injustices, corruptions of morals, and other such things, which ordinarily follow war, moral certainty of one's right seems to be required. Thus far more probably and more truly, St. Liguori 404, Pal., Tamb., and others against many, of whom some think that only greater probability suffices, others that equal probability suffices. But theologians commonly teach that lesser probability by no means suffices. 4. That before war, condign satisfaction be demanded from the adverse party; if it is offered, it must be accepted from justice, for where war ceases to be necessary, it also ceases to be just. 5. Right intention is required, namely that good be promoted and evil avoided, not by cupidity or cruelty, but by zeal for peace. L. 403, 405; S. Th. 2. 2, q. 10, a. 8; q. 40, a. 1; Verricelli tr. de Apost. Mission. t. 13, q. 128, s. 17, section 13.

R. To the 2nd: Even after mutual aggression and conflict, when some have already fallen on the side of him who wages a just war, condign satisfaction must be accepted and the war interrupted, if that is offered by the adversary Prince; if not from the rigor of justice, at least for the most part from charity, provided that the other party is willing to compensate all expenses already made, and it is not necessary for the public good that his insolence be beaten back. The 1st reason is that then war already ceases to be necessary for the end. The 2nd reason is that, since in a vindicative war, after many have already fallen, it is almost impossible to give condign satisfaction, the offended Prince, from a war actually begun, is not bound from justice, but rather from charity alone, to desist and to accept satisfaction. Laymann l. 2, tr. 3, c. 12, n. 5; L. 405.

R. To the 3rd: In offensive war, after the thing owed has been recovered and every indemnity, or after the injury has been sufficiently vindicated, the victor is bound to accept peace furnished with just conditions. The same is true of the victor in defensive war, after he has sufficiently vindicated the injury inflicted on him. The reason is that excess would be against the right of vindicative justice, indeed even of commutative justice. Besides, the end of war is peace and security. Therefore, once these have been sufficiently obtained, war, as an atrocious means, must be desisted from. Moreover also the conquered, per accidens, is often bound to accept peace, lest he expose himself and his subjects to greater danger, misfortune, or intolerable inconvenience. Struggl 44; Cajetan, Summ. v. Bellum. A nation which justly wages war can occupy the goods of enemies as much as is necessary for compensation of the damages which it has suffered, for payment of the expenses of war, and for just vengeance of the injury.

755. What is lawful to do against the enemy in war? - In a just war it is lawful to do all things against the enemy which are necessary and apt for obtaining the just end of war, yet according to the command and express or tacit will of the commander of the war. The reason is that he who has a right to the end also has a right to the necessary and apt means. Therefore in a just war it is lawful to do against the enemy all things which are necessary and apt for obtaining the just end of war. Which are necessary and apt; for other things harmful to the neighbor, which are not necessary for such an end, cannot justly be inflicted, and the damage afterward must be repaired. The just end of war, namely to overcome the enemies. Laym. 9; Sporer 112; Struggl 45; L. 409.

756. You will resolve: In a just war it is lawful to fight in open warfare, and to use ambushes and stratagems. These are not reputed lies, because the adversaries are deceived by their own fault, since those means are customarily used in war. But deceits are unlawful which cannot be guarded against by prudence. It is lawful to deprive cities of water; but it is not lawful to infect wells and fountains with poison, or otherwise to use methods of bringing slaughter which can be avoided by no human

prudence, or which bring grave harm even to the innocent, or which savor of cruelty and atrocity, S. Th. 2. 2, q. 108, a. 2 ad 3; much less indeed is it lawful directly to kill the innocent, legates, cf. 737, who by the law of nations are everywhere inviolable, and likewise to suborn assassins who secretly butcher the Prince or commander of the army.

Therefore the use of any kind of weapons is lawful, provided that these are not poisoned, or lethal in another similar way. It is lawful to besiege cities and citadels, to discharge artillery against them, indeed sometimes to destroy or burn monasteries and churches, to plunder and kill in them, if, for example, enemies use a church as a citadel for defending themselves.

To use the standards of enemies in order to deceive enemies is a very true lie of fact.

Scouts also, who are sent to enemies under the appearance of friends or by another fictitious reason, and approach them asking, for example, medicines which they do not need, are not even free from a lie.

Lying, deceit, fraud are never lawful. Likewise it is sometimes lawful to give a captured city to plunder, but only for most grave reasons. This, however, is not lawful for soldiers by their own authority, but it is necessary that legitimate permission be present. And then it is in no way lawful directly to kill the innocent, under whose name come children, women, the elderly, foreigners, clerics, peasants, merchants, etc., because these have committed nothing on account of which they could be deprived of life, nor are they actual or proximate aggressors. Moreover it is not lawful per se to despoil innocent foreigners even of goods, because they are guilty neither in themselves nor in society. Likewise, when a city is given to plunder, monasteries, churches, and pious places are always excepted. C. 2 de Treg. et pac. But immovable goods by the law of war fall to the Prince or commonwealth; movable goods of use become the property of the first taker, unless custom or law is that a part fall to the Prince and community, or all be placed in common, and distribution be made to individuals with due proportion. Besides spoils, reprisals also are lawful; they are occupation by force made and retention of persons or things of enemies, which by chance or by design come into the hands of the other party, since they are certain compensations and a kind of war. They are lawful, if however: 1. It is manifestly established that citizens of the other commonwealth have done an injury. 2. If their superiors, when asked, refuse to administer justice. 3. If it is established that they culpably refuse this. 4. If the supreme Prince, the cause having been known, concedes this. 5. If no more damage is inflicted than just satisfaction requires. 6. If they are not committed against ecclesiastical persons; C. *Etsi unic.*, de Iniur. in 6. In the conflict itself or attack it is lawful to kill all fighting against one, or existing in arms, of whatever condition, state, or sex, until they give themselves as captives, and perfect victory is obtained. But after the conflict and victory obtained, it is sometimes lawful also to kill captured or surrendered guilty persons, namely if before this they have merited death by some crime; or if this is necessary for establishing peace and security or justly vindicating the injury, unless they have surrendered with a pact of life to be preserved; or unless they are clerics, even guilty, whom after the conflict it is in no way lawful for a secular Prince to kill because of their immunity. But since soldiers today are regularly compelled and not voluntary, they also are to be held as innocent, whom it is not lawful to kill after conflict. 1 Kings 30; C. *Miles* 13, c. 23, q. 5; L. 409, 410; Struggl 47 seqq.; Ithur. Cas. 40, nn. 14, 17; Laym. l. 2, tr. 3, c. 12, nn. 7, 9 seqq.; S. Th. 2. 2, q. 40, a. 3; q. 66, a. 8 ad 1; q. 108, a. 1 ad 5.

757. Can Catholic Princes in war call heretics or even gentiles to their aid? - The first opinion universally affirms. The second opinion absolutely denies. The third opinion affirms that per se it is lawful; nevertheless per accidens by reason of scandal and harm to religion, which for the most part is present, it is unlawful. "This third opinion," says St. Alphonsus 406, "speculatively is indeed probable, but the second in practice seems altogether to be held. The reason is that it is morally impossible that, with alliance contracted with enemies of the faith, the aforesaid harms will not come to religion." Prop. 62 Syll. condemned by Pius IX; E. M.

758. Can soldiers wage war with doubt concerning the justice of the war? - Either the matter concerns soldiers who are subjects; or non-subjects; or hired men. If the 1st, they are bound to obey the Prince commanding, until they are altogether certain concerning the injustice of the war; for subjects are bound to obey where sin is not certain. Then, in the proposed case, they must presume the war as just, where the contrary does not clearly appear. Namely, the right of the superior possesses, so that, Augustine teaching, "perhaps the injustice of commanding makes the king guilty, but the order of serving shows the soldier innocent." L. 22 cont. Faust. c. 75.

If the 2nd, they must not fight unless they become certain of the justice of that war; for since the matter concerns the damage of a third party and indeed most grave damage, it cannot be inflicted on him before there is certainty concerning the injustice of the possessor. If the 3rd, either they were already hired before the war was declared, and the same thing must be said as of subjects; or afterward, and what was said of non-subjects holds. Luc. 3:14; L. 407, 408; Ithur. Cas. 40, n. 16; Tambur. Explic. Dec. l. 6, c. 1, par. 1, n. 9; Lugo de Iust. et Iur. d. 10, n. 144; Laym. l. c. n. 8. In an evidently unjust war, soldiers, although compelled, cannot fire upon enemies and kill or wound them. Yet if they are attacked by enemies who, if they handed over their arms, would be unwilling to grant pardon, then they can defend themselves with arms against them, as against unjust aggressors. Tambur. in Decal. l. 6, c. 1, section 1, n. 9.

759. Is it lawful for clerics to wage war? - Outside the cases of necessity, clerics are prohibited by canon law, under penalty of irregularity, from fighting by their own hand in war. C. *Clericum* D. 50; C. *Eos qui* c. 20. q. 3, etc. Outside the case of necessity; for in certain cases of necessity, clerics, without license of the Pope and without the penalty of irregularity, can fight by their own hand in war. Struggl 54; Laym. l. c. n. 19; S. Th. 2. 2, q. 40, a. 2.

760. What special obligation is present in time of war for the Prince and commanders, and for soldiers? R. To the 1st: Princes and commanders, especially in time of war, are bound to take care that soldiers observe the precepts of morals and religion, lest they be a scandal or harm to peoples. They must command nothing too dangerous to soldiers, unless because of manifest necessity; and with every zeal they must provide for their lives, and they must not rashly expose their own life to danger, lest the whole army or the whole legion lack a prudent leader. Likewise they must pay stipends to them by right administration, and with due equity distribute burdens among citizens if at any time they spend the night and stay among them; otherwise they are bound to compensate damages to them, both to soldiers and to others who have received damages from soldiers, since they are the unjust and efficaciously moving cause of these. Likewise to citizens who in time of war have suffered immense damage, a certain restitution is owed by the commonwealth. For the law of war excuses not those things which are done to citizens, but those things which harm the enemy. Nor indeed is it fair that some be burdened more than others, when the matter concerns a good common

to all. By the same reason a contribution is customarily made if the merchandise of one has been thrown into the sea so that the things of others may be saved. "For the protection of the commonwealth of the faithful it is lawful to carry on just wars on feast days." S. Th. 2. 2, q. 40, a. 4; C. 1 de Treg. et pac.; Cf. here 658.

R. To the 2nd: Citizens are altogether lawfully compelled by legitimate authority, when public necessity compels, to make military service. Soldiers, however, must obey the commander in all things which regard military service, with the divine law preserved. Therefore they must keep their station, attack the enemy, and fight bravely even with danger of life. But they cannot do anything unordered, although for the utility of their own and the harm of enemies. For it is better that necessary discipline be preserved than that utility be sought at anyone's discretion with danger of harm. Soldiers who depart from the army for a time without the commander's license sin; but those who entirely desert the camp are guilty of a more grave sin. Luc. 3:14; L. 405, 407; Laym. l. c. n. 18; Cajetan, Summ. v. Bellum; Gousset 1003 seqq.

761. When war has been completed, are the parties bound to preserve public pacts, extorted by the force of war and of victory obtained? Gury, Cas. 410, responds affirmatively to this question. "The reason is," he says, "because public treaties were introduced by the law of nations, common to the whole human race, the common good of the human race so requiring.

For unless public pacts between so many different Princes, and between magistrates and subjects, were to be preserved in every way, no stable peace or society could consist; but a way would be opened to perpetual wars and slaughters." Reuter has the same opinion, which he affirms to be common, saying p. 3, n. 510: "Public faith given to an enemy, even one waging an unjust war, is to be preserved, provided the treaty is not objectively evil." Concerning this same question Lugo has these things: "In war, because of the public good of peace and the security of kingdoms, it is necessary that pacts be preserved on both sides, when they are made without coercion and fear; otherwise, since each one presumes that he has a just cause of war, pacts of this sort would never be preserved, which would be the greatest impediment to composing peace; just as also, because of the same reason, impunity and indemnity are owed to orators and public legates, because otherwise there could not be negotiation concerning peace, which would be a great inconvenience." De Iust. et Iur. d. 37, s. 15, n. 179. And S. Th. 2. 2, q. 40, a. 3 says: "Someone can be deceived from the deed or saying of another from the fact that something false is said to him or a promise is not kept; and that is always unlawful; and in this way no one ought to deceive enemies; for there are certain laws of wars, and treaties to be preserved even among enemies themselves." C. *Noli* 3, c. 23, q. 1. Laym. l. c. nn. 15, 16.

On the Sixth and Ninth Precepts of the Decalogue

I. On Acts of Lust Not Consummated

762. What are the sixth and ninth precepts of the Decalogue? - The sixth and ninth precepts of the Decalogue are: *You shall not commit adultery... You shall not desire his* (your neighbor's) *wife*. Ex. 20:14, 17. By the sixth precept of the Decalogue are prohibited all things which are contrary to the ordered propagation of the human race. For all these in their own way are reduced to moechia, or adultery, as to the primary act contrary to this ordered propagation. But by the ninth precept every interior concupiscence of those external works which had already previously been prohibited by the sixth precept is prohibited. Therefore each of these precepts prohibits lust, which is: the inordinate appetite or use of venereal things. S. Th. 2. 2, q. 154, a. 1; L. 412, 414.

763. What is the malice of lust? - The malice of lust consists in this, that man inordinately uses venereal things, that is, the commotion of the genital parts and seed, which by nature and God, as author of nature, is ordered to the due propagation of the human race, for pleasure or another perverse end. Inordinately, that is, outside marriage, or against the laws of marriage in marriage.

764. Is lust a grave sin? Lust of whatever genus or species is, per se, a grave sin. The reason is: 1. Because it gravely fights against nature. For the use of the venereal thing by its nature is instituted and necessary for the conservation and propagation alone of the human race; therefore it cannot be usurped outside marriage; indeed, not even in marriage except in the due mode, without grave disturbance of the right order. 2. Because it is prohibited under grave obligation by God, the Author of nature, as is clear from innumerable places of Sacred Scripture; thus Gal. 5:19: *The works of the flesh are manifest, which are fornication, uncleanness, immodesty, lust, ... of which I foretell you, as I have foretold, that those who do such things shall not obtain the kingdom of God*. L. 14; S. Th. 2. 2, q. 153, aa. 2, 3.

765. Does directly voluntary lust admit lightness of matter? Directly voluntary lust in whatever genus never admits lightness of matter. The reason is that any pleasure directly sought necessarily induces a subversion, in a most grave matter, of the natural order established by the Creator. This is also clear from prop. 40 condemned by Alexander VII. Sporer de Matrim. nn. 689, 699; L. 415, 416; S. Th. 2. 2, q. 153, aa. 2, 3; E. M.

766. Does indirectly voluntary lust admit lightness of matter? - R. Affirmatively, because then there is no consent or direct intention in venereal pleasure, but only in the cause, which is lightly or gravely sinful according as it lightly or gravely influences the pleasure. L. 482, 483; Cf. here 37-40.

767. To what virtue is lust opposed? - Lust is directly opposed to chastity, which, taken generally, is a moral virtue which moderates the inordinate appetite and use of venereal things. Cf. 349. A part of chastity, and its most perfect part, is virginity, which imports two things, namely integrity of body, and integrity of mind, or the purpose of preserving that integrity of body in perpetuity. Indeed, a threefold chastity is to be distinguished: conjugal, widowed, virginal. Conjugal chastity is that which in marriage moderately uses lawful pleasures. Widowed chastity is that which after the death of the spouse, or after virginity has otherwise been lost, by a firm purpose thereafter abstains from the

appetite and use of venereal things. Finally, virginal chastity is that which proposes perpetually to abstain from all carnal pleasures, both unlawful and lawful in marriage. S. Th. 2. 2, q. 151-153.

768. How is virginity lost? - Virginity is lost physically in a girl through the opening or breaking of the virginal enclosure, and in a male through the emission of seed; but morally it is lost both by a female and by a male through voluntary pollution. Nevertheless as to political state, and in the face of the Church, a girl remains a virgin as long as the enclosure of virginity has not been violated by intercourse, and a male as long as he has not carnally known a female. Tambur. Explic. Decal. l. 7, c. 5, nn. 2, 3; Laym. l. 3, s. 4, nn. 7-9; Sporer after tract V, in append. ad 6th Precept, n. 6; S. Th. 2. 2, q. 152.

769. How many kinds of pleasure are distinguished here? - In this matter a twofold pleasure is to be distinguished, one venereal, which is also called carnal, the other sensible. Venereal pleasure is felt in the genital parts through the commotion of the same genital parts and seed; on the contrary, sensible pleasure is felt in the other senses from their application to their object, and from the proportion of the object to the proper sense. Sensible pleasure is manifest in two ways; one is purely such, another is sensible-venereal. Sensible pleasure purely such is that which arises from an object which precisely of itself is not apt to move to venereal pleasure, as, for example, the pleasure which arises from the touch of silk, the smell of a flower, the hearing of music, the taste of sugar. Sensible-venereal pleasure is that which arises from an object which of itself is in some way apt to move to venereal pleasure, as, for example, the pleasure which arises from touch, from the embrace of a woman, from her kiss, etc. Cf. n. 291; L. 412, 413-415.

770. Is venereal pleasure lawful? - Deliberately voluntary venereal pleasure between persons to whom intercourse is unlawful pertains properly to lust, and is a grave sin from its whole genus, admitting no lightness of matter, as is clear from n. 765. The reason is that venereal pleasure is excited from the commotion of the parts serving generation. But commotion of this sort is a kind of begun pollution, or is a motion to pollution. E. M.

771. Is purely sensible pleasure lawful? Purely sensible pleasure, as such, does not properly pertain to lust, but to sensuality, and of itself it is not evil, but indifferent. Nor indeed can any other malice be found in it except that which generally is in an act which is not referred to a rational end; such indeed it would be if someone not only acted with that pleasure, but also because of that same pleasure, by positively excluding a further honorable end of the work.

772. Is sensible-venereal pleasure lawful? Sensible-venereal pleasure either from its nature proximately disposes to venereal pleasure, or only remotely. If proximately, per se it is a grave sin, because of the proximate danger of venereal pleasure. If remotely, per se it does not exceed venial sin, if it is directly intended, because of the inordination which is directly intended in it, yet not grave, since the proximate danger of venereal pleasure is absent. Struggl 4, 7; Tambur. Expl. Decal. l. 7, c. 8, n. 1 seqq.; Sporer de Matr. 686-688, 691; L. 416.

773. How is lust distinguished? - One lust is interior, another exterior. The former is the voluntary occupation of the imagination, intellect, and will by joy, morose pleasure, or desire of a venereal thing for the sake of pleasure. The latter is the very use itself of venereal things for the sake of pleasure; and it is multiple in species: for one is in acts not consummated, another in consummated acts, which differ in species from them; and both this, which is in consummated acts, and that, which is in

acts not consummated, are subdivided into other species according to the specific diversity of objects. But consummated acts, in this matter, are those acts which reach all the way to the emission of prolific fluid. Acts which do not reach this term are not consummated acts, which properly are acts of sensuality and immodesty. Cf. 349. Acts of lust not consummated are base looks, hearings or speeches, to which base readings are counted, base smells and tastes, finally touches.

S. Th. 2. 2, q. 151, a. 4; q. 154, a. 1 ad 5; q. 155, aa. 2, 3, 4; L. 412. Vivid and morose imagination and thought of obscene things is a cause per se gravely influencing base effects. It ordinarily precedes, accompanies, and follows acts of lust not consummated, and therefore from these it has its proper gravity, as also from a grave object, from a depraved intention, from danger of consent in a gravely base thing.

774. What about obscene looks? - A voluntary and deliberate look at very obscene things, which from their nature proximately dispose to venereal pleasure, unless it is done from a just cause, is, speaking per se, a mortal sin; but a look at less obscene things, which from their nature dispose only remotely to venereal pleasure, unless it also is done from a just cause, speaking per se, is only a venial sin. The reason of the 1st part is that one acting thus exposes himself to the proximate danger of venereal pleasure, which is gravely sinful; and therefore he sins gravely. The reason of the 2nd part is that although the object is in some way dishonorable, and therefore action about it is unlawful, nevertheless it does not bring proximate danger of venereal pleasure; hence that action is not gravely unlawful. L. 420 seqq.

775. You will resolve: Looks at obscene pictures, if they are done in passing, and from mere curiosity, and if proximate danger of consent in base pleasure is absent, are not held as mortal sins. And this can more easily be admitted because of custom as regards images and sculptures representing angels naked or nearly naked, as many are displayed in Christian temples. A morose look at the same pictures does not seem able to be excused from grave sin, because per se it gravely influences base pleasure. Indeed, there are many things in this matter which, if done in passing, only lightly excite carnal pleasure, but if they are continued with long delay, they gravely stir it, by reason of imagination and thought which lingers in that base thing. L. 429. Speaking per se, and bad intention or danger of consent being excluded because of special frailty, to look from lightness and a certain curiosity at the base parts of animals, and at animals coupling, does not exceed venial sin. Struggl 12; L. 419. A look at one's own genitals is not mortal if it is done briefly; otherwise, if it is done studiously and morosely. L. 419. "It is not mortal of itself, short of danger of venereal consent, to look at the pudenda of a person of the same sex, unless the one looking were very inclined to sodomy, or unless a beautiful youth were looked at naked," L. 420, 421, or again, unless it is done studiously and morosely. Looks at the honorable parts of a person of a different sex, even a beautiful one, per se are not sins. Therefore if a look of this sort is done from simple courtesy, or another honorable cause, there is no sin at all. But if they are done from curiosity or with some moroseness, per se they are venial sins. But lengthy looks are not excused from mortal sin if they involve proximate danger of consent in base concupiscence, especially if commotion of the spirits rises up, and a fortiori if the person is loved with inordinate love. L. 422; Sanch. l. 9, d. 45, n. 20.

Looks at less honorable, but not base, parts of a woman, namely the chest, arms, legs, are not per se mortal sins if they are done in passing, always with proximate danger of depraved consent excluded. But if looks are done studiously and morosely, so that there is proximate danger of venereal pleasure,

it is grave. Therefore generally they are not to be excused from mortal sin who, without cause, look with notable delay at the naked breasts of a beautiful woman, because of the danger annexed to such a look. But they do not sin gravely who, with special danger excluded, look at mothers or nurses nursing infants, or fix their eyes on the uncovered chest of a woman, old or younger but not yet formed. L. 423; Sanch. l. c. and d. 40, n. 26. Looks at the shameful parts of the different sex, or at neighboring parts, ordinarily are mortal sins, unless perhaps the vision is made from afar and for a very brief time; because lengthy looks of this sort per se gravely influence base pleasure. Nor are you excused from grave sin if you look at base parts through a very thin and translucent veil, because almost such a look increases lust rather than diminishes it. They make exception: 1. If the one looking is a child or very frigid, because these are little moved. 2. If the eyes are fixed on a little infant, because it moves little. Hence maidservants and nurses who thus look at children committed to them are not judged to sin gravely, unless they do this morosely, or repeated times, and with depraved affection.

Likewise it is grave sin deliberately to look at a person of the other sex wholly naked, unless the look were done only lightly, in passing, or from afar, or to look at married persons coupling. Sanch. l. 9, d. 46, nn. 23-25, 29; Laym. l. 3, s. 4, nn. 10, 14; Struggl 12; L. 420, 421. All the aforesaid looks, which are lightly or gravely sinful, lack all fault if they are done from proportionate utility and necessity, such as is given, for example, in a physician or surgeon, when he must treat these parts. Diana tr. 6 de aliq. Cas. circa mater. lux. r. 19; L. 419, 420.

776. What about base speeches? - "Of itself it is not evil to utter or hear base words." L. 426. Of itself, for, practically speaking, very obscene words, with continued conversation about these matters, which from their nature proximately dispose the speaker or hearers to venereal pleasure, unless they are done from a just cause, are mortal sin. But less obscene words, or words spoken in passing, which from their nature dispose only remotely to venereal pleasure, unless likewise they are done from a just cause, are only venial sin. The reason is the proximate or remote danger of venereal pleasure which is had by conversations and words of this sort. L. 426, 427, 428.

777. Note: What has been said about speeches must also be said, with the same proportion, about immodest songs and readings. L. 426.

778. You will resolve: They sin gravely who, before unmarried persons, especially of the other sex, mingle speeches among themselves about insemination, carnal intercourse, and other things which, with attention paid to the circumstances of the persons, of the thing said, and of the manner of saying it, can proximately dispose the speakers or hearers to venereal pleasure. Nor, speaking per se, are they excused from grave sin who, under the pretext of joking, with equivocal but sufficiently known words, mix speeches about these things and hold conversation; make exception unless something of this sort is said by mere jest and in passing. For that jest and equivocation not only does not remove, but rather increases, because curiosity has been excited, the danger of venereal pleasure. Likewise, to read altogether obscene books without just cause is mortal sin, even if this seems to be done from curiosity or for the sake of recreation, because per se this reading greatly provokes to lust. Make exception perhaps unless readers, from curiosity alone, because of advanced age and a frigid temperament, or because of the custom of treating venereal matters, do not incur grave danger of lust. But it is certain that those who compose, and also those who sell, notably base books can in no way be excused from grave sin, because of the scandal of others, although not

intended; nor can gain, however great, excuse. L. 426, 428. It is not per se mortal to utter base things indeed, but not gravely obscene, if it is done briefly, through joking or vain consolation, unless the hearers are so weak in spirit that they suffer grave scandal. Hence commonly base jests which are uttered by harvesters, grape-gatherers, muleteers, are not grave, because they are ordinarily said and heard for mere joking. Nor indeed are tender conversations, otherwise honorable, with persons of the different sex always to be held as mortal sins, although they are full of dangers, especially if they are lengthy, often repeated, or done in solitary places. What therefore is to be judged concerning loves, as they call them, especially among the younger? Not all are indiscriminately to be condemned of mortal fault; although often a proximate occasion of lethally sinning will with difficulty be absent, at least in progress and when certain circumstances are added, as if the lovers meet entirely alone, especially for a rather long time, or at night, etc. Likewise to read amorous and lightly dishonorable books per se is not mortal sin, although in practice it is very dangerous, especially for the young. But those who compose or sell lightly obscene books indeed sin, even lethally, if they do this to excite lust; but if only to obtain gain, or because of another motive not gravely depraved, the sin will be only venial, since books of this sort can be read without grave danger. Yet clerics and religious, speaking per se, do not seem able to compose or spread books of this sort without grave scandal. L. 422, 426; Prax. 63.

To read obscene books for a just cause, for example, for forming and perfecting style, for learning the truth of history, for informing superiors, for correcting morals, etc., is no sin, provided one does not consent to the base things.

779. Note: From those things which have been said, nn. 774, 776, judgment can be made concerning theaters and cinematographs, and also concerning illustrated cards, namely whether those who are present at them and look at these things sin. For if they sin, they can sin only because of base looks or base things heard. L. 427, 428.

780. What about base touches? Very base touches, which from their nature proximately dispose to venereal pleasure, unless they are done from a just cause, speaking per se, are mortal sin; but less base touches, which from their nature do not dispose proximately, but only remotely, to venereal pleasure, unless likewise they are done from a just cause, speaking per se, are only venial sin. The reason is that one touching himself or another person in the former way exposes himself or the other person to proximate danger of venereal pleasure; but in the latter way, only to remote danger; nor is there present a reasonable cause for either touch, making it honorable. Therefore. L. 415, 416, 417, 418; S. Th. 2. 2, q. 154, a. 4; q. 156, aa. 2, 4.

781. You will resolve: To touch the genitals of brute animals is ordinarily only venial. But to produce these touches all the way to the emission of seed is probably mortal, because it is an action most vehemently exciting to venereal pleasure. Nevertheless, if someone did this from mere lightness and curiosity, and experienced that he was not moved venereally at all from it, he could not be condemned of mortal sin. Tamb. Explic. Dec. l. 7, c. 8, n. 5; Sporer de Matrim. n. 697; L. 419, 420. Touches of one's own body do not exceed venial sin when, venereal affection being excluded, they are had only in passing and from mere lightness or curiosity, because they are not very much incentives of lust. L. 419. Touches on the shameful parts of another person of the same sex, or neighboring parts, even over clothing, ordinarily are not excused from grave sin, unless perhaps they are done from petulance, jest, lightness, and in passing. L. 420.

It does not exceed venial sin to touch honorable parts, for example, fingers, hand, face, of a person of different sex, if these things are done from mere lightness, and no special danger of venereal pleasure is present by reason of the mode in which these touches are done. L. 415, 416, 417, 418. Touches on less honorable parts of a person of different sex, such as the chest, legs, arms, if they are done from mere lightness, curiosity, jest, etc., also do not exceed venial sin, always with the special danger of venereal pleasure excluded by reason of delay or mode in which these touches are done. And thus it is grave to press the foot of a young girl, to pinch the arm, and also to twist the finger, because of the proximate danger of carnal pleasure. L. 415, 430. Touches on base parts, that is, on the genital parts or those which are near them, of a person of different sex, had even for a brief time, whether they are done immediately or mediately, or over clothing, regularly cannot be excused from grave sin, because they contain the proximate danger of venereal pleasure. Nevertheless maidservants who touch the pudenda of infants while they clothe them probably are not to be accused of grave sin, even if from lightness or a certain curiosity; but otherwise, if this were done studiously and morosely, because of the proximate danger of venereal pleasure. L. 420, 430. As other incomplete acts, about which in the preceding numbers, so also touches are not evil from their intrinsic nature, as is clear from the reason constantly brought forward, but only extrinsically, namely because of the proximate danger of venereal pleasure, because of the proximate danger of consent in it. And indeed all these acts from their intrinsic nature do not pertain to lust or the venereal matter, which is contained only in coition, pollution, and carnal pleasure which disposes to these, or follows them in the genital parts; but they per se look to sensuality and modesty, as is clear from what has already been said above. Cf. 773. Therefore all the aforesaid touches are altogether lawful from proportionate necessity and utility. Hence physicians touching from necessity the pudenda of a person even of different sex do not sin, granted that per accidens they suffer involuntary pollution. Nor do they sin per se who touch themselves for wiping away the filth of the body, or for soothing itching, or for curing infirmities. Yet if the itching is tolerable, it is to be suggested that they abstain from touches insofar as they can without grave annoyance. Yet the confessor must use great discretion in these things. For doubts of this sort are accustomed to trouble especially persons of timid conscience. L. 417, 419, 420; H. A. n. 3; S. Th. 2. 2, q. 154, a. 4. Itching can come from infirmity, in which a physician is to be consulted. It can also come both in men and in women from uncleanness; for preventing and removing this, washings with common, simple water, or mixed with soap, suffice. Antonelli vol. 1, p. 2, on the 6th Precept of the Decalogue, c. 2.

782. Note: From those things which have been said about touches, it is clear what must be said in particular about kisses, embraces, and dances; these can be gravely base, lightly base, and honorable, according to the various mode in which they are done. L. 417, 429, 430; E. M.

783. Do the aforesaid touches differ in species from the consummated act of pollution and intercourse, and from other incomplete acts? R. To the 1st: Affirmatively; and this response holds both for touches and for other incomplete acts, about which the discussion has hitherto been. The reason is that an inchoate act differs in nature from a consummated act. Therefore when similar acts precede the venereal act completed in the same passion, or accompany it, or immediately follow it, such as kisses, touches, etc., they constitute with the completed venereal act one sin in number, and they are not necessarily to be explained distinctly in sacramental Confession; but when they are exercised without a completed venereal act, they are a sin distinct from this, yet one or several in

number, if they are exercised in the same movement of passion, or in several. Hence in such a case they are a certain incomplete lust, and are to be explained in sacramental Confession.

R. To the 2nd: The first and more common opinion affirms. The reason is that these acts, considered in themselves, proceed from distinct and diverse faculties, and are ordered to distinct and diverse objects. Hence it follows that "the desire of looking basely, touching, kissing, fornicating, are distinguished in species not only from morose pleasure concerning those objects, but also each from the other, because they tend to those objects as they would be placed on the part of reality; but if they were placed on the part of reality, they would be distinguished in species, as is clear. Hence he who once was delighted by thought about intercourse, and once desired intercourse, does not satisfy by saying, twice I had a base thought, but he must say, once I was delighted in intercourse, and once I desired it. Similarly, he who once desired to look, once to kiss, once to touch, once to fornicate, does not satisfy by saying, four times I desired to do something base, but he is bound to express those objects." La-Croix l. 6, p. 2, n. 1032. The second opinion denies. The reason is that although acts of this sort physically proceed from faculties really distinct and diverse, and tend to objects really distinct and diverse, nevertheless, morally considered, they do not contain grave intrinsic malice; but the grave malice which they contain they have from venereal pleasure, to which they proximately dispose, and which is the same in species for all these acts. S. Th. 2. 2, q. 154, a. 4. Hence it follows that, once in Confession the venereal pleasure which followed, to which someone consented, has been explained, it is not necessary to explain whether he procured it for himself by looking at or touching himself, or even by looking at or touching another person, abstraction nevertheless being made from the sin of cooperation and scandal, certainly to be explained if they were present. Likewise, once the interior pleasure of the will, or desire as regards venereal pleasure, has been explained, it is not to be explained whether that pleasure and desire of the will was immediately terminated to base looks or touches. Billuart, Diss. 6, art. 15, section III, Note and following, has these things: "Franc. Henno teaches that pleasures concerning look, touch, kiss, etc., differ in species among themselves, and ought thus distinctly to be accused... because, he says, looks, touches, kisses, are distinguished in species among themselves... but nevertheless he admits that the practice of confessors and penitents is contrary. Besides, I think that his foundation is false, namely that touches, kisses, looks are distinguished in species in the genus of lust. For since they are not evil per se, as has been said, but only by reason of commotion, or pollution, or intercourse, to which they excite and tend, they have the same species of malice among themselves, namely either of carnal commotion, or pollution, or intercourse, etc. Hence in my judgment the penitent would satisfy who would say, so many times I excited in myself or in another carnal commotion, or pollution, while saying nothing whether by touches, or looks, or kisses, provided that he explains the conditions of himself and the accomplice. A fortiori he would satisfy by saying, so many times I was carnally delighted concerning such or such a person, without explaining whether concerning touches, or kisses, or looks; but indeed if there was pleasure concerning intercourse or pollution, because these differ in species from immodesty and are to be distinctly accused, so too are the pleasures concerning them." S. Th. 2. 2, q. 154, a. 4 ad 3, speaking of kisses and touches, says: "That things of this sort are not sins according to their species." And ib. ad 2 he says: "From lust they have the nature of sin." And in c.: "Things of this sort, insofar as they are lustful, are mortal sins."

783bis. Note: An act exciting simple venereal pleasure differs in species from an act of pollution; and therefore in confession the nature of the act is, per se, to be explained distinctly. "Nevertheless, as

Genicot notes here, ed. 4, vol. 1, n. 396, 3, that distinction often is not accused by the penitent; nor are questions about most shameful matters to be made by the confessor without true necessity. It is lawful to follow the rule set down by Bouvier, Diss. in 6 Dec. praec. p. 76: 'Once touches or lustful motions have been discreetly known, let the confessor abstain from immodest interrogations.' And Berardi writes, Prax. conf. n. 851: 'When the penitent says, I touched myself, if it is evident that he truly touched himself maliciously, it is to be presumed that he carried the act through to its natural end; hence, whether the matter concerns men or women, I would say that interrogations about that matter can be omitted. It is true that some interrupt the act, although they have maliciously begun it, but from this confessors cannot be obligated to add further interrogations to all and each who confess that they touched themselves, concerning this very interruption.'"

784. Do touches and other incomplete acts, when they are grave sin, contract malice diverse in species because of the various circumstances of persons? - As regards touches, kisses, and embraces, this is commonly affirmed. And the reason is that in moral estimation touches more than other acts regard the individual person, and approach most closely to intercourse.

Hence just as the specific circumstances of persons are to be explained in intercourse, so also in touches. L. 417, 453, 459. As regards looks, the Salmanticenses apud St. Alphonsus 421 likewise affirm; and both as regards looks and also as regards base words whether said or heard, Sanchez de Matrim. l. 9, d. 46, nn. 17, 18, 30, 45 also affirms in almost the same way as regards touches, because of an altogether universal reason, namely because all these acts are ordered to coition and participate in its moral malice. But St. Alphonsus, having reported the opinion of the Salmanticenses, adds these things as regards looks: "But La-Croix more truly contradicts this doctrine, l. 6, p. 2, n. 1030, where he says that he who looks venereally at a person without any desire is not bound to say what sort of person it was. For how would a woman, by looking basely at a priest... commit sacrilege, which consists in the violation of a sacred person, when no violation intervenes there? And how would someone, by looking basely at a relative, commit incest?" l. c. But these things also hold as regards base words said or heard, as is clear per se.

S. Th. 2. 2, q. 154, a. 4 ad 1, ad 2; L. 415, 416, 417; Gur. Cas. 146; Laym. l. 3, s. 4, n. 13. Hence he who by the sight of some person or by conversation is voluntarily excited to pollution commits one sin of pollution, since the aforesaid acts do not put on the species of intercourse with the person who is looked at, or with whom someone converses.

785. In touches which someone has with himself or with others, must the sex be declared, whether the person be male or female? R. Speaking per se, negatively; for this of itself is merely material. Cf. 811.

786. As regards touches, must the parts of the body which one sinning gravely in this matter has touched be explained? R. La-Croix l. 6, p. 2, n. 1031 has these things: "He who without desire of venereal pleasure touched a girl, according to Diana, satisfies by saying that he touched basely so many times, saying nothing about the parts in which he touched. Others say with probability that it must be expressed if he touched a base part."

II. On Sins of Lust According to Nature

787. How are the sins of consummated lust distinguished? Some are according to nature, namely when they are exercised in that mode which is not opposed to the generation of the human species, if namely in intercourse, per se apt for generation, diverse sex, the same species, and the natural vessel and mode are preserved; others are against nature, if seed is so poured out that it cannot serve generation, that is, if the things just enumerated are not preserved, whether this is done outside intercourse, or in intercourse from which generation cannot follow. St. Thomas enumerates six species of consummated lust, which are: fornication, defilement, abduction, adultery, incest, vice against nature. L. 412, 432; S. Th. 2. 2, q. 154, aa. 1, 2, 11, 12.

788. What is fornication? Fornication is the intercourse of an unmarried man with an unmarried woman from mutual consent. Of an unmarried man with an unmarried woman, that is, free from the bonds of marriage, kinship or affinity, and vow. Fornication is intrinsically evil, and mortal sin, so that it is never lawful. Proof of the 1st part: 1. from prop. 48 condemned by Innocent XI. 2. Because fornication and vague intercourse are opposed to the good education of offspring, which cannot be done without the conjugal bond of male and female. For for that education there is required not only the care of the mother, by whom the offspring is nourished, but much more also the care of the father, by whom thereafter the offspring is to be instructed, defended, and advanced to a state in which it can provide necessary things for itself. Proof of the 2nd part: 1. because in Sacred Scripture fornicators are excluded from the kingdom of heaven, 1 Cor. 6:9; Eph. 5:5; Gal. 5:19 seqq. 2. Because fornication gravely opposes the good of offspring, and the due propagation of the human race; for if fornication and vague intercourse were lawful, males doubtful about the ownership of offspring would not acknowledge it and would not devote care to due education; but females thereafter deserted by males would procure abortions, abandon infants, or plainly kill them.

Moreover fornication is mortal sin, even if a rich man wished to care for the due education of fornicated offspring; for if fornication were lawful in such a case, very many would arrogate similar license to themselves, would omit marriages, and fornication would successively become common against the due propagation of the human race. Trid. s. 24, C. 8 de R. M.; s. 25, C. 14 de R.; Struggl 23; S. Th. 2. 2, q. 154, aa. 2, 3; L. 432, 435 seqq.; E. M.

789. Note: "He who only begins intercourse, but does not complete it, nor emits seed, must explain this very thing, because although then there is fornication begun and in affection, nevertheless it is not fornication in reality; but it is an immodest act, and the extreme of immodesty. Much more, he who begins the same intercourse, and then recoils after nature has already been excited, and scatters seed, must explain; because there is already a double malice, namely fornication begun and in affection, and consummated softness, as is clear per se." Sporer 575, 576; Struggl 25; Lugo de Poenit. d. 16, n. 237 seqq.; L. l. 6, n. 916. Concubinage does not differ in species from fornication; it is habitual and continued fornication. Nor does meretriciousness, which only designates the condition of the woman who is prepared to grant the use of her body to all. These conditions are to be explained in Confession, not by reason of a diverse species of sin, but by reason of custom and occasion of several sins.

790. What is defilement? - Defilement is sometimes taken for every illicit intercourse; but more commonly by this word a special sin of lust is designated. Theologians, however, do not agree among themselves concerning the nature of this sin. Fr. Gury 425 says defilement is the violation or

oppression of a woman against her will. But others hold that the proper nature of defilement consists simply in the illicit deflowering of a virgin; while others hold that it consists in violent intercourse with a virgin, so that intercourse with a consenting virgin is not a sin distinct from simple fornication. But by the name virgin in each opinion is understood not she who has so preserved the virtue of virginity that she has been stained by no sin of lust, but she who retains the seal of virginity intact, although she has been polluted even voluntarily, and therefore has irrevocably lost the virtue of virginity. L. 101 de Verb. sign.; L. 443; S. Th. 2. 2, q. 154, aa. 6, 7; Laym. l. 3, s. 5, tr. 3, p. 3, c. 13, init. If a woman, unwilling, outside marriage, is overcome by force by a man, it is lawful for her not to receive the seed of the man who has entered her. And the same they permit, though not all, to a woman who had previously consented, because she is bound not to continue the sin. But if a woman oppressed by force has already received the seed, more probably she cannot eject it or render it infertile by injection of cold water, since this is against the nature of generation, which has already been begun. Lugo de Iust. et Iur. d. 10, n. 197; L. 394; l. 6, n. 954.

It is certain among all that violent deflowering of a virgin, besides grave sin against chastity, also involves grave sin against justice, necessarily to be explained in Confession, because of the most grave injury inflicted on the virgin, and on her parents, if the virgin is under their guardianship. Inst. l. 4, t. 4, section 2. And this circumstance of violence, as is clear per se, is to be expressed, even if the woman were not a virgin, but corrupted or married. Moreover, "by violence here is understood not only physical violence, but also moral, such as fraud and fear; likewise importunate prayers and blandishments, which according to the judgment of prudent persons, especially in this matter, are morally reputed violence; such are those which are accompanied by great promises, kisses, touches, incentives of Venus, and in one word all those by which a noble woman cannot easily resist." Billuart de Temper. Diss. 6, art. 3, Dico 1; Struggl 28, 29. But although force or violence is not had, certainly notable fraud is had, and therefore special malice against justice to be declared in Confession, if someone should fornicate with a woman insane, drunk, or sleeping, because she is violated without her consent, and therefore a grave injury is inflicted on her. Sporer 606; Laym. l. c. n. 1; S. Th. 1. 2, q. 154, a. 6; L. 430, 433. But whether illicit deflowering of a virgin freely consenting is a species of lust distinct from simple fornication is disputed, and each opinion is at least extrinsically probable. The negative opinion seems more probable. The reason is that that circumstance of physical virginity or integrity is merely material with respect to the virtue of chastity, and therefore the sin against chastity is not changed in species. Hence, which is consequent, this circumstance of virginity in any sins whatever committed by a female or male, virgins, will not be necessarily explained in Confession, unless perhaps on the occasion of reservation, or censure, or another extrinsic circumstance, for instance if it culpably became known, and disgrace and damage came about, which must be repaired. S. Th. 2. 2, q. 154, aa. 1, 4; Laym. l. c. An inflicted injury demands satisfaction; inflicted damage, if it follows, demands restitution. But for repairing the inflicted damage, if no promise of marriage intervened, the defiler is bound either to marry the girl, or to dower her sufficiently or sufficiently increase her dowry, so that she may marry another as equally as if she were a virgin. C. 1, 2 de Adult. et stupr.; C. B. 825. Cf. 1376; L. l. 3, nn. 640-612, 648; Laym. l. c. nn. 2, 4; Lugo de Poenit. d. 16, s. 4, section 7; C. I. Poen. 331 seqq.; C. G. 331 seqq.

791. If the deflowered virgin consents, does defilement contain at least a special malice of injustice with respect to the parents in whose custody she was? - R. Negatively. "The reason is that, if the girl herself, since she is mistress of her own body, inflicts no injury on her father if she consents to

deflowering, using her own right, much less does the deflowerer inflict it. Only she will sin, and consequently also the violator, against piety owed to the father, and also against obedience, if she has had an express prohibition from the father concerning such a crime, as Lugo says, n. 226." L. 641; l. 3, n. 641.

792. What is abduction? - Abduction can be taken in two ways. First it can be taken as it is a diriment impediment of marriage, and it is the violent leading away of any woman from the home or paternal or quasi-paternal power to another place for contracting marriage, under the power of the abductor. In another way, however, it is a species of lust; and this is the carrying away of any person, whether male or female, whether virgin or corrupted, whether married or unmarried, from place to place, force being brought either against the one abducted or against those to whose power the person is subject, namely parents or guardians, or husband, but not if they are brothers and the woman is of her own right, for the sake of fulfilling lust. Inst. l. 4, t. 4, section 2. Therefore in the first way the person is carried away for the sake of contracting marriage; in the other way, for the sake of lust. Abduction in the 1st way is discussed in the treatise on Marriage; here we deal with abduction in the 2nd way.

Moreover it is clear how abduction thus taken differs from defilement. For defilement has place only with an unwilling virgin, but abduction with any person; defilement involves only violence or fraud, abduction also the leading away from place to place; defilement brings violence only to the virgin, abduction to the person abducted, or to those to whose power the abducted person is subject, or even to both. "Hence you see that abduction of a virgin, the base effect having followed, differs from defilement only very accidentally." Sporer de Matr. 603. Yet if someone departs voluntarily with a lover, the parents not knowing, there will not properly be abduction, but flight, not adding malice distinct in species to fornication. Therefore the proper malice of abduction consists in the injury which is brought in violent carrying away for the sake of lust. Therefore, just as defilement perfectly such, so abduction, besides the sin of lust, contains a sin of injustice; and that injustice is both against the person herself who is violently carried away, and also against parents or any other persons whatever in whose power that person is constituted. From Trent, s. 24, C. 6 de R. M., the abductor is bound "to dower decently, at the judgment of the judge, the woman abducted, whether he has married her or has not married her," unless the woman is a prostitute or of bad reputation. S. Th. 2. 2, q. 154, a. 7; L. 444; C. I. Poen. 349 seqq.; C. G. 354 seqq.; C. B. 826.

793. What is adultery? - Adultery is intercourse with another's spouse. It is a grave sin, distinct in species from others, Heb. 13:4. Besides the sin against chastity, it includes another against justice. For it violates in a grave matter the inalienable right of the other spouse; hence such malice does not cease, although that spouse consents. L. 445; S. Th. 2. 2, q. 154, a. 8.

The degrees of gravity of this sin are: 1. Grave, when an unmarried person sins with a married person, because besides fornication he sins against the right of a third party only by cooperating. 2. More grave, when a married person sins with an unmarried person, because besides cooperation in fornication he sins against the fidelity given by himself to his own spouse, and violates the right acquired by the spouse in his body. 3. Most grave, when a married person sins with a married person, because he himself sins against justice, violating the right of his own spouse, and cooperates in the sin against justice of his accomplice, likewise violating the right of his own spouse. Hence the state of each is altogether to be declared in Confession. The adultery of a wife is more grave than the adultery

of a husband, because of the most grave damage to the family and to the legitimate heirs, willed in the cause, which circumstance introduces another species of malice. Sporer 529; L. 445; C. I. Poen. 353 seqq.; C. G. 336 seqq.; C. B. 823, 821.

"Adultery is committed by a married person in every species whatsoever of lust, at least external, not only natural, with an unmarried person, a married person, a relative, a sacred person, etc.; but also against nature, by bestiality, sodomy, softness, and likewise by kisses and touches even with unmarried persons; and therefore a married man or married woman doing such things is bound to explain the state of his or her marriage. Most common of the doctors: Sanchez l. 9, d. 18, n. 4; Lugo, Tamburini. The reason is because in all these things an injury is always done to the spouse, according to the Apostle: The husband does not have power over his own body, etc. And conversely." Sporer 529.

Spouses also contract the malice of adultery or quasi-adultery when sinning against nature by sodomy or softness, when mutually or separately they pollute themselves. For thus their flesh is most truly divided against the fidelity of marriage. But they must necessarily explain that that sin was committed with their own spouse; otherwise they will never explain the sin committed by themselves. Sporer 526; L. 446; Diana tr. 6 de Matr. r. 186, n. 4; E. M.

794. If a spouse only is morosely delighted concerning imagined intercourse with another, does he also contract the malice of mental adultery, necessarily to be explained in confession? "Vasquez 2. p. tom. 1, d. 112 with others affirms. The reason is that the faith of marriage obliges not only the body, but also the mind not to place itself upon another base object; and therefore one so morosely delighting sins not only by the sin of lust, but also of mental adultery, just as by the consent of all a religious, priest, or another bound by a vow of chastity is bound in Confession of morose venereal pleasure to explain the circumstance of his vow or state, because he sins not only against chastity, but also truly against the vow and the virtue of religion. A probable opinion, and without doubt the safer. But Hurtado apud Tambur. l. 15 Decalogi n. 6 denies, not improbably, in these words: 'Vasquez teaches that a married man who is venereally delighted concerning fornication with one not his own sins not only by the sin of lust against chastity, but also by the sin of adultery against the faith of marriage. Yet this is proved with difficulty and without sufficient foundation, because it is said with difficulty and without foundation that in marriage faith is furnished to the spouse of not placing the mind in another. These things Hurtado says sufficiently probably. Certainly, without sufficient foundation and urgent necessity or reason, the sacrament of penance is not to be burdened. The reason is different concerning one bound by a vow of chastity. For one vowing chastity to God, the inspector of hearts, without doubt principally vows and obliges himself to internal chastity also, without which external chastity is worth nothing; but one contracting marriage with a human person is asserted without foundation also to oblige his mind to that person, lest it tend lustfully to another object.'" Sporer n. 523.

795. What is incest? Incest is intercourse with blood relatives or relatives by affinity within the degrees prohibited by the Church for marriage. Incest is a grave sin, and differs in species from other sins of lust. For it is not only against chastity, but also against the piety and reverence which those joined owe mutually to themselves. S. Th. 2. 2, q. 154, a. 9; L. 448; C. I. Poen. 337; C. G. 333 seqq.

796. Do not only intercourse, but also all immodest touches among relatives put on the nature of incest, necessarily to be explained in Confession? R. Affirmatively. For these acts also are contrary to

the reverence due to relatives. L. 453, 469; Billuart Diss. 6, art. 6, 9; Cf. here 784.

797. Is incest present among those who are bound by the impediment of public honesty? R. Affirmatively, and Sporer 613 hands this down as certain. But it is incest less strictly such. The reason is that incest is among blood relatives and those related by affinity. But among those who are bound by the impediment of public honesty there is neither kinship nor affinity strictly such. Therefore. L. l. 6, n. 469.

798. Is incest between spiritual and legal relatives of a diverse species from that between blood relatives and relatives by affinity? "Absolutely one must affirm with the Salmanticenses and S. Thomas, who 2. 2, q. 154, a. 10 ad 2 teaches that through intercourse between spiritual relatives a sacrilege is committed after the manner of incest... Likewise incest between legal relatives, namely by reason of adoption, is of a diverse species from the others enunciated, and must be explained." L. 450, 469. Cajetan on 2. 2, q. 154, a. 9: "To the 2nd objection concerning spiritual and legal kinship, it is said that because such conjunction is not ordered to consanguinity as its proper and proximate end, but according to a certain assimilation, therefore violation of it is metaphorically called incest." But Lugo, de Poenit. d. 16, n. 327 seqq.: "It must be admitted that it [incest between legal relatives] is properly incest; hence there is no reason why we should say it differs in species from incest between natural blood relatives and relatives by affinity... Hence... it will not be necessary to explain the difference of legal kinship from natural... But the circumstance of spiritual kinship is diverse in species from incest, because although it contains some malice of incest... nevertheless beyond this it adds the malice of sacrilege."

Sporer n. 612, 613, has these things: "He who sins carnally with a person joined by legal kinship, of which there is a fourfold degree, 1. between the adopting person and the adopted person and his descendants, 2. between the adopted person and the legitimate children of the adopter, 3. between the wife of the adopted and the adopter himself, 4. between the wife of the adopter and the adopted, without doubt commits a special sin of incest, necessarily to be confessed as such, since between the same persons, because of the often-mentioned reverence due to those joined, the Church establishes a diriment impediment of marriage. But whether this incest must be explained as a sin distinct from the other incests mentioned above, and whether also that diversity just mentioned of degrees or persons must be explained? Again, it is more probable and safer that yes; and sufficiently probable that no. But he who sins with a person joined by spiritual kinship contracted from the sacrament of baptism and confirmation, of which there is a twofold degree or species, spiritual paternity between the one baptizing and confirming, likewise between sponsors on one side, and the baptized and confirmed on the other side; and spiritual co-paternity between the same, the one baptizing and confirming, and sponsors on one side, and the parents of the baptized or confirmed on the other side; for spiritual fraternity between the baptized and confirmed and the children of the one baptizing or sponsors has become obsolete, altogether commits incest distinct from all the aforesaid in consanguinity, affinity, or legal kinship, and therefore to be specially explained in Confession, because it adds a special malice of irreverence by reason of the sacrament, by which it is reduced to a certain genus of sacrilege. But whether it must also be explained whether it was done from the sacrament of baptism or confirmation; likewise whether by paternity or co-paternity? It is most probable that no, because in all there is the same deformity, not much graver or lighter." So also Billuart Diss. 6, art. 6.

799. If relatives, having obtained a dispensation for contracting marriage, fornicate before marriage, do they commit incest? - There is a twofold opinion; St. Alphonsus 452 has each as probable. The reason of the opinion denying is that, when the special repugnance of marriage ceases, consequently the special repugnance of fornication ceases; for, if this remained, it would impede the marriage itself. The reason of the opinion affirming is that a dispensation removes only the impediment of marriage, not the connection.

800. What is sacrilege? - Sacrilege, insofar as it is a sin of lust, is the violation of a sacred place, thing, or person through a venereal act. Therefore besides sin against chastity, it also embraces sin against religion. Sacrilege "can be placed as a species of lust," because chastity consecrated to divine worship is violated. S. Th. 2. 2, q. 154, a. 10; L. 454.

801. What is personal sacrilege? - Carnal and personal sacrilege "properly and in rigor is called illicit intercourse or any sin of the flesh of a person bound and consecrated to God by a solemn vow of chastity, as through profession of an approved religion, or through reception of sacred order from the subdiaconate inclusively. The reason is that sacrilege properly and in rigor is the violation of a sacred thing; but a sacred thing is properly called that which by public authority and rite has been instituted and consecrated to the worship of God. But by the solemn vow alone of profession, or of sacred order, a person is consecrated to the worship of God by the public authority of the Church, solemnly accepting that vow in the place of God; not likewise by a simple vow privately emitted. Therefore sin of the flesh of a sacred person bound by only a simple vow of chastity is not, in rigor, sacrilege properly so called, since it is not of a sacred person; nevertheless it is a special sin against the virtue of religion and the 2nd precept of the Decalogue, namely violation of a vow and promise made to God, and therefore also necessarily to be explained in Confession, according to all." Sporer 615. Cf. here 500.

802. You will resolve: Hence he who is bound by a solemn vow of chastity and sins carnally perpetrates a sin containing triple malice: of immodesty against chastity; of infidelity against God, because of non-fulfillment of the promise made to Him; of sacrilege because of violation or profanation of a person consecrated to God. But the gravity of sacrilege has a threefold degree if he has an accomplice: 1. Grave, if the carnal sin is of a non-sacred person with a sacred person. 2. More grave, if it is of a sacred person with a non-sacred person. 3. Most grave, if it is of a sacred person with a sacred person. L. 456.

803. Note: It is probable that there is no need to express whether the vow was solemn or simple, because the opposite opinion is also probable, namely that the violation of a sacred person bound by a simple vow of chastity is true sacrilege. Likewise it is not necessary to say if the person is sacred by a double title, for example because he is a religious and priest, because one constituted in sacred orders, more probably and more truly, is bound to chastity only by reason of the vow annexed to the order; this is gathered from C. *Cum olim* de Cler. coniug. L. 454, 455. Cf. here 500.

"It is altogether to be held that a religious commits sacrilege who is morosely delighted concerning the carnal sin of another, or who pollutes another with his hands, even without his own pleasure." L. 457. Likewise he commits sacrilege who induces a sacred person to a sin of lust, although he himself does not sin with that person; for he cooperates in sacrilege. On the contrary, it is sufficiently probable that he does not commit sacrilege who, having a vow of chastity, by his counsel induces another to carnal sin, because one emitting a vow of chastity regards not another's chastity but only

his own; hence then he would sin by scandal. Understand, however, if he did this for another end than from positive affection of lust; otherwise he would now sin directly against his own chastity, of which he emitted a vow. L. 457. Personal sacrilege in affection would be if someone polluted himself by thinking with pleasure of a Saint, male or female, or, what is most horrible, of Our Lord Jesus Christ Himself or of the Blessed Virgin herself.

804. What is the sacred place in local sacrilege? The sacred place here is understood only as a church, that is, a place consecrated by the Bishop for divine offices, or even simply blessed from roof all the way to pavement; and a cemetery, that is, a place blessed and deputed for burying the dead. Therefore private oratories are excluded, since they are not true churches; all other parts of the church also are excluded which are by no means contained between roof and pavement, such as cells, cloister, sacristies, dormitory, the roof above the church, the door outside the threshold of the church, the atrium. L. 460.

805. Are internal sins in a sacred place sacrileges? - Merely internal sins are not to be held as sacrileges, gravely such, because they do not seem specially to affect the sacred place, unless there is a desire of sinning externally in the sacred place itself, even if that desire is had outside the place; for it is then sacrilege in affection. For since irreverence consists in fact, sacrilege cannot be in reality. Cf. 502.

806. What about external sins? - As regards external sins it is certain among all that sacrilege is committed through consummated acts, namely through voluntary pollution, fornication, etc. Here it must be noticed that many from St. Alphonsus 458 probably hold that sacrilege is committed in a church only through public emission of seed, which is prohibited by ecclesiastical law. But others probably say that even hidden emission is sacrilege. For although by ecclesiastical law the sacred place is not polluted, nevertheless the sanctity of the sacred place is violated. And concerning marital intercourse others likewise hold that, scandal being set aside, it can never be sacrilege; others still hold that through hidden marital intercourse sacrilege is committed, and the church is polluted, unless it is done from moral necessity; nevertheless, since it is a hidden crime, there is no obligation of abstaining from divine offices. L. 36, 334, 458; l. 6, n. 920; Cf. here 502.

807. Besides consummated acts, is sacrilege committed through other grave external sins not consummated? Some more probably affirm, because of themselves they import grave irreverence against the sacred place. Others not improbably deny, because only that has the nature of sacrilege which the sacred canons forbid; and by these only emission of seed is prohibited, as polluting the sacred place. L. 459, 461; Spor. 619. "Yet Lugo and others generally deservedly make exception, unless someone exercises immodest acts of this sort in a sacred place with great irreverence of the church, as if he publicly touched a prostitute immodestly before the altar, if he exhibited lascivious comedies in a sacred temple, etc.; for then it would not be denied that the crime of sacrilege properly is committed; for a grave irreverence would be done to divine worship, to which the sacred place has been deputed and consecrated." Sporer ib. But if sacrilege is irreverence, this does not seem to be lacking, and it is grave, in base looks, conversations, touches, if they are grave and manifest. Cf. here 502.

808. What special cases are to be noted in real sacrilege? - He commits sacrilege who, vested for Mass, pollutes himself. Likewise a priest carrying the Most Holy Eucharist who sins carnally; or who pollutes himself within half an hour after Communion. But by no means he who sins carnally while

carrying relics, *agni Dei*, etc., or on a feast day. The reason is that all these things seem to be per accidens with respect to carnal sin. Nor in reality is the sacred thing itself violated. On the contrary, in the first, second, and third case there would be grave irreverence toward the Most Holy Eucharist, and toward the sacrifice of the Mass, and the sacred vestments destined for offering it. Likewise he would not commit sacrilege who gave relics of the Saints to a mistress by title of simple donation. But otherwise, if he gave them as the price of sin; for then it would be sacrilege and simony.

To this, however, pertains solicitation to base things in Confession, namely when the confessor abuses the sacrament of penance for carnal sin; and the absolution of an accomplice in this, for most grave irreverence is inflicted on the sacrament. Elbel De Actib. hum. 104; Sporer 621; L. 463.

III. On Sins of Lust Against Nature

809. What is softness or pollution? Softness, or voluntary pollution, is the voluntary emission of human seed outside intercourse or concubitus. Voluntary; for this emission of seed can also come naturally from the very abundance of humor, and can often be determined by several extrinsic circumstances, both in the state of wakefulness and especially in sleep. But some of these circumstances are physical, such as weakness of temperament, some disease producing irritation of the genital organs, lying on the back, softness and heat of the bed, exciting drinks, exercise of riding, etc.; others are moral, such as thoughts of venereal things, readings of the same things, conversations, etc. But pollution will be voluntary when it is intended in itself or even in its cause, whatever that cause finally may be. Since, moreover, this voluntary pollution often is excited by manual contact, hence commonly it is called masturbation.

Emission: this emission in males occurs outside the genital member; hence it is exterior emission. But in females it occurs both outside, though more rarely, and within the genital vessel without any exterior outflow. Although in females this emission occurs in the genital vessel, they themselves sensibly perceive it; for in it they are affected by great pleasure, and once it is completed they are satiated and are at rest; and by this sign of great pleasure and subsequent satisfaction it is discerned whether in reality they have been polluted. Hence pollution differs altogether from inordinate motions, which motions are alteration, commotion, swelling, erection of the genital parts; and these motions are joined to the sense of venereal pleasure, and dispose to pollution. These motions can have place both in men and in women. Of seed: seed here generally is understood as the viscous humor destined for generation by the Creator Himself. This humor is not of the same nature in male and female. For the matter which is secreted through pollution in a female is not prolific, but a certain simple mucous excretion, which renders the work of marriage easier; nevertheless it tends and is ordered by nature to the release and fecundation of the ovule, and in the ovule is the prolific element on the part of the woman. But the matter which is secreted in a male is truly prolific, and it is originally elaborated in the testicles. In it, however, there is to be distinguished mucus, especially prostatic and urethral, which serves to dilute the seed so that it may be emitted more easily in intercourse, and the seed itself, which is the prolific element on the part of the man, and which consists in zoospermata or nemaspermata. Hence pollution in a man differs from distillation, which is a certain urethral excretion, and flow of another humor, which is elaborated not in the testicles, but from the prostate gland and from the mucous glands of the urethra; nor is it prolific, nor is it usually emitted with so vehement, but only with light, indeed sometimes without any commotion of

the flesh and venereal pleasure. Women also can experience not only pollution, but also an outflow of a certain humor from the vulvo-vaginal glands, not unlike the distillation of males, which therefore is not per se to be confused with true softness or pollution. Outside intercourse or concubitus; hence pollution has this, that it is a sin against nature, and therefore diverse in species. And thus S. Th. 2. 2, q. 154, aa. 1, 11, 12 constantly derives the special malice of the vice against nature from this, that through it the generation of offspring is impeded, and that it is contrary to the natural order itself of the venereal act.

810. Is pollution a sin? - Voluntary pollution is a grave sin, as is clear from prop. 49 condemned by Innocent XI. "The most important reason of this most certain truth is brought forward: because if pollution of this sort were lawful, and at least not gravely prohibited, the use of marriage, so necessary in the world, would be impeded, since men would be content with that pleasure alone and would not wish to give themselves to marriages, for the most part so burdensome. Add to this: if fornication is forbidden by the law of nature and intrinsically evil, much more will pollution, by which seed is utterly wasted and generation is impeded contrary to the sole end intended by nature, be unlawful by the law of nature and intrinsically evil." Sporer 628; L. 425; S. Th. 2. 2, q. 154, aa. 1, 5; E. M.

811. You will resolve: The special malice of pollution consists in the vain emission of seed against the order of nature. Therefore this sin differs in species from every immodest touch, which indeed venereal pleasure follows, but no emission of seed. S. Th. 2. 2, q. 154, aa. 1, 11, 12. Penitents often do not distinguish simple venereal pleasure from pollution, as when they accuse themselves of having touched themselves. But, especially in this matter, one must stand by the common rule, namely that the Confessor ought to judge of sins accused according to the obvious and natural sense, and every danger of scandal is to be kept away from Confession. Therefore he acts prudently by abstaining from every shamefaced interrogation without true necessity. Therefore the intrinsic malice of pollution is not in vehement pleasure outside conjugal intercourse, but in the fact that it is against generation. Otherwise the sin would not be distinct in species from venereal pleasure outside conjugal intercourse. More and less do not change the species. "Every human act is said to be inordinate which is not proportioned to the due end.... But the end of the use of the genital members is the generation and education of offspring; and therefore every use of the aforesaid members which is not proportioned to the generation of offspring and its due education is in itself inordinate." S. Thom. de Malo q. 15, a. 1. Therefore the use of venereal things cannot be without sin, unless "it is done in the due mode and order, according as it is fitting to the end of generation." S. Th. 2. 2, q. 153, a. 2. "Therefore because in vices which are against nature man transgresses what is determined according to nature concerning the use of venereal things, from this it is that in such matter this sin is most grave." S. Th. 2. 2, q. 154, a. 12. And because "the species of an act is taken from the object, which is the matter of the act.... thus insofar as generation of offspring is impeded, it is vice against nature, which is in every venereal act from which generation cannot follow." S. Th. 2. 2, q. 154, a. 1. The use of marriage against nature, when the due vessel is passed over, "is always mortal sin, because offspring cannot follow." S. Th. 4, D. 31, Exp. text. in fine.

Voluntary pollution, for the sake of escaping the danger of any disease or death, is always mortal sin. It is altogether lawful for preserving life and the whole suppositum to cut off some member from a man, a hand or foot. For from that cutting off, sometimes lawful, no inconveniences follow, since

from it, as from a very troublesome thing, natural appetite vehemently abhors, and men will not easily abuse that means and extend it beyond the case of extreme necessity. On the contrary, since pollution is a thing bringing great pleasure, to which nature itself inclines, the greatest danger is present, lest, if this should ever be lawful, men abuse it to the detriment of the species itself. And thus, for example, it is never lawful, not even in a case of extreme necessity, to violate the sacramental seal; because if this were lawful even in a very rare case, the sacrament of penance would become hateful to the faithful, and they would be removed from it, to the greatest detriment of souls, just as in reality men are often deprived of the good of seeking counsel because they know that in certain cases perhaps a secret can be manifested. Besides, "the more something is necessary, the more it is fitting that the order of reason be preserved concerning it.... But the use of venereal things is very necessary to the common good, which is the conservation of the human race." Hence, although seed is superfluous, nevertheless the emission of seed "ought to be done in such a way that it is fitting to the end for which it is needed." S. Th. 2. 2, q. 153, a. 3.

To the malice of simple pollution other malices can be added by reason of circumstances, and this generally holds also for other species of lust, "for example, if a priest is polluted, sacrilege is added; if a married person, adultery; if with desire of sinning with another person, another malice is added according to the quality of the person desired; likewise another malice is added if someone is polluted while delighting himself concerning imagined intercourse, when he is polluted by the touches of others." L. 476; Sporer 640, 641; Sanch. de Matr. l. 9, d. 17, n. 16. Just as to will and procure pollution itself, or venereal pleasure, is grave sin, so consequently it will be grave sin to will and procure lustful distillation, namely distillation with partial emission of seed, or with only carnal commotion and venereal pleasure. Nevertheless simple distillation does not carry with it the emission of seed. But concerning that distillation which occurs involuntarily and insensibly, one need not be troubled. Distillation easily arises even from a small irritation, or small erection of the member, while emission of seed, apart from the case of disease, requires a great irritation of the member, which brings about the vehement and spasmodic contraction of the canals carrying seed and of all the muscles of the perineum, by which the seed is emitted from the vesicles through the urethra. Caiet., opusc. 22, q. 1; Sporer 260; Salmant. 33; L. 447.

812. Do the impubescent, whether boys or girls, and eunuchs, who try by immodest motions to emit seed, when they cannot, sin by the sin of pollution, or only of immodesty? Eunuchs lacking both testicles emit only mucus, especially of the prostate and urethra, without any emission of seed. Spadones are those who by design or causally have been deprived of testicles.

Eunuchs, however, are called those who have been born thus without testicles. Those lacking both testicles are impotent, and cannot contract marriage. Moreover Tamburini, on the 2nd Precept of the Church, c. 17, n. 13, has these things: "Those who from defect of age or from another cause, such as the impubescent and eunuchs, cannot by immodest motion pour out seed, or pour out useless seed, sin mortally... but certainly this species of sin differs from true pollution, whose nature is to cast forth seed against the end of generation, which casting forth is not in the aforesaid persons in this way; therefore the sin in the impubescent is in reality reduced to immodest touch." So Sporer 639: "It is answered that it is indeed mortal sin, to be reduced to softness; for of itself it is a depraved affection toward pollution; nevertheless it seems to differ in species from true pollution, by which seed is emitted; in proper species it is to be reduced to the immodesty of touch; hence it is to be

explained in Confession." So also Holzmann, Babenstuber, and others. Yet St. Alphonsus 476 teaches the contrary; he openly affirms that "the pollution of spadones and boys, although they do not have perfect seed, differs in nothing from the pollution of adults."

813. When women procure pollution for themselves, do they commit the special sin of pollution, or only of immodesty, as was said for the impubescent and eunuchs? Some of the more recent theologians affirm, because women lack seed, or rather humor, truly prolific. Hence they deduce: 1. that the Confessor can abstain from every further interrogation, since this malice of pollution is not diverse in species from the malice of touches. 2. that in a married woman such pollution does not exceed venial fault, since in the same woman immodest touches probably do not exceed such malice. But the most common opinion of the more recent theologians and the altogether unanimous opinion of the older theologians denies this, although even very many of these did not consider the emission of the woman necessary for conception. The reason is that although that humor of women is not of itself prolific and necessary for generation, nevertheless from its nature it is destined for the generative act; for it is ordered to accomplishing this better and more easily. Hence in the emission of that humor the order of nature is still frustrated in the most grave matter of human generation, to which outside concubitus that whole act is no longer orderable; and therefore it is against nature. And from this the difference is clear between the pollution of women and that emission of the impubescent and eunuchs. For this latter is intrinsically and essentially a physically incomplete act, and of itself orderable to a complete lawful act, namely conjugal intercourse; while on the contrary that pollution of women intrinsically and essentially is a physically complete act, as is clear even from the very series of phenomena of excitation which precedes, and of rest and satiety which follows; and therefore, if it is done outside every concubitus, of itself it is no longer orderable to a complete lawful act, namely conjugal intercourse; for that emission of vulvo-vaginal mucus indicates a perfect pleasure attained, which by nature is ordered to the generative act. Antonelli vol. 2, p. 216, n. 471, note. Therefore again it is an act against nature. Sanchez aptly says, l. 9, d. 17, n. 13: "The voluntary emission of seed outside the vessel, or that mode of coming together from which it follows, is a manifest mortal crime against nature. Because it is opposed to the end of natural generation, for which nature itself has destined seed. This reason plainly has place in the seed of a man, as altogether necessary for generation. But the same must be said of the voluntary pollution of a woman, for her seed is ordered by nature to generation, either as necessary according to one opinion, or at least according to the truer opinion, as most useful and greatly contributing to it." And S. Th. 2. 2, q. 154, a. 11, making no distinction, absolutely affirms that vice against nature, such as pollution, is a determinate species of lust, since in it a special account of deformity occurs, namely "because it is contrary to the natural order itself of the venereal act, which is fitting to the human species... if pollution is procured without any concubitus for the sake of venereal pleasure." And a. 12, likewise making no distinction, he says absolutely: "Because in vices which are against nature man transgresses what is determined according to nature concerning the use of venereal things, from this it is that in such matter this sin is most grave." "Tibullus, receiving the confessions of women whose husbands are often accustomed to be absent, and who do not easily contain themselves, teaches and persuades the same women that they do not sin in the following cases: 1. If, by desiring their own absent husband, they suffer sensual commotion or pollution.

2. If they desire to experience this same pollution in themselves from ardent love of the absent husband. 3. If they excite pollution in themselves by touches had with themselves, provided they refer these acts to the absent husband. The Sacred Penitentiary adds to the beloved in Christ who wrote: that already twice concerning this matter it had been answered by this sacred Tribunal, and that acts of this sort are gravely unlawful, and that a confessor approving them is to be denounced." S. Poenit., 2 Sept. 1904. Nor indeed is it valid to insist that, although that act is against nature and therefore unlawful of itself, nevertheless it is not gravely but only lightly unlawful, since that wifely act is not for the simple being of generation, but only for its better being. For if this were not gravely unlawful, and by its intrinsic nature, then women, for whom marriage is so burdensome, content with that pleasure alone by which they are allured by nature to the work of marriage, would by no means devote themselves to it, and there would no longer be any limits to wifely masturbation and conjugal onanism on the part of those same wives. Indeed, for immodest women marriage would be a way for fostering and increasing immodesty more and more, since they could exercise it at least without grave sin.

Nor again can it be urged that at least in that pollution of a woman the proper reason of pollution is lacking, namely the vain emission of seed against generation, since nothing is done against this. For in the pollution of a woman two things are especially to be distinguished. The first is the emission of humor, which is by no means necessary for generation, but only useful; the other is the release of the ovule, which not only occurs naturally and spontaneously at the time of menstruation, but also occurs by this venereal excitation, which ruptures the follicle in which the ovule is contained, both by the very erethism of the whole organ of generation and by the secretion of humor with which it is filled. Therefore insofar as that venereal excitation of itself tends to the release of the ovule from the ovary, it contains true malice of pollution, since the ovule is on the part of the female an element altogether necessary for generation, which, fecundated by contact with the spermatozoid of male sperm, exhibits the generation of a new individual. Therefore, just as in a man the malice of pollution in reality is not in the vain emission of humor, but in the vain release of spermatozoids from the testicles, or more properly from the seminal vesicles, in which resides the force of fecundating the ovule, which release of spermatozoids accompanies that emission of the remaining humor; whence this has from that the fact that it is against nature; so likewise in a woman the malice of pollution is not in the vain emission of humor, but in the vain release of the ovule from the ovary, to which that emission of humor tends, whence this has from that the fact that it is against nature.

And indeed who will be able to deny that this complete feminine act, by its nature, as in a man, is ordered to generation, and therefore to the release of the ovule from the ovary, without which generation is impossible? The illustrious Doctor Joseph Antonelli, in his work *Medicina Pastoralis*, ed. 3, vol. 1, nn. 201, 202, says that natural and spontaneous ovulation, or ejection of ovules from the vesicles of Graaf, occurs at the time of menstruation, without venereal sense, but that venereal sense can accelerate ejection; if male seed meets it, it is fecundated, otherwise it is expelled, corrupted, together with menstrual blood. And n. 220 he says: "Looking at the matter a priori, the time which follows the development and exit of the ovules from the vesicles, and therefore the menses, would seem to be more apt for fecundation. Nevertheless that it is not so, many things persuade. For it must be diligently noted that many causes can change the time of maturation and the exit of the

ovules, such as coition, excitation of the genitals, dangerous company of men, etc." Therefore just as ovulation, or ejection of ovules, is had naturally and spontaneously, so it is also had by venereal excitation, which is produced by coition, dangerous company of men, etc. With local congestion increased, as the same illustrious Author has, l. c., vol. 2, n. 247, the emission of vulvo-vaginal mucus is produced; so, with the same congestion increased by venereal excitation, the release of the ovule is produced. And since a woman can be fecundated at any time, although, as they now say, the week preceding menstruation is more favorable, it is plainly evident that from coition and venereal excitation the release of the ovule is determined. Milne Edwards, *Lecons sur la physiologie et l'anatomie comparee*, etc., Paris 1870, tom. 8, pp. 338, 339, 355, 356, 359, 360; tom. 9, pp. 106-109; Longet, *Traite de physiologie*, Paris 1850, tom. 2, 3rd part, pp. 80, 95.

814. Are all pollutions of the same species? "All pollutions, considered in themselves, are of the same species, in whatever way they are done, if they are done without concubitus." L. 476, 477. Considered in themselves, because by reason of the circumstances of the person, or of interior pleasure and desire, or of cooperation in the sin of another, other malices can be added to it.

815. You will resolve: It is not necessary to explain in Confession whether someone polluted himself immediately by his own hands, or through the medium of some inanimate instrument. Intercourse with a dead woman does not include any other malice in the genus of lust than the malice of pollution, just as he who should enter into concubitus with a picture or statue of a woman, or the garments of a woman, etc. Nevertheless this will have to be explained in Confession, at least by saying generally: I polluted myself with an inanimate instrument, with affection toward a woman. For pollution and affective fornication are present. L. 466; Spor. 639; Diana l. c. r. 6, n. 5. "He who pollutes himself with an animated foreign instrument, or the parts of the body of another person, female or male, etc., is indeed bound to explain that person by reason of cooperation... But there is no need to explain those particular parts of the body themselves, because they differ only materially, and that greater pleasure sought in one part does not transcend the species of malice which is in another, unless some particular affection toward preposterous parts and sodomy were present, which certainly would have to be explained." Sporer 636. Cf. here 816.

816. "Is pollution had by touching a boy or sleeping women, or those incapable of deceit, or the pudenda of beasts, but without concubitus, of a species diverse from simple pollution? The first opinion affirms, and says that such pollution with a boy is sodomy, but with a female is inchoate intercourse. The second opinion holds that it is simple pollution. The reason is that, when concubitus is absent, they say that it is material whether pollution is done by one's own touches or another's. Then it suffices to confess: I had pollution by another's touches. For when concubitus is not present, there is not affection toward sex, but toward pollution; and this is more probable. Therefore Roncaglia notes, de VI Praec., c. 7, q. 6, with Bonacina, Trullench, and Filliucci, that if someone is polluted by the touches of a man or woman, since only pollution is then intended, it is also material whether it happens by the touches of a man or woman. Yet it must be said otherwise if it was done by the touches of a married woman, or of one having a vow of chastity." L. 467, 474, 485. But the difficulty here is to reconcile these things with what was said by the Holy Doctor himself, H. A. tr. 9, n. 3, where he asserts that sex must be explained in touches, because, he says, touches "are all of the same nature as the consummated act."

817. If seed has been corrupted, is it lawful to expel it by medicines, even if besides the intention some emission of true seed follows? R. Affirmatively. Thus more commonly the doctors. The reason is that those medicines per se directly tend only to the expulsion of corrupted seed; but some emission of true seed follows per accidens and besides the intention, which cannot be called unlawful, since all concede that it is lawful by remedies to expel other harmful humors, although pollution follows per accidens, just as it is also lawful to take a drug for expelling a disease, even if indirectly an inanimate fetus is to be expelled, according likewise to the common opinion.

"This opinion," says St. Alphonsus 478, "I judge sufficiently probable, provided however: 1. The seed is certainly corrupted, but not if doubtfully. 2. The expulsion of corrupted seed can be done without the sense of lust. 3. There are no other remedies for healing the corrupted seed. Yet it is never lawful by touch to expel corrupted seed, even if the danger of consent is absent; this must altogether be held...

The reason is that, although a remedy is permitted, because it alone of itself tends to expelling corrupted seed, nevertheless friction is in no way to be permitted, because that of itself tends to stirring carnal spirits and expelling true seed, which is never lawful." More recent authors deny the hypothesis of corrupted seed. For either the seed still remains in the seminal vesicles, or it has left them. If it remains, then it remains healthy until emission. And if it is not emitted, then it is absorbed, conferring new strength on the organism. If it has left, it is immediately expelled by ejaculation or urination, and it can no longer return into the vesicles.

818. Is it lawful to take medicine for corrupting true seed, and afterward ejecting it once already corrupted? "Sanchez, Bonacina, Anacletus, Roncaglia, etc., probably concede this. The reason: because nature does not oblige one to preserve seed with danger of life. For if," says Sanchez, "it is lawful to amputate the testicles to protect life, although without them a man is rendered altogether impotent for generating, why would it not be lawful to corrupt seed?" L. 478. Cf. here n. 817.

819. Is someone bound to impede pollution involuntarily begun? Some affirm, because, they say, it is false that any danger of disease is present from this. Debreyne, *Moechialogie*, Brussels 1853, p. 26. But others commonly deny. For then someone does not will that pollution, but merely suffers it. But if pollution is restrained, the seed is afterward expelled with urine, but meanwhile it is the cause of vehement venereal excitation. Therefore a reason also is not lacking for negatively permitting it. L. 479; Spor. 657, 642, 656.

820. Note: "When pollution begins in sleep, and emission happens in half-full wakefulness, then, if the man experiences some pleasure, not fully deliberate, he indeed sins only venially." L. ib.

821. Is someone bound by positive effort to impede depraved motions of concupiscence involuntarily arisen? R. Negatively; nor indeed is this expedient, since then the imagination itself grows hot by the very strain, and by the natural sympathy of faculty with faculty excites the genital spirits more and more. The more suitable remedy will be to invoke God and turn the mind and imagination away from obscene images, and by serious application to apply them to other things, especially to exterior affairs.

822. If actions which per se in no way, or only altogether lightly, influence depraved motions, or even pollution, gravely influence those same effects by reason of a peculiar infirmity and subjective disposition, is someone bound under grave obligation to abstain from such actions? R. Scavini l. 1, n.

78, ed. 12, Milan 1874, affirms. But it must be denied, with the proximate danger of consent in those depraved effects nevertheless excluded. The reason is that a subjective disposition cannot change the intrinsic nature of that action, and therefore cannot make it gravely unlawful if in itself it is only lightly unlawful, or even simply lawful. But that depraved motions or even pollution follow from it is per accidens. This case, since the action in itself is honorable, is the case of a cause honorable in itself, having a double effect, one per se good, the other evil, and indeed per accidens. Therefore someone can pursue his own right in placing that action. Nor indeed is a sufficient and proportionate reason lacking on the part of the agent in such a manner of acting; for one who is so sensibly affected by honorable things themselves is liable to innumerable scruples and anxieties, and, if he wishes to avoid all things by which he can be badly affected, he is forced to lead a truly intolerable life. But if that action is altogether lightly unlawful, per se "there is no grave obligation" of avoiding it, L. 484; but practically "it is as it were morally impossible for men commonly to avoid all these causes." L. ib. Billuart Diss. 6, art. 12, Dico 1; L. 423, 484.

823. What is bestiality? - Bestiality is concubitus with a beast. The species of this sin is not changed, morally speaking, from the variety of beasts. But whether it is morally changed from diversity of sex, some affirm, but commonly and more probably it is denied. "Therefore the whole essential deformity of this crime consists in approach to a different species." L. 474. "That bestiality be complete, the emission of seed is required on the part of the perpetrator. Soettler says there is no need to declare in Confession whether intercourse was in the womb or in another part of the body of the brute, since no part is destined for receiving human seed. Nevertheless, in the case in which this sin were reserved, Billuart holds that insemination within the vessel of the brute is necessary, because reservation, as odious, must be restricted to the consummated act. Therefore Billuart does not repute bestiality consummated unless it is done within the vessel of the brute; hence, at least for the most part, it cannot be consummated by women." Craisson, *Notiones circa sext. Decal. praec.*, n. 178. S. Th. 2. 2, q. 154, a. 11; E. M.

824. What about intercourse with a demon? Intercourse with a demon is reduced to bestiality. Hence "more universally it is defined by St. Thomas and others as bestiality, a sin against nature by which a man lies with an animated thing of a different species; namely so that the unspeakable coitions of witches and magicians with incubus or succubus demons may also be comprehended, containing, besides sin against nature, also a special sin against religion, namely of association and wicked commerce with a demon, the most wicked enemy of God and of all of us; and therefore without doubt this must necessarily be explained in Confession." Sporer 625.

825. "But does he who has intercourse with a demon appearing in the form of a married woman, a nun, or a blood relative, always sin affectively by the sin of adultery, sacrilege, or incest? Busembaum with others seems universally to affirm; but it must very probably be denied, if the one lying with the demon is delighted concerning that woman represented by the demon, not as married, or as a nun, but as beautiful, according to the opinion of Lugo, Patritius, Vasquez, and many others, who very probably teach that morose pleasure does not involve the species of the object concerning which someone is delighted, unless the circumstance of the person enters into the pleasure." L. 475.

826. What about touches with a beast? "Immodest touches with a beast, although they are not properly sins of bestiality, nevertheless have some special baseness, as Elbel says, at least venial." L. 474; Cf. here 814.

827. What is sodomy? "There is a great question in what act sodomy consists. Some hold that it consists in concubitus toward an undue vessel. Others, in concubitus toward an undue sex. Each opinion is probable, and in each opinion there is seen the special deformity which sodomy has against nature, which requires that both be preserved for generation, that is, the due vessel and the due sex." L. 466. The second opinion is said by St. Alphonsus, l. c., to be the more probable and common opinion of theologians. "The reason is that true and proper sodomy is committed in access to a person with whom generation can in no way take place." L. ib.

According to this opinion it does not matter in what vessel males or females come together among themselves, in the anterior or posterior, or in another part of the body, since the malice of sodomy consists in affection toward the undue sex, and is complete in its genus when the application of the genital member to a part of the body of the same sex is done by way of concubitus. But if there were only application of the hand, foot, or mouth to the genital parts of another, even if pollution should have place from each side, it would not be reputed sodomy, because it would not be concubitus. Cf. 814. L. 446, 485; S. Th. 2. 2, q. 154, aa. 11, 12; Rom. 1:26, 27; Constitutions of St. Pius V, *Cum primum*, 1 Apr. 1566; *Horrendum illud*, 30 Aug. 1568; C. I. Poen. 338; C. G. 330; E. M.

828. You will resolve: "Hence it is inferred, 1. that the coition of a female with a female is true sodomy, as S. Thomas, Roncaglia, Holzmann, Sporer, the Salmanticenses with Cajetan, etc., say. Although Elbel l. c. with Felix Potestas not improbably thinks that concubitus of this sort, even with affection toward a preposterous vessel, seems to be only improper sodomy, since perfect intercourse cannot be given between females. It is inferred, 2. that any concubitus, or conjunction of bodies, had with a person of the same sex is true sodomy, whether in the preposterous vessel or in another part; for then, regularly speaking, affection toward an undue sex is always present, as Tamburini, Roncaglia, Tournely, La-Croix, the Salmanticenses hold. Hence Roncaglia, Tamburini, and the Salmanticenses say, against Graffius, that it is not necessary in Confession to explain whether pollution was within or outside the vessel; for it suffices to confess, I sinned with a boy, so that the confessor may judge that sodomy with pollution was present. But if pollution was not present, it would have to be explained.

It is inferred, 3. with the Salmanticenses, Bonacina, Tamburini, and the more common opinion, that the coition of a man in the preposterous vessel of a woman is only imperfect sodomy, distinct in species from perfect, as Tournely and Tamburini say. The latter notes with Filliucci, and Holzmann and Sporer rightly agree with the common opinion, as he asserts, that if a man should have intercourse between the legs, arms, or other parts of a woman, it would be a certain inchoate intercourse, at least in affection. Hence, according to this doctrine, a man lying with a virgin outside the vessel commits two sins, against the same chastity indeed, but of diverse species, one of fornication in affection, the other against nature in effect. But the aforesaid Sporer, Holzmann, Tamburini with Angelus, say that a confessor, understanding that a woman was known outside the natural or preposterous vessel, ought not ask in what place or how." L. 466. Moreover Sporer 627 has these things: "Note this, when a man and woman, thus mixing, pollute themselves outside the vessel: if indeed it is done from affection toward the person herself, as ordinarily happens, it pertains to fornicatory, adulterous, incestuous intercourse, etc., according as the person was; but if it is done from affection toward preposterous parts, it will be imperfect sodomy about which we are treating;

finally, if it is done without concubitus or any conjunction, but merely for fulfilling lust, it is softness." L. 485.

829. Is pollution in the mouth of a diverse species? - "Sporer with some apud Diana affirms, and they call this sin irrumation. But Holzmann, Filliucci, Cajetan, Graffius, etc., more probably say that, if a man is polluted in the mouth of a female, it will be inchoate intercourse; but if in the mouth of a male, it will be sodomy." L. 466. Cf. here on Marriage, 1081.

830. In the sin of sodomy, must it be explained who was agent or patient? More probably, per se, it is not to be declared, because the species of the sin is the same. Yet the circumstance of pollution, if it was present, which more easily happens in the agent, must altogether be opened. L. 468; Lugo de Poenit. d. 16, n. 243.

831. Note: The Salmanticenses with Bonacina probably note that sodomy with a female is not comprehended under the reservation of sodomy, since it is not true sodomy. But otherwise, if sin against nature is reserved. By a reservation of this sort, however, Bishops commonly do not intend to comprehend pollutions also. L. 471. Clerics who have been found to labor under this crime, from the Lateran Council, "are to be cast down from the clergy or thrust into monasteries for doing penance... We deprive secular and regular Clerics... exercising so dreadful a crime, by the authority of the present canon, of every clerical privilege, and every office, dignity, and ecclesiastical benefice." St. Pius V, C. *Horrendum illud*, 30 Aug. 1568, sections 1, 3.

Addenda

Page 16, line 1, 2. "three... four..." Correct: the first three are conjugate, and therefore six are passions of the concupiscible; the other two are conjugate, and therefore four are passions of the irascible, to which, when a fifth non-conjugate one is added, five are passions of the irascible; and all eleven are numbered. S. Th. 1. 2, q. 24, a. 4.

Page 154, line 4. "contains the Decretals by St. Raymond..." Correct: contains the Decretals collected by St. Raymond... Page 167, line 43. "C. Ne." Correct: C. He.

Page 223. To n. 269ter 10, to be added from the very recent M. P. of Pius X, 22 Dec. 1913: "To Canons who, although they are from the Chapters mentioned there, have not been listed among Domestic Prelates, we give and concede that collegially indeed they may enjoy all privileges granted by the Apostolic See to their own Chapter, but individually they may both wear the prelatial habit and the pianum, as it is in Our Letters *Inter multiplices* at sections 16 and 17; and, by special mandate of the Ordinary, celebrate the sacred rites with the ornament and manner of Prelates, of which there is discussion ibid. at section 31. They will not be permitted to use this double power except within the boundaries of the diocese to which the Chapter will belong."

Page 377. To n. 479, to be added at the end: Fascination, however, is the power of harming by the gaze of the eyes, concerning which cf. S. Th. 1 p., q. 117, a. 3 ad 2; 2. 2, q. 96, a. 3 ad 1.

Page 425, paragraph "Praemissa," line 4. "preachers, pastors..." Correct: preachers, confessors, pastors...

Page 466. To n. 635, to be added at the end: Adjuration can be made not only over possessed Catholics, but also over possessed heretics, S. C. de P. F., 17 Sept. 1681, and possessed infidels, S. C.

de P. F., 11 Sept. 1779.

Page 562, line 6. "by natural work." Correct: by manual work. Fr. A. Lepidi, O.P., Master of the Sacred Palace Francis Faber, Assessor of the Vicar of the City

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